

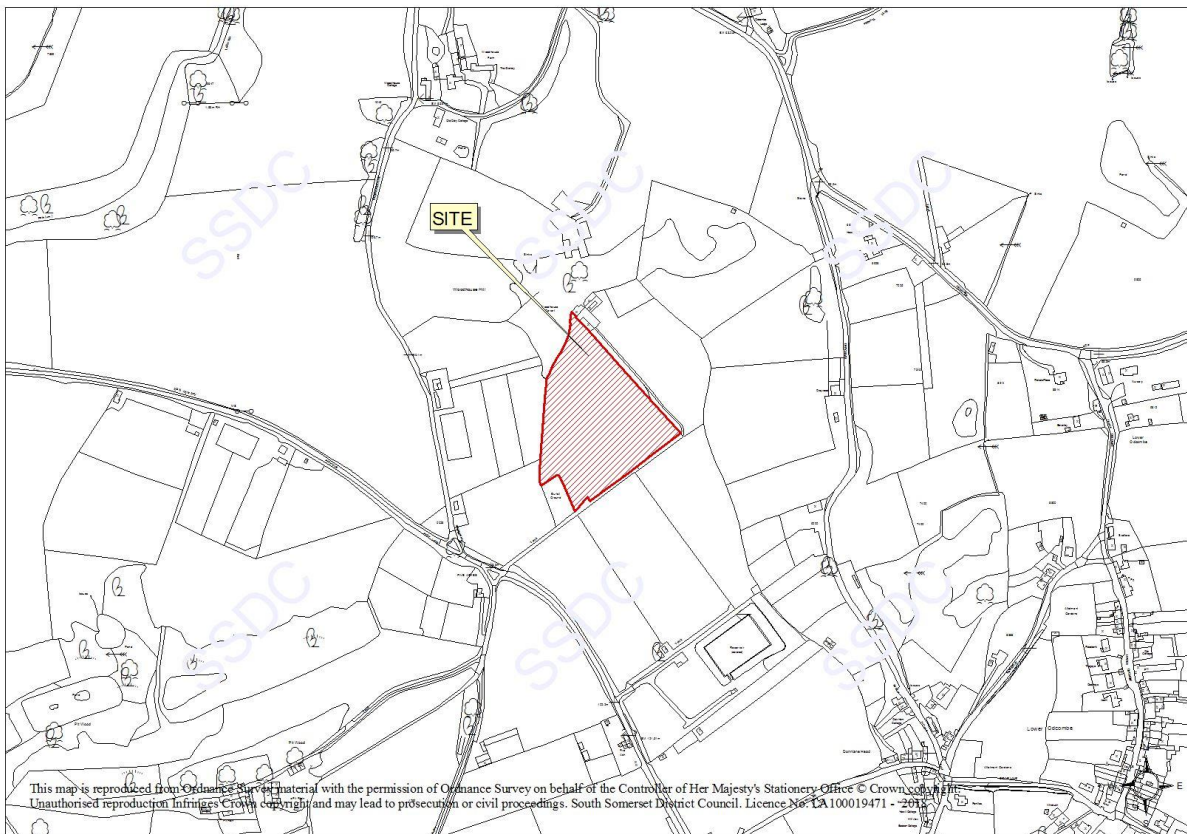
## **Officer Report On Planning Application: 17/03894/FUL**

<b>Proposal :</b>	The change of use of land to a mixed agricultural/equestrian, demolition of existing stable/store building and the erection of a replacement stable block and the erection of a polytunnel.
<b>Site Address:</b>	Land East Of Woodhouse Lane Woodhouse Lane Montacute
<b>Parish:</b>	Odcombe
<b>COKER Ward (SSDC Member)</b>	Cllr G Seaton Cllr Cathy Bakewell
<b>Recommending Case Officer:</b>	Stephen Belli Tel: 01935 462644 Email: stephen.belli@southsomerset.gov.uk
<b>Target date :</b>	27th December 2017
<b>Applicant :</b>	Miss J Slade & Mr G Morgan
<b>Agent: (no agent if blank)</b>	Clive Miller Associates Ltd Sanderley Studio Kennel Lane Langport TA10 9SB
<b>Application Type :</b>	Major Other f/space 1,000 sq.m or 1 ha+

### **Reason for Referral to Committee**

This application is referred for Committee consideration at the request of the Ward Member with the agreement of the Area Chairman in order to allow the planning issues to be debated.

