

**16 DCNC2005/2498/F - REMOVAL OF OCCUPANCY
CONDITION (NO 7) REF: 13164 INSPECTOR'S
DECISION 09 03 1994 ON LAND ADJACENT TO
FORMER HOP POLE INN, RISBURY, LEOMINSTER**

**For: Mr P Kelsall of Gallop View, Risbury, Leominster,
HR6 0NQ**

Date Received:

29th July 2005

Expiry Date:

23rd September 2005

Local Member: Councillor K Grumbley

Ward:

Hampton Court

Grid Ref:

55419, 54910

1. Site Description and Proposal

- 1.1 The application site lies on the south side of the C1110 road towards the east end of Risbury. The application relates to two recently erected dwellings currently subject to a planning condition requiring the occupation 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 or to any resident dependants".
- 1.2 Both dwellings are 4-bedroomed detached houses recently erected following approval of reserved matters determined by committee on 1 December last year.

2. Policies

2.1 Leominster District Local Plan

A44 – Removal of agricultural or forestry occupancy conditions

2.2 Herefordshire Unitary Development Plan (Revised Deposit Draft)

H8 – Agricultural and forestry dwellings and dwellings associated with rural businesses

- 2.3 Planning Policy Statement 7: Sustainable Development in Rural Areas
Annex A: Agricultural, forestry and other occupational dwellings

3. Planning History

900612 - Site for the erection of 4 cottages for occupation by full-time employers of adjacent racehorse training stables on land adjacent to Hop Pole Inn, Risbury. Subject to occupancy condition tied to adjacent training establishment and a further condition that development not be sold separately from the applicant's horse racing business.

93/164 - Application to remove the 2 conditions referred to above. Refused May 1993. This refusal was subject to an appeal, which was subsequently allowed. The Inspector replaced the strict occupancy condition to the current condition restricting occupation as previously stated in the introduction. Date of Inspector's decision 9 March 94.

94/800 - Application to remove condition imposed by Inspector. Refused February 1995.

Work to secure the permission was commenced and it was accepted that the permission remained extant.

NC2004/3108/RM - Erection of 2 detached houses with garages. Approved by committee 1 December 2004.

4. Consultation Summary

Statutory Consultations

4.1 None required.

Internal Council Advice

4.2 County Land Agent comments as follows:

- 1) It would appear that the houses have never been occupied.
- 2) The Estate Agent's details include plans, not photographs.
- 3) Questions where the properties were advertised and for how much.
- 4) Considers that the price for Ash Tree House should be reduced from 350,000 to 230,000, and from 250,000 to 167,000 for The Conifers. Considers that the 10% reduction is not acceptable and should be 33%.

4.3 Traffic Manager has no objection.

5. Representations

5.1 Humber Parish Council state: 'The majority of the Parish Council are opposed to this application, seeing no valid reason for removing the long standing condition.'

5.2 Objections have also been received from:

D A and K M Ryall, Butterfield, Risbury
Mr and Mrs White, New Pentwyn, Risbury
Mr M Kimberly, The Old Post Office, Risbury

Objections are summarised as follows:

- 1) Circumstances have not changed since the first application.
- 2) These dwellings have been built in view of getting the tie lifted to make a bigger financial gain.
- 3) The current owner has no employees so never required the dwellings for this purpose.
- 4) If permitted, it will open the floodgates to other people to do similar things.
- 5) It is not considered that the dwellings have been offered on the market to encourage prospective purchasers.
- 5) The former Ward Councillor, Mr M Kimberly, was only prepared to support the application originally with the condition tying it to the adjacent racing stables.

- 5.3 In support of the application, the applicant submitted details of the marketing of the properties together with other properties in the area, with prices for comparison, and has commented upon the County Land Agent's observations. He considers that these are made without the benefit of reviewing the planning application file in full, and consequently has misunderstood elements of the proposal.
- 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. Officer's Appraisal

- 6.1 Leominster District Local Plan Policy A44 makes reference to removal of agricultural or forestry occupancy conditions but there is no reference to other occupational conditions. Nevertheless, similar consideration should be given which requires the advertising of the property for sale at a price which reflects the market value with the condition attached for a reasonable period of time. The policy also refers to removal of the condition after at least 5 years of its initial occupation.
- 6.2 Policy H7 of the Revised Deposit Draft Unitary Development Plan states:
- 'Applications for the removal of occupancy conditions will only be permitted if it can be demonstrated that the original condition was unreasonably imposed or that there is no longer a current or foreseeable need for the dwelling either on the holding or in the locality and that there has been a genuine and unsuccessful attempt to market the property at a realistic price.'
- 6.3 PPS7, whilst not specifically referring to other occupational conditions, refers to changes which affect the longer term requirement for dwellings and that they should not be kept vacant simply by virtue of planning conditions restricting occupancy which have outlived their usefulness.
- 6.4 To help Members consider the merits of the application, it is necessary to give a brief history of the site, in addition to the list of applications set out in the planning history section. Outline planning permission was originally granted in 1990 for 4 dwellings with all matters reserved for subsequent approval. However, a suggested layout was submitted, not forming part of the application, showing a terrace of 4 dwellings. Notwithstanding the recommendation for refusal, the Planning Committee at the time accepted that there was a need for dwellings for employees of the racing stable on the opposite side of the road who because of their working conditions needed to live close to the site and could not reasonably commute from Leominster, the nearest town.
- 6.5 An attempt by the then applicant to remove the conditions both on occupancy and separate sale, was refused by that Committee in 1993. However, a subsequent appeal allowed a separate sale and amended the occupancy condition from employees of the racing stable on the opposite side of the road to employees in racing locally. Given that the decision was taken that Leominster was too far away as a place to reside the 'locality' in this instance, necessarily assumes a narrower definition than might ordinarily be the case with agricultural dwellings, for instance.

