

Parish:	Brancaster	
Proposal:	Change of use of self contained residential annexe to holiday let	
Location:	Garden Cottage Marsh Drove Brancaster KINGS LYNN PE31 8FY	
Applicant:	Mr and Mrs J Stocks	
Case No:	21/02060/CU (Change of Use Application)	
Case Officer:	Mr C Fry	Date for Determination: 4 January 2022

Reason for Referral to Planning Committee – Called in by Cllr Lawton

Neighbourhood Plan: No

Case Summary

The application is for a change of use of an annexe (restricted by condition to be used in connection with the Appletree House), that has been used unlawfully as a holiday let.

The site is outside of the development boundary of Brancaster and is contained within the Area of Outstanding Beauty and Brancaster Conservation Area.

Key Issues

1. Planning History
2. Principle of Development
3. Other Material Considerations

Recommendation

APPROVE

THE APPLICATION

The site is contained within an area designated as countryside, outside of the Development Boundary of Brancaster by some 80m.

The site contains an annexe (Garden cottage) for staff accommodation to Appletree House that was granted permission on 28th April 2003 (2/03/0512/F). Appletree House is the associated dwellinghouse to the annexe. The annexe building is 1 ½ storey in scale and contains 2 bedrooms as well as living rooms and kitchen facilities.

The annexe has been used unlawfully as a holiday let, in effect a separate residential dwelling but not for a period in excess of 4 years and has been the subject of a breach of condition notice, (20/00495/BOC), for a breach of condition 2 of 2/03/0512/F which states

“This permission relates to the creation of an accommodation ancillary to the existing dwelling in connection with that dwelling. The ancillary accommodation shall at times be held and occupied with the existing dwelling within the same curtilage and shall at no time be occupied as a separate unit of residential accommodation”

This application seeks a change of use of the annexe to a holiday let with associated parking already in the applicant’s control on the western side of the Public Right of Way (Brancaster Restricted Byway 24), which dissects the application site. No external alterations are proposed.

SUPPORTING CASE

Garden Cottage originally obtained planning permission in 2003 and was erected shortly afterwards. It was built as the house keepers’ cottage for Appletree House, and a condition was imposed for it to be used as ancillary accommodation to Appletree House. However, since 2012 until a few weeks ago, it was rented as a separate cottage. The building is a small 2-bedroom cottage with a bathroom and a living room.

An application by the previous owner in 2020 for a Lawful Development Certificate was refused as Officers considered that there was insufficient evidence to prove the cottage had been used as a dwelling for more than 4 years.

We bought Appletree House with Garden Cottage a year ago. The cottage was occupied by an nurse. A breach of condition notice was served on us (as the cottage was being used as a dwelling in breach of the ancillary use condition), and very reluctantly we had to ask the lady to leave the cottage to comply with the Notice.

Following the receipt of the notice we approached the Planning Officers with a pre application to obtain a change of use from staff accommodation to a dwelling. Officers would not support this use.

The Officers helpfully suggested they would support a holiday let application as this is in line with the local plan. We were happy to make an application on this basis as the cottage will be put to good use, generate employment and bring tourist revenue to the Village Shop and other local facilities.

PLANNING HISTORY

21/00131/preapp PRE- APPLICATION FULL (WITH CONSULTATIONS AND A MEETING):
Change of use of self contained residential annexe to holiday let Likely to Approve –
22.09.2021- Delegated

21/00056/PREAPP PRE- APPLICATION (WITH CONSULTATIONS AND A MEETING):
Change of use for garden cottage from annex to dwelling (retrospective) Sub division of
Appletree House to form Appletree House and Appletree Cottage as 2 separate dwellings –
Likely to refuse 07.06.2021 – Delegated

19/01123/LDE Lawful development certificate for existing use as a separate dwelling house
– NOT LAWFUL 17.02.2020 - delegated

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2/03/0512/F: Application Permitted: 28/04/03 - Creation of self contained residential annexe for staff accommodation – Delegated.

RESPONSE TO CONSULTATION

Parish Council: NO OBJECTION

Highways Authority: NO OBJECTION Having reviewed the submission it is clear that this is a 2 bedroom self-contained unit of accommodation, sought for staff accommodation, rather than for family members. I would consider that the usual synergy would be lost and private trips by staff would be separate from the main household, engendering an element of independent use.