### **Site Description and Proposal**





The site comprises a small holding of some 1.85 hectares (4.5 acres) situated in the open countryside mid-way between Montacute and Odcombe. The land is split into a number of parcels split between grassland, an allotment style growing area, and an enclosed yard type area which contains a number of other small structures. Access to the site is gained for vehicles via a private track leading from the public highway over which the applicants have a right of way as far as the yard area. The private track then continues to the north-east and then turns sharply to the north-west terminating at a group of buildings known as Woodhouse Covert. To the north and west of the site lie other equine based facilities. To the immediate south of the smallholding boundary lies a stone wall enclosure which contains a burial ground. The burial ground and its wall are Listed (grade II) as being of special architectural and historic interest. A public footpath runs from the public highway along the private track and then turns northwards past the west facing wall of the burial ground. This footpath then runs to the north giving a view of the application site. The site contains a number of other small timber structures and sheds together with a more substantial metal clad structure situated in the 'yard' area along the eastern elevation of the listed wall.

The current application site holding is at present only used for agricultural purposes. Taken from the application form the application is stated to be for the change of use of the land to a mixed agricultural/equestrian use, demolition of an existing "stable/store" building and the erection of a "replacement" stable block and the erection of a polytunnel. The existing stable/store (there appears to be no stable use at this time) is located immediately to the north of the Listed Burial ground wall. The applicants live in Crewkerne at the present time (approximately 6 miles away).

The proposed stable building measures some 22.5 metres in length by 4.5 m in width by 3 m in height with an apex roof. The building takes the form of a standard stable block with timber clad walls and timber windows and doors under a timber shingles roof. The building will contain three loose boxes and a 9m by 4.5 m store to one end. The building is located on the footprint of the existing storage building situated directly to the north of the listed burial ground wall. The existing building measures some 21.6 m in length by 4.4m wide under a monopitch metal roof which slopes away from the wall

ranging in height between 2.9-2.1 metres at the eaves. Internally the building is split between two loose boxes and a store. The existing and proposed building run the entire length of the northern wall of the burial ground. The rear wall of the existing stable/store is formed by the burial ground wall. The new stable will be freestanding from the wall.

The other part of this proposal is for the erection of a polytunnel situated between the northern wall of the burial ground and the growing area. The polytunnel is intended to be used for agricultural purposes in connection with the growing area and will take the usual form of a semi-circular structure 9.1m by 4.8m by 2.5 m at its highest point. It is understood that the agricultural use of the land and the polytunnel will be for the applicants personal use although the accompanying planning statement refers to "some limited business use". Officers are however considering this as a personal use rather than a business use enterprise given its small scale.

Finally overlaying the proposed built development is a change of use of the land to allow for equine use as well as agriculture. The equine use will allow for the keeping, grazing and exercising of horses and normally allows if approved for the placement on the land of any moveable structures associated with an equine horse such as taped enclosures and moveable jumps and obstacles, but not more engineered structures such as a sand school manege.

## **RELEVANT HISTORY**

04/03223/FUL - Conversion of part of loose box/stable into a dwelling in association with running a non-commercial smallholding (Retrospective Application) - refused 13/12/2005 - Appeal Dismissed 12/04/2006

(This relates to the shed along the eastern wall of the burial ground and not the current stable application site)

05/00316/USE - Enforcement notice against unauthorised residential use - Appeal Dismissed 05/02/2007

## **POLICY**

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

SD1 - Sustainable Development

TA5 - Transport Impact of New development

EQ2 - General development

EQ3 - Historic Environment

EQ8 - Equine Development

Section 38(6) of the Planning and Compulsory Purchase Act 2004 repeats the duty imposed under S54A of the Town and Country Planning Act 1990 and requires that decision must be made in accordance with relevant Development Plan Documents unless material considerations indicate otherwise,

