

15 DCNC2004/3108/RM - PROPOSED 2 DETACHED HOUSES WITH GARAGES ON LAND AT GRID REFERENCE 55415490, RISBURY, LEOMINSTER, HEREFORDSHIRE, HR6 0NQ

**For: Mr & Mrs P Kelsall per Linton Design Group
27 High Street Bromyard Herefordshire HR7 4AA**

**Date Received:
25th August 2004**

**Ward:
Hampton Court**

**Grid Ref:
55419, 54911**

**Expiry Date:
20th October 2004**

Local Member: Councillor K Grumbley

1. Site Description and Proposal

- 1.1 The application site lies on the south side of the C1110 road towards the eastern end of Risbury. The proposal is for the erection of 2 dwellings to be occupied in accordance with a condition imposed on appeal requiring the occupation of the dwellings to be limited to persons solely or mainly employed, or last employed, in the locality in racehorse training stables, or widow or widower of such persons and to any resident dependants.
- 1.2 The application site, which forms part of a larger field, measures approximately 45m x 30m. This application for reserved matters is for the erection of two 4-bedroomed detached dwellings either side of an access drive, the entrance having previously been undertaken under an earlier permission.
- 1.3 Plot 1, the larger of the two dwellings, proposes a floor area of approximately 180m², with a ridge height of approximately 7.3m, utilising dormer windows in both north and south elevations. This plot also includes a detached double garage.
- 1.4 Plot 2 measures approximately 130m² in floor area excluding the single attached garage and has a ridge line of approximately 7m. This, too, utilises dormer windows to keep the scale of the dwelling down.
- 1.5 To the west of the site lies a property known as Pentwyn and the associated roofing business, whilst to the east lies a recently erected dwelling known as Butterfield, the site of a former public house.

2. Policies

2.1 Leominster District Local Plan (Herefordshire)

A2 – Settlement hierarchy
A54 – Protection of residential amenity

2.2 Hereford and Worcester County Structure Plan

H20 – Residential development in open countryside
H16A – Development criteria

2.2 Herefordshire Unitary Development Plan (Revised Deposit Draft)

H7 – Housing in the countryside outside settlements
DR1 – Design

3. Planning History

94/0800 - Removal of condition restricting occupancy of dwellings to persons solely/mainly employed or last employed in the locality in racehorse training stables, on land adjacent to Hop Pole Inn, Risbury. Refused 21.1.95.

93/164 - Removal of conditions 3 and 4 preventing dwellings from being sold separately from a property used by the applicants in connection with their horse race stable business and restricting occupancy adjacent to Hop Pole Inn, Risbury. Refused 4.5.93.

This decision was subject of an appeal, ref. T/APP/C/1815/A/93/230478/P5. The appeal was allowed and the condition referred to replaced with a condition stating:

'The occupation of the dwelling shall be limited to persons solely or mainly employed or last employed in the locality for horse race training stables, or widow or widower of such persons, and to any resident dependants.'

90O612 - Site for erection of 4 cottages for occupation by full-time employees of adjacent race horse training stables on land adjacent to Hop Pole Inn, Risbury. Outline planning permission granted 10.3.92, subject to condition that 'The dwellings hereby permitted shall be occupied only by full-time employees of the applicants' race horse stable business.' This permission was also subject to a Section 106 legal agreement requiring that the 4 dwellings not be sold or leased separately from the race horse stables and that they only be occupied by full-time employees of that business.

This agreement was subsequently rescinded given the reasons by the Inspector for allowing the conditions to be amended on appeal.

4. Consultation Summary

Statutory Consultations

4.1 None required.

Internal Council Advice

4.2 Head of Engineering and Transport comments: 'For a road with a national speed limit, the full standard for the visibility splays required would normally be 2m x 60m. Given the circumstances of low speed and light traffic at this site, it is felt reasonable to relax the standard for visibility splays to 2m x 33m, in this case.
Conditions H03 - 2m x 33m, H09, H11'

5. Representations

5.1 Humber Parish Council comment as follows:

'The Council has concerns over three aspects of this application.

1. The positions of the houses: It would be more acceptable if the relative positions of the houses were to be moved closer to one another, with a reduction in the size of the central parking area, and thus further away from the adjacent existing properties.
2. Drainage: The proposed arrangement for surface water drainage should be considered carefully. The existing drainage in this area often proves to be inadequate, with water running over the road.
3. Position of the Klargester sewage biodigester: The proposed position close to the road should be considered carefully, especially with regard to possible effect of run-off surface water. Has a position further up the hill been considered, where surface water could run off into land drains?'