The 2003 consent restricted the use, as it was “inappropriately sited as a separate unit of accommodation” and not for highway related reasons, as such, whilst the shared access/PRoW is not ideal, given the nature of the building and its history, I would find an objection difficult to sustain in the event of an appeal.

Should your authority be minded to grant of consent, I would seek to append that the proposed on-site parking area be laid out, levelled, surface and drained in accordance with the approved plan.

Public Rights of Way (PROW) Officer: NO OBJECTION We have no objection in principle to the application but would highlight that a Public Right of Way, known as Brancaster Restricted Byway 24 is coincident with the proposed access. This Public Right of Way does not offer any means of public vehicular access and it is not maintainable at the public expense to a vehicular standard. The applicant will need to ensure that they have an established private right of access to the land suitable for residential purposes. It would be expected that any damage cause to the Restricted byway by the exercise of the private right remains with the rights holders to repair.

The full legal extent of the Restrictive Byway must remain open and accessible for the duration of the development and subsequent occupation.

Natural England: NO OBJECTION the proposed development will not have significant adverse impacts on statutorily protected nature conservation site.

Coastal Partnership Officer: NO OBJECTION As there are no external changes proposed to the fenestration of the cottage nor its means of enclosure, or any external lighting proposed we have no objections.

Conservation Officer: NO OBJECTION given that there are no physical changes to the external elevations or site layout.

REPRESENTATIONS

Called in by Cllr Lawton if recommending approval.

LDF CORE STRATEGY POLICIES

CS01 - Spatial Strategy

CS02 - The Settlement Hierarchy

CS06 - Development in Rural Areas

CS08 - Sustainable Development

CS11 – Transport

CS10 - The Economy

CS12 - Environmental Assets

SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016

DM1 – Presumption in Favour of Sustainable Development

DM11 – Touring and Permanent Holiday Sites

DM15 – Environment, Design and Amenity

DM17 - Parking Provision in New Development

DM2 – Development Boundaries

NEIGHBOURHOOD PLAN POLICIES

Policy 8 - Protection of Heritage Assets and Views

Policy 9: Rural Exception Sites

NATIONAL GUIDANCE

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

National Design Guide 2019

OTHER GUIDANCE

Conservation Area Character Statement.

PLANNING CONSIDERATIONS

The main planning considerations in regard to this application are:-

1. Planning History
2. Principle of Development
3. Other Material Considerations

Planning History

The application site was granted consent for a self-contained annexe (Garden Tree Cottage) for staff accommodation on 28th April 2003 (2/03/0512/F). The planning permission provided for a carport, living room and kitchen at ground floor and at first two bedrooms and a bathroom. However, the annexe has been unlawfully used as a separate residential property

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(holiday let) from Appletree House. This matter has been the subject of planning enforcement investigations because of the use is in breach of condition 2 of 2/03/0512/F.

“this permission relates to the creation of accommodation ancillary to the existing dwelling for occupation in connection with that dwelling. The ancillary accommodation shall at all times be held and occupied with the existing dwelling within the same curtilage and shall at no time be occupied as a separate unit of residential accommodation”

The reason

“To meet the applicant need for additional accommodation and to ensure that the building, which is inappropriately sited as a separate unit of accommodation is not occupied as such”.

The applicant submitted for pre-application advice for the retrospective use of the building as a separate dwelling. The informal advice offered by the officer was that the proposal by virtue of being outside of the development boundary, not being an affordable house, not benefiting from the isolated dwellings paragraph of the NPPF, too intensive domestication of the Area of outstanding Natural Beauty, and taking more than 50% of its proposed curtilage, would mean that the proposal would be contrary to the Site Allocation and Development Management Plan Policy DM2, DM15 and Policy 9 of the Brancaster Neighbourhood Plan. As such a formal application was unlikely to gain officer support.

After the receiving informal advice for a residential dwelling, the applicant had submitted a pre-application as to whether the building could be used as a holiday let. This received a likely to gain officer’s support recommendation as it was considered that the proposal could comply with the provisions of DM11 Touring and Permanent Holiday sites. By virtue of the proposal being a small scale operation with no additional structures and the parking area associated with it, already being used for Garden Cottage, it would mean that there would be no harm the Area of Outstanding Natural Beauty as a result of the change of use to a holiday let. Furthermore, it would provide a base for people to stay and visit local attractions thus helping to support the wider economy.