## **Central Government advice**

National Planning Policy Framework (March 2012)

Part 4 - Promoting sustainable transport

Part 7 - Requiring good design

Part 12 - Conserving and enhancing the historic environment

## **Policy-related Material Considerations**

Wildlife and Countryside Act 1981

## **CONSULTATIONS**

### **Parish Council:**

Recommends approval

### **County Highway Authority:**

Standing advice applies. Refer to rights of way protection as appropriate.

### **County Rights of Way team:**

Works should not encroach on public right of way which runs past site. Any works which impact on the right of way will need separate permission. Rights of way map extract enclosed with response which confirms public footpath runs along the western boundary of the site.

### **SSDC Environmental Protection Unit:**

I would recommend the following conditions should this application be approved:

The application site is within 250 metres of a suspected landfill site. The applicant/developers attention is drawn to the fact that there is the potential for production and migration of landfill gas. You are reminded that the responsibility for safe development rests with the owner and/or developer. Accordingly, the applicant/developer is advised to seek independent expert advice regarding the possibility of the presence, or future presence, of gas and whether any precautionary measures are necessary. The Council's Environmental Health service will make available to you, free of charge, any information or data that it has in relation to the land to which the application applies. For further information please contact Tim Cox 01935 462526.

### **Contaminated land watching brief (SSDC)**

In the event that any signs of pollution such as poor plant growth, odour, staining of the soil, unusual colouration or soil conditions, or remains from the past industrial use, are found in the soil at any time when carrying out the approved development it must be reported in writing within 14 days to the Local Planning Authority (LPA). The LPA will then consider if the findings have any impact upon the development and development must be halted on that part of the site. If the LPA considers it necessary then an assessment of the site must be undertaken in accordance with BS10175. Where remediation is deemed necessary by the LPA a remediation scheme must be submitted to and approved in writing by the LPA and then implemented in accordance with the submitted details.

Reason: To protect the health of future occupiers of the site from any possible effects of contaminated land, in accordance with Local Planning Policy.

### **SSDC Landscape Architect:**

I recollect the site from a planning appeal circa 12 years ago. The following text is taken from my landscape statement at that time, and I consider those same considerations of landscape character being pertinent to this application;

2.1 This evidence sets out the landscape case for dismissal of the appeal before you under ground A, to allow domestic and smallholding accommodation adjacent the former Baptist burial ground at Higher Odcombe. It considers the;

- i) Setting of the listed structure (SSDC local plan policy EH5) and;
- ii) Impact upon landscape character (SSDC policies ST5 and EC3).

2.2 The burial ground lays alongside a rural track, in open countryside off the Ham Hill road. A public

right of way runs immediately aside its SW boundary. It is demarcated by coursed limestone walling, constructed in 1868 to contain a burial plot said to have been established in 1606 (ref.1). This isolated location dates back to a time before the Toleration Acts of 1689, when non-conformists could not be buried within 5 miles of a town. The burial plot is indicated on the tithe maps of the 1830's (ref.2) and the walls are given definition on the 1880 series OS map (ref.3). An overhead photograph taken circa 1946 graphically illustrates the isolation of the burial ground (ref.4).

2.3 This documentary evidence indicates the burial plot to be set in a relatively isolated location, remote from local villages, standing in its own open space. As such, it is an unusual expression of local history, of which the site's isolation is a major facet. The walls form a containing structure, which emphasise the singularity of the site and its location. Until recent times, the site was unencumbered by any form of adjacent structures. Thus building aggregation adjacent the site, and any form of domestic expression in close proximity is contrary to the historic setting of the burial ground, and its historical evolution, resulting in a clear and detrimental impact upon the listed structure, contrary to policy EH5.

