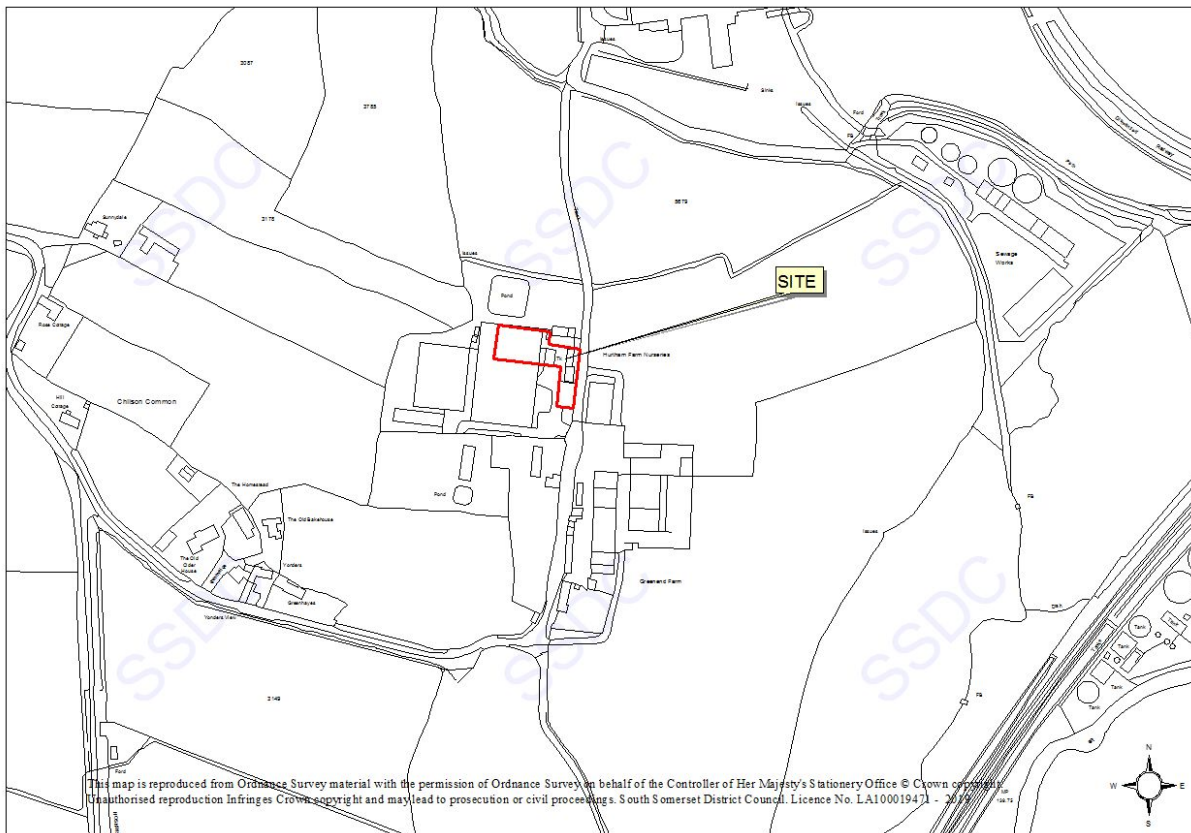


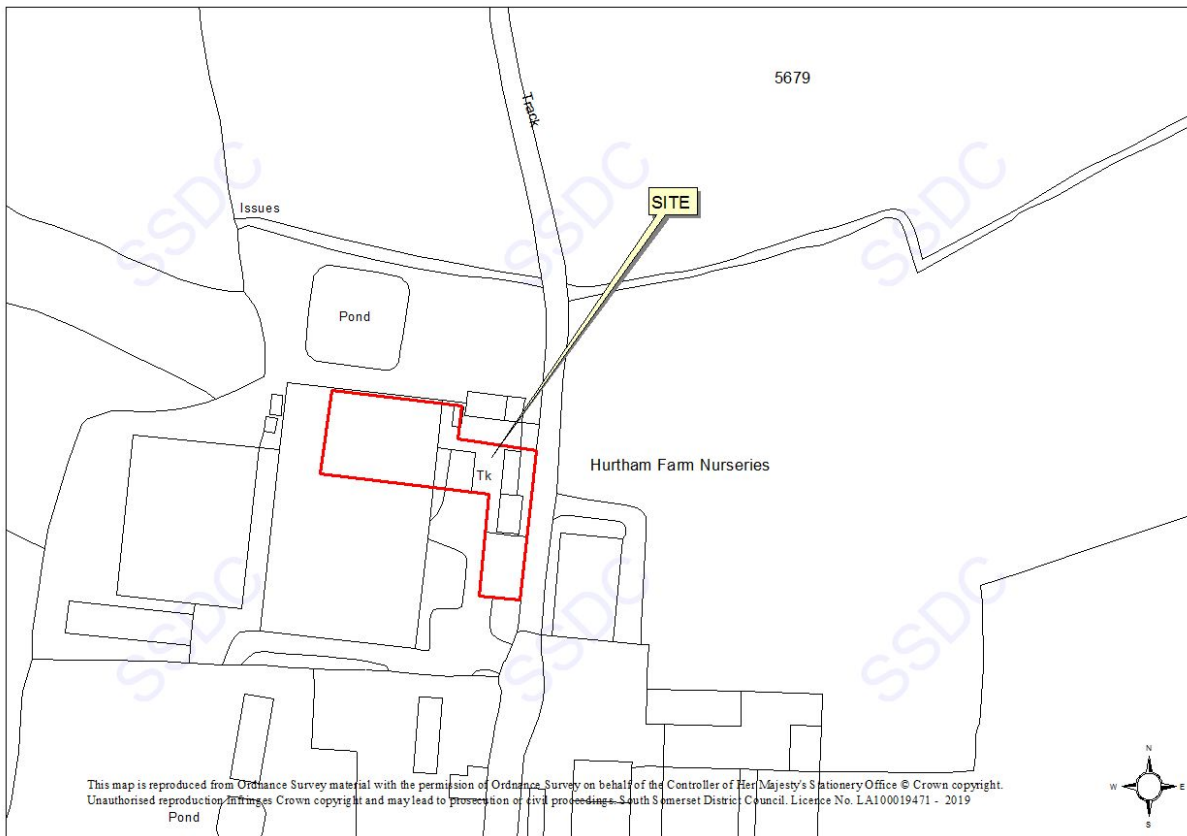
Officer Report On Planning Application: 19/00841/OUT

Proposal :	Outline application for the erection of 1 No. dwelling, demolition of workshop and other outbuildings, change of use of agricultural land to form domestic curtilage.
Site Address:	Hurtham Farm Chilson Common Tatworth And Forton
Parish:	Tatworth and Forton
BLACKDOWN, TATWORTH & FORTON Ward (SSDC Member)	Cllr Martin Wale; Cllr Jenny Kenton
Recommending Case Officer:	David Gallagher
Target date :	17th May 2019
Applicant :	Mr & Mrs Collins
Agent: (no agent if blank)	R Collins Architects Bowden's Farm Hambridge TA10 0BP
Application Type :	Minor Dwellings 1-9 site less than 1ha

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.





DESCRIPTION AND PROPOSAL

The site is located close to a variety of agricultural buildings comprising Greenway Farm, a dairy business. The site is accessed via Hurtham Lane, a no through road. There is a public right of way (CH5/61) which runs along Hurtham Lane.

This outline proposal is for a detached dwelling with all details reserved. The red line abuts the access to the dairy and includes a workshop that lies hard against the access and continues north to where it 'dog legs' to the west and then enlarges to a rectilinear plot which contains the proposed dwelling. The dwelling is located against the westernmost boundary of the site.

Immediately to the north east of the site is an agricultural building which was refused prior approval for change of use from agriculture to residential under application 18/02653/PAMB on 26/10/2018 due to the proximity of the dairy farm and the associated noise and odour. This stance was supported by the response from this Council's Environmental Protection Department.

The building included within the red line of this application received prior approval consent for change of use from a workshop/store to residential use on 26/10/2018 under reference 18/02652/PAP. The permitted development legislation that governs the previous prior approval consent for the change of use of the workshop to a dwelling does not allow consideration of noise impacts as a material consideration. Accordingly, despite valid objections from the Council's Environmental Protection Department the prior approval for the change of use was allowed on 26/10/2018.

