

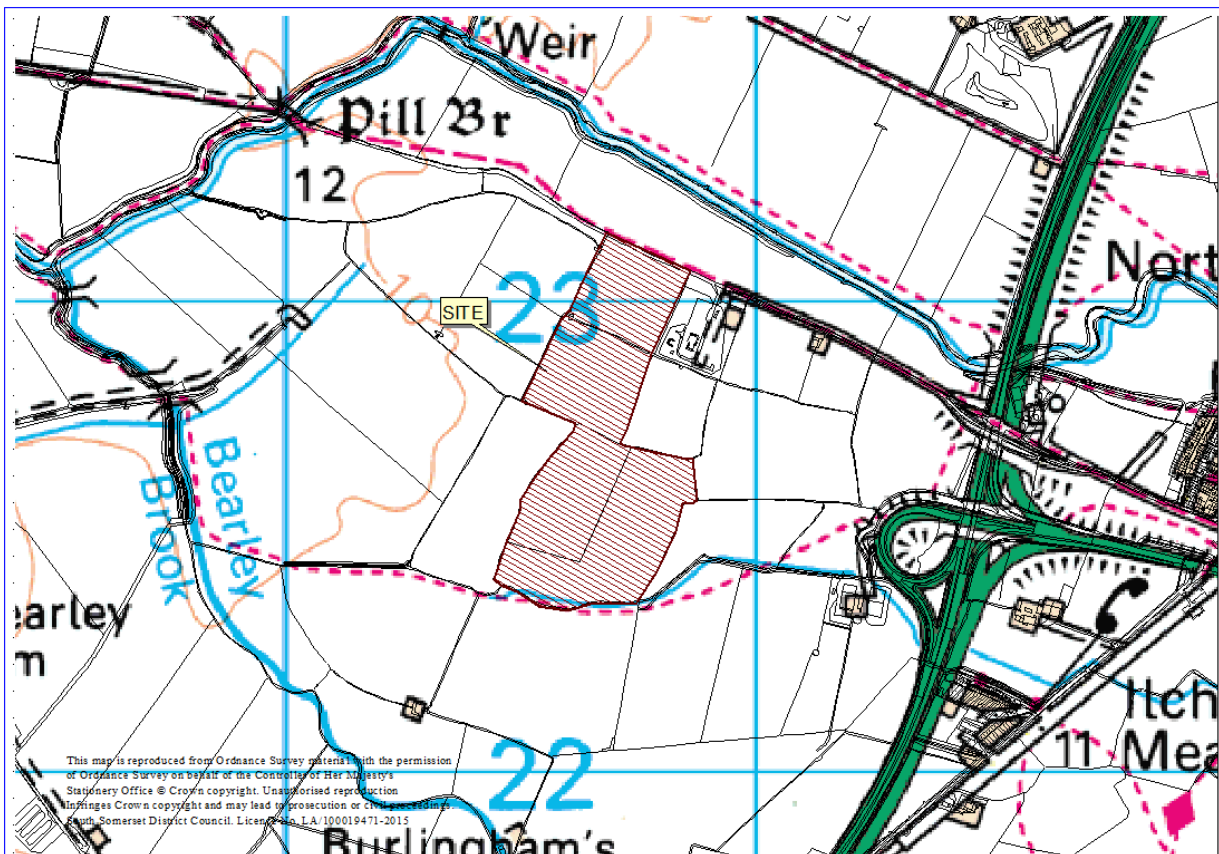
Officer Report On Planning Application: 17/01471/DPO