2.4 Local plan policy ST3 strictly controls development outside development areas, and policies ST5 and EC3 require development proposals to respect the character and setting of the locality. Additionally, PPS 7 advocates the general protection of the countryside, and suggests that an assessment of local character and distinctiveness should inform a potential for development.

2.5 In this location, once to the west of the village of Odcombe, the landscape of the Ham Hill stone and Yeovil Sands plateaux is characterised by its relatively level and open profile of (predominantly) pasture fields, incised by wooded combs. Other than occasional dispersed farmsteads, there is sparse development presence and a sense of remoteness, which is a further defining characteristic of the area. The singularity and relative isolation of the burial ground is a landscape component that accords with, and uniquely contributes to, this character.

2.6 Domestic development in this location would be at variance with the distinctive character of this landscape area. Building aggregation also represents an erosion of the listed structure's singularity, and its relative isolation. Development permitted here would adversely impact upon the setting of the listed structure and its historic character, and that of local landscape character, contrary to the policies referred to above. Consequently I would assess that there are clear landscape grounds on which to base a refusal of this application.

I view any form of built development (and redevelopment) in proximity of the burial ground as substantially eroding local character, consequently LP policy EQ2 now applies, as does EQ3 relative to heritage (Andrew may comment further) to provide grounds for refusal. Neither does the stable proposal relate to existing settlements or groups of buildings as is required by LP policy EQ8. There may be scope for development elsewhere on the holding, and this may be worth investigating in tandem with an agreement to remove existing structures from the burial ground's vicinity, to safeguard the integrity of the site.

I accept that there is a baseline position of the two structures currently aside the wall. This is an existing adverse impact. It follows that any change that exacerbates this impact, creates a greater harm. As Andrew has said of the stable proposal;

The existing buildings have a temporary appearance and form. This contrasts with the more formal and purpose built nature of the proposed building. A replacement building such as this formalises the presence of built form around the listed structure. I suggest that this change is harmful to the setting of the listed building, and that an alternative site must be sought.

Neither does the stable proposal relate to existing settlements or groups of buildings as is required by LP policy EQ8.

The poly-tunnel will introduce structural form to the adjacent open field - also the setting of the burial

ground, which is uniquely and historically characterised by its singularity and relatively isolation. I view this resulting aggregation of structural forms to further erode the setting of the burial ground, and thus add to the adverse impact. Consequently we view the application proposal to exacerbate the current level of harm, to thus be unacceptable.

I also note the proposed change of use to a mixed agriculture/equestrian use. Equestrian use can manifest in substantial change to the character and condition of the landscape. with landscape impacts arising from the subdivision of spaces, which can change the scale and grain of the landscape; the introduction of visual clutter created by polytape, fencing, jumps, field shelters and vehicle storage; and damage to grassland habitat caused by poaching, compaction and overgrazing. This compounds the landscape and heritage case against the proposal, to add to the grounds for refusal.

#### **FURTHER COMMENTS**

Having visited the site, I have no reason to change my views as previously expressed to Andrew. I consider there to be a clear case for a refusal, however, we have attempted to find a middle way, which enables the applicant's use of the site, whilst potentially reducing the adverse landscape and heritage.

#### **SSDC Conservation Officer**

There is a lot of relevant planning history here, including a number of enforcement files and a failed appeal. I note that the existing structures are shown on the 2001 aerial photos on our system. The Burial Ground walls were listed in 2004. Consent would have been required for these structures post 2004 as they are fixed to the listed walls, but as they were already built we must accept that they are authorised.

The burial ground stands in an isolated location away from the road and any other built form (other than those referred to above). Its isolated position is a significant characteristic of the historic asset, which is visually important and aids us in our understanding of the significance of the site. The walls enclose a non-conformist (in this case Baptist) burial ground that is understood to have been in use before the Toleration Act of 1689. Prior to this non-conformist burial grounds had to be sited at least 5 miles from the nearest town, hence this location.

The erection of buildings up against the listed walls, or in close proximity to, must be considered harmful to the historic setting of the burial ground. Such buildings dilute the well-established sense of isolation that the asset enjoys; which was an intentional characteristic when the site was chosen, and was a characteristic that was retained until the existing lean-to structures were added.