5.2 Letters have been received from:

Mr D Dixon of Etnam Street, Leominster, on behalf of Mr and Mrs White of Pentwyn
Gabbs Solicitors, on behalf of Mr and Mrs White of New Pentwyn

These are summarised as follows:

- 1) Question the validity of an application for reserved matters given that the period for submission of such has expired.
- 2) The plans proposed reducing the height of the evergreens on the west side of the access. These are not within the applicant's ownership.
- 3) Drainage is shown discharging on the opposite side of the highway on land not identified in the ownership of the applicant.
- 4) The westernmost of the dwellings is located unacceptably close to the storage/industrial building and could give rise to complaints about noise nuisance.
- 5) Also relates to question of ownership of land, stating that fences recently erected indicate the true ownership boundary.

5.3 In support of the application, the applicants' agent advises:

'My clients, Mr and Mrs P Kelsall, are the current owners of the racing stables for which the original permission was granted. The original permission was for 4 dwellings but this reserved matters application is for 2 only which, when built, will preclude any further houses being erected on the site. My clients satisfy the restriction on occupancy and would ask you to note that the floor area of the 2 dwellings currently proposed is no greater than the floor area of the 4 dwellings shown on the indicative plan accompanying the original outline application.'

Latterly, additional confidential information has been provided concerning the commensurate nature of the dwellings for such an enterprise.

5.4 The full text of these letters can be inspected at Northern Planning Services, Blueschool House, Blueschool Street, Hereford and prior to the Sub-Committee meeting.

6. Officers Appraisal

- 6.1 In determining the planning appeal in March 1994, the Inspector effectively granted a further outline planning permission, requiring reserved matters to be submitted within 3 years of the date of that permission and that the development permitted be begun

within 5 years of that date or before the expiration of 2 years from the date of the approval of the last reserved matters.

- 6.2 Consequently, an application for reserved matters would have been expected within 3 years of the 1994 date and have commenced no later than 2 further years thereafter. There is no further correspondence from mid-1994 to the end of 1998 when the question of the expiry of permission then arose. There then followed a series of correspondence. As a result of the advice received and the fact that the reserved matters for access had been submitted, although overlooked at the time of the appeal, and that work had commenced on the access it was concluded that the outline permission remained extant and that it was open to the applicants to make further application.
- 6.3 Having accepted that the principle remains valid, it is necessary to consider whether the scale and design of the development is in itself appropriate. It is considered that the design of the dwellings themselves are acceptable and they do not give cause for loss of amenity or overlooking of any neighbours. Furthermore, it is considered that given the nature of the business the scale of the dwellings proposed is commensurate with that use and comply with requirements of PPS7 accordingly. In this case, the manager/owner's property being approximately 180m², is considered commensurate with such a business. The smaller one being close enough to the target of 120² for employee dwellings.
- 6.4 The question of ownership has been raised and further information is sought by officers. Whilst this remains a private matter between the individuals concerned, officers have seen enough evidence to satisfy themselves that the correct certificates have been issued.
- 6.5 Whilst the applicants' agent advises that the erection of these two dwellings would prevent any further development, the reserved matters site does not extend to the full extent of the original outline permission. Consequently, there is further land, approximately 10m, behind the site on which two further dwellings could be erected. Nevertheless, there are no grounds for objection to the application on that basis.
- 6.6 As the access has previously been accepted, conditions regarding visibility splays are unnecessary.
- 6.7 It is considered that the proposal complies with relevant planning policy and is consequently considered acceptable.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

- 1 - A01 (Time limit for commencement (full permission)) (2 years)**

Reason: For the avoidance of doubt and to ensure the site does not continue to remain undeveloped and that it is utilised for the purpose originally intended.

- 2 - B01 (Samples of external materials)**

Reason: To ensure that the materials harmonise with the surroundings.

3 - H13 (Access, turning area and parking)

Reason: In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway.

4 - G04 (Landscaping scheme (general))

Reason: In order to protect the visual amenities of the area.

5 - G05 (Implementation of landscaping scheme (general))

Reason: In order to protect the visual amenities of the area.

6 - F48 (Details of slab levels)

Reason: In order to define the permission and ensure that the development is of a scale and height appropriate to the site.

7 - F17 (Scheme of foul drainage disposal)

Reason: In order to ensure that satisfactory drainage arrangements are provided.

Informatives:

- 1 - HN01 - Mud on highway**
- 2 - HN10 - No drainage to discharge to highway**
- 3 - N15 - Reason(s) for the Grant of PP/LBC/CAC**

Decision:

Notes:

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Background Papers

Internal departmental consultation replies.