This application therefore follows that positive pre-application advice.

Principle of Development

In this case, by virtue of the site being contained in an area of countryside, the Site Allocation and Development Management Policies Plan states DM2 – Development Boundaries is relevant. DM2 states that areas that are outside of development boundaries (except for specific allocations for development) will be treated as countryside where new development will be more restricted and will be limited to that identified as suitable in rural areas by other policies Local Plan, including: - Tourism activities and small scale employment.

Furthermore, Site Allocation and Development Management Policies Plan Policy, DM11 Touring and Permanent Holiday Sites states that:-

Location Requirements

Proposals for new holiday accommodation sites or units or extension or intensification to existing holiday accommodation will not normally be permitted unless:-

- 1 The proposal is supported by a business plan demonstrate how the site will be managed and how it will support tourism or tourist related uses in the area:-

- 2 The proposal demonstrates a high standard of design in terms of layout, screening and landscaping ensuring minimal adverse impact on visual amenity and this historical and natural environmental qualities of the surrounding landscape and surroundings; and
- 3 The site can be safely accessed;
- 4 It is in accordance with national policies on flood risk
- 5 The site is not within the Coastal Hazard Zone indicated on the Policies Map, or within areas identified as tidal defences breach hazard zone in Borough Council' strategic Flood Risk Assessment and the Environment Agency's mapping

Small scale proposals for holiday accommodation will not normally be permitted within the Norfolk Coast Area of Outstanding Natural Beauty (AONB) unless it can be demonstrated that the proposal will not negatively impact on the landscape setting of AONB if outside the designated area. Proposals for uses adversely affecting Sites of Special Scientific Interest (SSSIs) or European Sites will be refused permission.

The application has been accompanied by a Design and Access Statement and a business plan that references Policy DM11 and states in regard to each point:-

1. Business Plan – The holiday unit will be advertised via specific holiday let company such as Norfolk Hideaways with the cleaning, management, maintenance done by the owner and a local resident. Any professional trades will be called in to fix/refurbish the cottage. It will be let for around 25-30 weeks each year. Whilst the business statement has not been explicit stating how the occupation of the holiday let will support tourism, the holiday let will act as a base for holiday makers to travel around the locality and visit attractions in the local area.
2. The proposal does not involve additional structures or extensions to facilitate the change of use. The site is well screened from the coastal path and there would on this basis be no harm caused in general visual amenity terms.
3. The site can be safely accessed. The Highways Officer has no objection to the use of the cottage as a holiday let, where they previously objected to two residential dwellings. The two residential dwellings would have created in an increase of 200% vehicular trips per weekday, where this proposal would generate far less trips. The existing property will still retain parking to be adequately served as will the holiday let.

The applicant enjoys a private right of way over the restricted byway and not a public right over it. It is considered that to ensure that the site can be accessed by the future occupants of the holiday let that it would be reasonable to condition that the holiday let doesn't become a separate unit of accommodation from Appletree House, thus benefiting from the applicant's private right of way over the restricted byway. The applicant's attention is drawn to the PROW Officer comments that the full legal extent of the Restrictive Byway must remain open and accessible for the duration of the development and subsequent occupation.

4. The site is contained within Flood Zone 1 the least restrictive zone.
5. The site is not contained within a coastal hazard zone

The scale of the proposal will not adversely affect the landscape setting of the AONB. The main issue with the pre-application for two dwellings, was that in this very rural tranquil area, the splitting of the garden area across two proposed properties Appletree cottage would have resulted in an intensification of the use of the site, contrary to the established character of the built form where houses benefit from wide or deep gardens, and thus detrimental to the AONB. By virtue of being a holiday let and conditioned to be retained with Appletree

House (the main dwelling), it will not result in a situation that would be detrimental to the AONB. It must be noted that the Norfolk Coast Partnership Officer has no objection to the application as there are no changes to the fenestration of the cottage nor its means of enclosure and the parking area on the western side of the byway already being used for parking to Garden Cottage would not harm the character of the Area of Outstanding Natural Beauty.

Being a dark sky area, ordinarily conditions would be imposed that ensures that any external lighting be subject to approval by the LPA. However the existing annexe is not subject to any conditions and without any alterations to the building it would be unreasonable to impose any conditions. An informative can be imposed to draw the applicant's attention to consider external lighting and implications upon the dark sky area.