The existing buildings have a temporary appearance and form. This contrasts with the more formal and purpose built nature of the proposed building. A replacement building such as this formalises the presence of built form around the listed structure. I suggest that this change is harmful to the setting of the listed building, and that an alternative site must be sought. I note that the red line area is fairly extensive. If you are minded to accept the principle of buildings here then an alternative location towards the northern end of the applicants land should be acceptable from my perspective, on the basis the existing structures are removed.

#### **FURTHER COMMENTS**

Following a visit to the site we came up with what appear to be workable alternatives that the applicant appeared willing to consider when we met at the Council Offices. The emphasis with this was to move built form away from the north side of the historic walls, which are most visible from the footpaths, and place new buildings on the east side, which is much more contained by existing planting. This

approach would protect the setting of the heritage asset - and we know that **great weight** must be given to the asset's conservation.

## **REPRESENTATIONS**

No letters of representation received

## **CONSIDERATIONS**

### **Principle**

Development in the open countryside is generally restricted to that which needs a land based activity or which relates to an existing land based enterprise such as agriculture. Policies contained within the National Planning Policy Framework encourage rural diversification and use of agricultural land subject to their being no environmental harm.

Policy EQ2 of the South Somerset Local Plan (2006-2028) states the following

Development will be designed to achieve a high quality, which promotes South Somerset's local distinctiveness and preserves or enhances the character and appearance of the district.

Development proposals, extensions and alterations to existing buildings, structures and places will be considered against:

- o Sustainable construction principles;
- o Creation of quality places;
- o Conserving and enhancing the landscape character of the area;
- o Reinforcing local distinctiveness and respect local context;
- o Creating safe environments addressing crime prevention and community safety;
- o Having regard to South Somerset District Council's published Development Management advice and guidance; and making efficient use of land whilst having regard to: (inter alia) Local area character; and site specific considerations

Members will note the phrase reinforcing local distinctiveness and respecting local context, as well as having regard to local character and site specific considerations. In this case it is acknowledged that the proposal involves a land based use which can take place in the countryside. Conserving landscape character is another important phrase in the policy and will be referred to below along with the policy on equine development.

Policy EQ8 deals specifically with equine based developments and states the following -

Horse related facilities and equestrian enterprises in the countryside will be permitted provided:

- o New stables/field shelters closely relate to existing settlements or groups of buildings and should not interfere with the amenities of the adjoining residents;
- o Their design, scale, siting and materials respect the landscape character of the locality;
- o Development will not be allowed to proceed unless it can be demonstrated that it will not result in any adverse impact to the integrity of national and international wildlife and landscape designations, including features outside the sites boundaries that ecologically support the conservation objectives of designated sites;
- o Any proposal for equestrian development including apparatus, jumps, maneges, schooling areas and field sub division should respect or enhance the characteristic pattern and features of the surrounding landscape.

As a preamble to the policy the Local Plan states that consideration should be given to the following.

By its nature equestrian development can have a cumulative impact and can have an adverse impact on the rural character of the area. New buildings can adversely affect landscape character and natural beauty where they detract from existing characteristics e.g. due to scale or material or design. Therefore it is important to consider the current character of the countryside and how equine development can ultimately impact upon it.

In this respect the comments of the Council's landscape architect are noted. Whilst it may be argued that the proposed buildings are small scale and are an attempt at supporting a local enterprise and tidying up the site this has to be balanced against wider landscape harm. It is true to say that other areas near to the applicants holding have also been the subject of equine use approvals. These have already had an impact on the character and open-ness of the landscape and the provision of further 'clutter' and equine use will not enhance what is left. Whilst it would be possible to control moveable structures such as jumps through a planning condition it is much less easy to control the dividing up of the fields using polytape. The provision of both a polytunnel and the new stable building will not enhance local landscape character and thought should be given as to any alternative siting (see below).