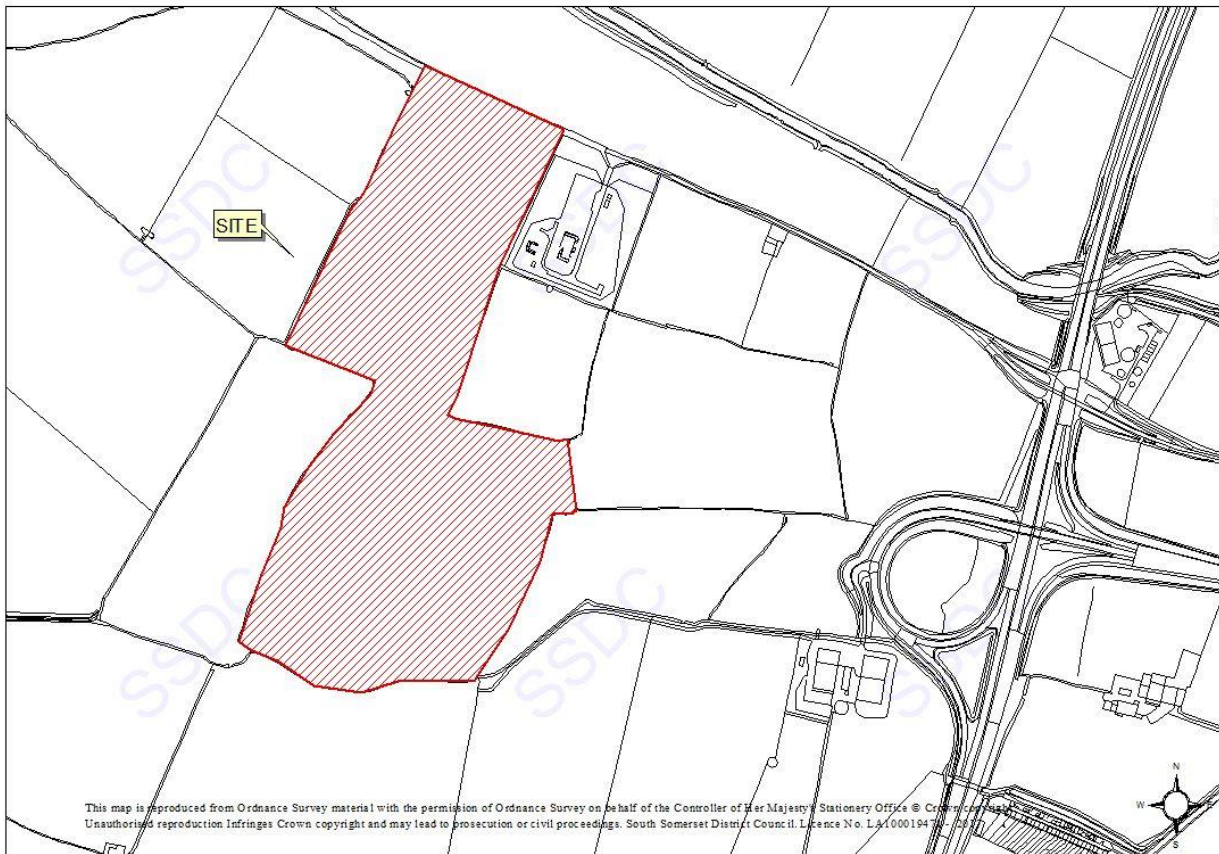
Proposal:	Application to vary S106 agreement dated 19th March 2013 between SSDC, Richard Don Knight and Heather Diana Knight to allow use of part of land for anaerobic digester plant.
Site Address:	New Spittles Farm Ilchester Mead Interchange Ilchester
Parish:	Ilchester
IVELCHESTER Ward (SSDC Member)	Cllr Tony Capozzoli
Recommending Case Officer:	Alex Skidmore Tel: 01935 462430 Email: alex.skidmore@southsomerset.gov.uk
Target date:	15th May 2017
Applicant:	Mr & Mrs R D Knight
Agent: (no agent if blank)	Symonds & Sampson 2 Court Ash Yeovil BA20 1HG
Application Type:	Non PS1 and PS2 return applications

REASON FOR REFERRAL TO COMMITTEE

The application was originally referred to Area East Committee in July 2017 at the request of the district councillor to allow the variation of the agreement to be properly considered. Area East Committee deferred making a decision at that time as they wished the application to be determined at the same meeting as planning application 17/02151/FUL, which relates to a proposed anaerobic digester on land at New Spittles Farm.

At the time of writing this report application 17/02151/FUL was not yet ready to be presented to Committee however the current application is referred back to Committee at the request of the agent on the basis that this is a standalone application and should be determined on its own merit separate to the outcome of the other application.





PROPOSAL

This application is seeking to vary a Section 106 agreement dated 19th March 2013 between SSDC and Richard Don Knight and Heather Diana Knight to allow use of part of the land for an anaerobic digester plant. The agreement is associated with planning consents 11/04284/OUT and 06/03632/OUT which each permitted the erection of an agricultural workers dwelling (two dwellings in total).

RELEVANT HISTORY:

- 17/01215/FUL: Construction of an anaerobic digester plant to include associated equipment and on-site infrastructure for the purpose of generating renewable energy. Pending consideration.
- 16/01370/FUL: Proposed agricultural building extension. Permitted.
- 15/01545/FUL: Erection of an agricultural storage building. Permitted.
- 13/02853/REM: Erection of an agricultural workers dwelling. Permitted.
- 13/01575/FUL: Erection of a silage pit. Permitted.
- 11/04284/OUT: Outline application for the erection of an agricultural workers dwelling. Permitted.
- 10/02173/FUL: Erection of an agricultural covered yard. Permitted.
- 10/00240/FUL: Erection of a covered feed area. Permitted.
- 10/00242/FUL: Erection of a fodder store extension. Permitted.
- 09/00206/REM: Erection of an agricultural dwellings. Permitted.
- 08/02209/FUL: Erection of an agricultural building. Permitted.
- 06/03632/OUT: Erection of an agricultural dwelling. Permitted.
- 06/02157/FUL: Erection of an agricultural apex-lean to building. Permitted.
- 02/02010/FUL: Erection of an agricultural building and the siting of two mobile homes. Permitted.