- 6.5 Having set the historical scene, it is now necessary to consider the attempts to market the property with the tie. The properties have been marketed since March this year, originally at a price of £350,000 and £250,000 respectively. In June, the prices were reduced to £315,000 and £220,000. In addition to the information provided by the applicant, the applicant's Estate Agent advises that the open market value of the properties would be £465,000 and £325,000 respectively. A recent evaluation by other agents are of a similar opinion. It would appear therefore that the properties have been marketed at a price reduced by approximately a third to take account of the tie. Details of the properties in the area for sale appear to bear out this conclusion. It would appear that the County Land Agent was unaware of the additional information available when responding.

- 6.6 In addition to considering the marketing that has taken place, it is also necessary to consider whether the conditions were appropriately imposed in the first instance and what the change of circumstances are. The original case was made in 1990 that the accommodation was required for employees of the then applicant, working in the racing stables on the opposite side of the road. The 1993 application to remove that condition was an early indication that there was no longer a need. This is further evidenced by the attempt to remove the less stringent condition imposed by the Inspector at the appeal.

- 6.7 The applicant lives at a property called Gallop View, which is adjoining the racing establishment, and has no employees other than immediately family. A number of calls have been made to the office enquiring about the properties but none from people employed in racing or retired therefrom in the locality.

- 6.8 Consequently, it is considered that there is no continuing useful purpose to be served by the occupancy condition and that it is reasonable for the condition to be removed.

RECOMMENDATION

That planning permission be granted. No conditions.

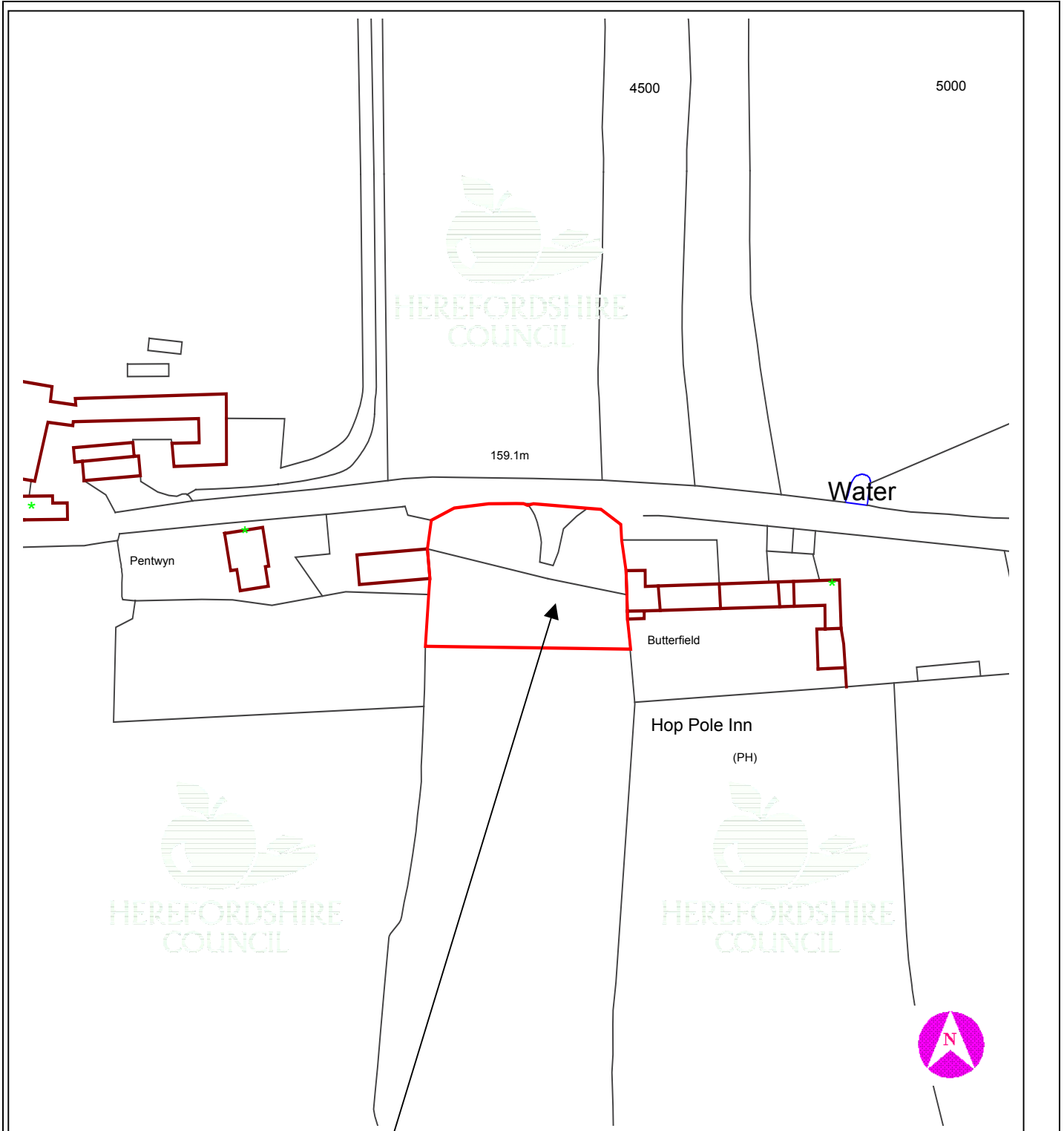
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DCNC2005/2498/F

SCALE : 1 : 1250

SITE ADDRESS : Land adjacent to former Hop Pole Inn, Risbury, Leominster

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