### **Impact on setting of heritage assets**

The Listed Baptist Burial ground is described as follows in the official entry of Listed Buildings -

"Cemetery boundary walls and six headstones. The walls were built in 1868 and enclose earlier burial ground that is said to have been established in 1606 and was extended to south in 1774 and again in 1809. Coursed limestone rubble walls with rubble capping. Large rectangular enclosure with pedestrian gateway on south east side with moulded stone frame and later iron gates. Towards the north end there are six C18 headstones with shaped heads, three of which have angels carved in relief at the top. They are the earliest gravestone in the cemetery. The Baptist burial ground at Five Ashes is claimed to have been established in 1606, but the first recorded interment was 1720. It is situated in an isolated location at some distance to the NNW of the village of Odcombe. This is an interesting and early example of a Baptist cemetery containing some of its first gravestones". (Listed 7 April 2004)

In determining this application LPAs should bear in mind the statutory duty of section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess

Policy EQ3 of the South Somerset Local Plan (2006-2028) is relevant and states the following -

Heritage assets will be conserved and where appropriate enhanced for their historic significance and important contribution to local distinctiveness, character and sense of place. Their potential to contribute towards the economy, tourism, education and local identity will be exploited.

All new development proposals relating to the historic environment will be expected to:

- Safeguard or where appropriate enhance the significance, character, setting and local distinctiveness of heritage assets;
- Make a positive contribution to its character through high standards of design which reflect and complement it and through the use of appropriate materials and techniques;
- Ensure alterations, including those for energy efficiency and renewable energy, are balanced



alongside the need to retain the integrity of the historic environment and to respect the character and performance of buildings, adopting principles of minimum intervention and reversibility.

Historic England have given LPAs advice on assessing the impact on setting in their publication "Historic Environment Good Practice in Planning Note 3". In that document they make clear that setting is not just about the visual relationship of the proposed work to the Listed Building but is a wider appreciation of how the Listed Building is experienced and any cultural reasons that make the setting of the Listed Building important. The comments of both the Council's Landscape Architect and Conservation Officer refer to this wider background as to why the burial ground was chosen to be in this isolated location away from any town and the importance of that feeling of isolation being maintained. The Conservation Officer also mentions the existing building has more of a temporary appearance with the new modern stable block having a greater and detrimental impact. The advice referred to above also mentions cumulative impact and that settings change over time. The potential for a wider appreciation of the setting is apparent in this case as the new stable building and polytunnel will be directly seen from the nearby public footpath. Whilst setting as a concept is not dependant on whether or not it can be seen the fact that it is in this case accentuates the harm.

In this case it is considered that the new modern stable block will not enhance the setting of the Listed Building and the addition of a polytunnel will add to the visual clutter and further detract from the openness of the site.

### **Rights of way**

Whilst the right of way runs past the site it is not affected directly by the proposal and subject to it not being blocked during any construction work there are no issues in this respect.

### **Enforcement issues**

05/00316/USE - Enforcement notice against unauthorised residential use - Appeal Dismissed  
05/02/2007

At some time prior to April 2006 a building which existed along the eastern wall of the burial ground was erected (freestanding from the wall) as a replacement of an earlier building damaged by fire. That building was the subject of a retrospective planning application for approval. In dismissing that planning appeal the Inspector said the following.

"Given the site abuts the boundary wall of the burial ground, it is likely that a replacement building, if justified would be more appropriate sited elsewhere on the land in order to enhance the setting of this listed building".

Following the planning refusal an enforcement notice was served requiring the use of the building for residential use cease and that all fixtures and fittings not associated with the agricultural use of the land be removed. The ensuing appeal was dismissed and the Inspector required the residential use to cease and to "remove from the land all domestic items, materials, fixtures and fittings not necessary for the purposes of agriculture". The inspector gave the landowner 9 months to comply. Whilst the residential use has now ceased it is apparent that the building still contains domestic items such as a sofa, table and chairs, refrigerator etc. At the time of writing this report the case officer was not able to access the interior of the building so at this stage cannot be certain the terms of the enforcement notice have been fully complied with. In addition the case officer has queried a number of other sheds in the vicinity as to whether or not they have permission or are immune. By way of a response the applicant's agent considers the use of the larger shed against the eastern wall does not constitute a breach of planning control as they use it for refreshments whilst working on the holding. They also refer to the sheds having been on site for more than the requisite 4 year period to make them immune.