POLICY

Section 38(6) of the Planning and Compulsory Purchase Act (2004), and Paragraphs 2, 11, 12, and 14 of the NPPF states that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise.

For the purposes of determining current applications the local planning authority considers that the adopted development plan comprises the policies of the South Somerset Local Plan 2006 2028 (adopted March 2015).

Policies of the South Somerset Local Plan (2006-2028):

SD1 - Sustainable Development

HG9 - Housing for Agricultural and Related Workers

National Planning Policy Framework:

Part 1 - Building a strong, competitive economy

Part 3 - Supporting a prosperous rural economy

Decision Taking (Planning Conditions and Obligations)

Planning Practice Guidance - Use of Obligations

CONSULTATIONS

Ilchester Parish Council: Object. The Council were informed by their agent, who was in attendance, that Section 106 was no longer used by the District Council and that the farm would still be viable by the release of the Section 106 agreement on 48 acres. However, after consideration, with an indication that there may well be an application for an anaerobic digester from the Energy representative, also in attendance, the Council unanimously opposed the application to vary the Section 106 agreement, on the basis that it is an issue between the SSDC & parties concerned and that there was a lack of information as to exactly why this was required, and it was noted that both dwellings at New Spittles Farm had been granted at the Farm under Section 106 for agricultural occupancy

REPRESENTATIONS

Written representations have been received from one local resident objecting to this application for the following reasons:

- The intention of the S106 agreement is to ensure the continuing viability and success of the whole entity of New Spittles Farm, the application fails to demonstrate this and it is therefore reasonable to refuse this application.
- The land area required for the anaerobic digester is only 9 acres so why are they seeking the release of 48 acres, what is to happen with the excess and how will it be used to maintain the intention of the S106.
- Where is the business case to show that the farm and farmworkers will benefit from this in perpetuity. SSDC should ensure that the projected turnover is provided, including when the subsidies expire.
- How has it been justified that the release of this land does not threaten the current and projected dairy enterprise.
- The agent has been contradictory in saying that the proposed use of the part of the land for a biodigester is of no relevance to the current application when it is inferred that this is the driving force behind it.
- The agent's calculations are incorrect one LSU does not equate to an one acre.

CONSIDERATIONS

This application is seeking to vary a non-fragmentation legal agreement which ties the two agricultural workers dwellings associated with New Spittles Farm to the associated farm holding.

The Section 106 agreement was originally imposed as part of the permission in 2006 for the first farmhouse to be permitted on this holding and was then amended to also encompass the permission in 2011 for a second agricultural workers dwelling. At the time of these applications it was common place to impose such non-fragmentation restrictions and this was supported by the relevant planning policies of that time. Current policy however, i.e. the NPPF and the Council's new local plan (adopted in March 2015), do not support the use of such obligations unless they are considered to be absolutely necessary, fair and reasonable in order to make a development acceptable. Such a view is supported by numerous appeal decisions. On this basis the principle of the current proposal is considered to be acceptable and policy compliant.

It is noted that the Parish Council and a local resident have objected to this application and have made reference to an anaerobic digester (AD) which is proposed on part of the land which is intended to be released from the non-fragmentation agreement. The local resident has also questioned why the applicant is seeking to release substantially more land from the S106 agreement than is needed for the proposed AD plant and queried whether this will put at risk the long-term viability of the farm holding.

New Spittles Farm is a substantial holding extending to 448 acres and is based on a dairy enterprise of 220 dairy cows and a further 120 dairy followers. The agents have stated that at present the holding only requires 323 acres to meet the needs of their present activities. The current application is seeking to release 48 acres from the legal agreement and on the basis of the information provided would leave an excess of land available to continue to meet the needs of the holding and to allow further future expansion of their activities.

Any planning issues relating to the proposed AD plant will be considered under the separate planning application and are not relevant to the current application.

In summary, there is no evidence to suggest that the removal of these 48 acres from the non-fragmentation agreement will lead to the holding becoming less viable. There are no exceptional circumstances in this instance that over-ride current planning policy requirements relating to such obligations and it is considered that to insist that this land be retained within the non-fragmentation agreement is not only unnecessary but also unreasonable. The application is therefore recommended for approval.

RECOMMENDATION

To allow the modification of the Section 106 Agreement dated 19/03/2013 made between South Somerset District Council, Richard Don Knight and Heather Diana Knight to omit 48 acres from the controls of this agreement.