Given the above, the proposal is considered to comply with Policy DM11 of the Site Allocation Development Management Policies Plan Document.

Other Material Impacts

Impact upon Brancaster Conservation Area

The site lies within Brancaster Conservation Area. S.72 of the Town and Country Conservation and Listed Buildings Act 1990. In the exercise, with respect to any buildings or other land in a conservation area, of any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

The site is not specifically referenced in the conservation area character statement for Brancaster. However, the area is referenced on page 8 of the Character Statement as being a "rural feel" and there being a "strong environmental feel" to the coastal edge. The character of this area is said to be one of "peace" and "tranquillity".

The Conservation officer has no objection to the change of use.

The previous pre-application for the subdivision of the site, two residential dwellings, would have created an intensification of the site and domestication that would have caused harm to the Conservation Area and contrary to Policy 3 of the Brancaster Neighbourhood Plan. By virtue of not being a residential dwelling, conditioned to be retained with Appletree House would overcome the harm caused to the Conservation Area and contrary to Policy 3 of the Brancaster Neighbourhood Plan.

The proposal now therefore complies with Policy CS12 of the Core Strategy in relation to protecting Heritage Assets, Policy DM15 Environment, Design and Amenity, Policy 8 of the Brancaster Neighbourhood Plan, the Brancaster Conservation Character Statement and chapter 16 of the NPPF "Conserving and Enhancing the Historic Environment".

Neighbour Amenity

There are no residential neighbours other than the donor dwelling that would be materially impacted by the development.

Ecology

No alterations are proposed because of the change of use of the building accordingly it is considered that no protected species report was required. However, the applicant's attention

is drawn to the provisions of the Wildlife Countryside Act 1981 where it is unlawful to intentionally kill, injure or take any protected species.

Natural England have no objection to the proposal in terms of its impact upon the Statutory Designated Sites and subject to the habitats mitigation payment there should be no detrimental impact upon the European Designated sites that cannot be effectively mitigated.

CONCLUSION

The application seeks consent for the change of use of the annexe to a residential holiday let. The proposal has been supported by a business statement and Design and Access Statement which in your officer's opinion met the provisions of Policy DM11 which is the key policy in regard to tourism and permanent holiday accommodation.

There are no outstanding issues from statutory consultees.

The proposal complies with Site Allocation and Development Management Plan Policies DM2,11 and 15; Core Strategy Policies CS01,02,06,08,10,11,12; Policy 8 and 9 of the Brancaster Neighbourhood Plan. The Brancaster Conservation Area Character Statement and the overarching provisions of the NPPF and is therefore recommended for approval subject to conditions.

RECOMMENDATION:

APPROVE subject to the imposition of the following condition(s):

- 1 Condition: The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 1 Reason: To comply with Section 91 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 2 Condition: The development hereby permitted shall be carried out in accordance with the following approved plans:-
 - 21/0104/00 - Location Plan
 - 21/0104/01D - Garden Cottage
 - 21/0104/02 - Ground Floor Plan
 - 21/0104/03 - First Floor Plan
- 2 Reason For the avoidance of doubt and in the interests of proper planning.
- 3 Condition: The holiday accommodation hereby approved shall be held at all times in conjunction with the land and buildings outlined in blue on plan 21/0104/01D received the 27th October 2021 and shall be subject to the following:-
 - The use of the holiday let hereby approved shall be limited to occupation for holiday accommodation purposes only and shall be made available for rent or as a commercial holiday let, and
 - The accommodation shall be for short stay accommodation only (no more than 28 days per single let) and shall not be occupied as a person's sole or main place of residence, and

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- The owners / operators shall maintain an up-to-date register of lettings/occupation and shall make the register available at all reasonable times to the Local Planning Authority.

At no time shall the holiday accommodation be used for anything other business or commercial purpose.

- 3 Reason In order that the Local Planning Authority may retain control over the development, in the interests of the amenities of the locality, in accordance with the NPPF.
- 4 Condition: The on-site car parking area as defined in red, on the western side of Brancaster Restricted Byway 24, as shown on plan 21/0104/01D shall be retained for the purposes of serving the holiday let accommodation hereby approved.
- 4 Reason To ensure the permanent availability of the parking / manoeuvring area, in the interests of highway safety.