Consequently at this stage there is some uncertainty regarding the use of the shed against the eastern wall the subject of the enforcement notice which can only be resolved through further investigation. Similarly there is no clear evidence put before the Council as to the immunity of the other sheds.

### **Potential way forward**

The Case officer met with the applicant and her agent at the Council Offices together with the Council's Landscape Architect and Conservation Officer to seek a way forward and an alternative site. The preferred solution was that any new buildings would be sited at the northern end of the applicant's holding so that they would be grouped with the buildings at Woodhouse Covert. By doing so they would then have complied with policy on landscape grounds and on protecting the setting of the Listed Building. In response the applicant said they had no right of access to that point and would also need to bring in water and electricity so they discounted this as an option.

Consequently officers met on site to consider a further alternative siting and confirmed back to the applicant's agent in writing with a plan attached relating to a site in the informal yard area to the east of the burial ground wall. The stable building and polytunnel could be accommodated in this area and it was further suggested that the sheds referred to above out in a more open area be re-located to this more discreet area sheltered by conifer trees. It was further suggested that the building the subject of the Enforcement Notice also be removed in line with the recommendation of the earlier Planning Inspector and that any rest/refreshment facility be accommodated in the new store on the end of the stable building.

By way of a response the applicant's agent has declined these suggestions saying the polytunnel would be shaded but with no other reasons given other than the sheds are immune from enforcement action as is the shed against the eastern wall which in any event is not part of the application. The applicant now wishes the application to be determined as submitted.

It is therefore with regret that a recommendation of refusal has been formulated albeit officers consider a workable alternative siting could be accommodated in the informal yard area which would have less of an impact on landscape character and on the setting of the Listed Building. It was put to the applicants that this alternative siting would result in a likely recommendation of approval.

### **CONCLUSION**

The proposed stable and polytunnel are considered to be contrary to policies EQ2 and EQ3 of the South Somerset Local Plan (2006-2028) and to the advice set out in the National Planning Policy Framework and Historic England guidance relating to the protection of the setting of heritage assets.

### **RECOMMENDATION:**

Refuse for following reasons:

### **SUBJECT TO THE FOLLOWING:**

01. The proposal is considered to be contrary to Policy EQ3 of the South Somerset Local Plan (2006-2028) in that the siting of a large modern stable building and polytunnel in close proximity to the Baptist Burial Ground which constitutes an important Listed Building and designated heritage asset will not conserve, enhance or make a positive contribution to the setting of the heritage asset. The proposal will detract from the local distinctiveness and sense of place of the heritage asset which in this case will be particularly marked by virtue of the heritage asset being directly experienced from the adjacent public right of way. The proposal is also considered to be contrary to the advice set out in National Planning Policy Framework which requires great weight

to be given to protecting the setting of heritage assets and the advice offered by Historic England.

02. The proposal is considered to be contrary to Policy EQ2 and EQ8 of the South Somerset Local Plan (2006-2028) in that the introduction into this part of the landscape of a large new modern stable building and polytunnel as well as the potential for moveable structures and dividing features does not conserve or enhance the landscape character of the area and does not reinforce local distinctiveness or respect local context. Neither are the buildings grouped with other buildings or the buildings design scale and materials in sympathy with the local context.

**Informatives:**

01. In accordance with paragraphs 186 and 187 of the NPPF the council, as local planning authority, takes a positive and proactive approach to development proposals focused on solutions. The council works with applicants/agents in a positive and proactive manner by;

- offering a pre-application advice service, and
- as appropriate updating applications/agents of any issues that may arise in the processing of their application and where possible suggesting solutions

In this case the applicant and the LPA have worked together to consider an alternative siting but agreement has not been reached.