06/01163/COU - Convert tomato store into agricultural repair and light industrial workshop -permitted 7/4/2008.

South Somerset Local Plan 2006 - 2028
Policies SS1, SS2, SS4, EQ2 and EQ7.

The National Planning Policy Framework
Chapter 2 - Achieving sustainable development.
Chapter 5 - Delivering a sufficient supply of homes.
Chapter 11 - Making effective use of land

Parish Council

Resolved - To recommend refusal on the same grounds as that of a previous application namely that the proposed change of use to residential would be undesirable in the proposed location due to the close proximity to a farmstead comprising a working dairy farm. The resulting noise, odour and general disturbance would result in unacceptable living conditions for future occupiers and accordingly the proposed development is contrary to O2 (1) (b) and (e)

SDDC Highway Consultant

See PROW CH 5/61. I refer to my initial comments on this scheme. I understand that the current submission essentially involves the erection of a new dwelling in lieu of an approved prior notification submission that would have resulted in the conversion of an existing workshop/building to a dwelling. On this basis, it would be unreasonable to raise a highways objection as there would be no net increase in traffic given the demolition of the workshop/building. The provision of adequate levels of car parking in accordance with the optimum standard set out in the Somerset Parking Strategy should be assured.

SCC Highways

Standing Advice Applies

Environmental Protection Department

First response:

No comments to make.

Second response:

Due to former use of the site it would be advised to keep a watching brief for potential hotspots of contamination and assess for visual/olfactory evidence of contamination during any groundworks.

If any unforeseen contamination is found during excavations Environmental Health must be notified immediately. This may include obvious visual or olfactory residues, asbestos including asbestos containing materials such as roofing, buried drums, drains, interceptors, additional fuel storage tanks or any other unexpected hazards that may be discovered during site works.

NPPF s.178: Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

The property should be designed to meet the internal noise levels specified in BS8233 for habitable rooms. As discussed, placing the bedroom windows on the northern side of the development will reduce the likelihood of sleep disturbance from early morning milking etc. Given that this activity is likely to be early, it may still be possible to have windows for the sitting room south facing without adversely impacting on noise levels within this area.

SCC Rights of Way

Thank you for consulting us on the above application. I have not visited the site.

I can confirm that there is a public right of way (PROW) recorded on the Definitive Map that runs adjacent to the site at the present time (public footpath CH 5/61). I have attached a plan for your information.

We have no objections to the proposal, but the following should be noted:

1. Specific Comments

The local planning authority needs to be confident that the applicant can demonstrate that they have an all-purpose vehicular right to the property along path CH 5/61. If they are unable to and permission is granted, then the local planning authority could potentially be encouraging criminal activity through permitting driving on a public path without lawful authority.

Please also note that there is a pending application to modify the Definitive Map and Statement (Modification ref. 519). This seeks to upgrade the public footpath CH 5/61 to a restricted byway. This application is currently awaiting investigation. Further details on the modification process can be found on the relevant SCCs webpage: <http://www.somerset.gov.uk/environment-and-planning/rights-of-way/apply-to-add-delete-or-upgrade-a-public-right-of-way/>

2. General Comments

Any proposed works must not encroach onto the width of the PROW.

The health and safety of the public using the PROW must be taken into consideration during works to carry out the proposed development. Somerset County Council (SCC) has maintenance responsibilities for the surface of a PROW, but only to a standard suitable for the public use. SCC will not be responsible for putting right any damage occurring to the surface of a PROW resulting from vehicular use during or after works to carry out the proposal. It should be noted that it is an offence to drive a vehicle along a public footpath, public bridleway or restricted byway unless the driver has lawful authority (private rights) to do so.

If it is considered that the development would result in any of the outcomes listed below, then authorisation for these works must be sought from Somerset County Council Rights of Way Group:

- A PROW being made less convenient for continued public use.
- New furniture being needed along a PROW.
- Changes to the surface of a PROW being needed.
- Changes to the existing drainage arrangements associated with the PROW.
-

If the work involved in carrying out this proposed development would:

- make a PROW less convenient for continued public use; or
- create a hazard to users of a PROW,

then a temporary closure order will be necessary and a suitable alternative route must be provided. For more information, please visit Somerset County Councils Rights of Way pages to apply for a temporary closure: <http://www.somerset.gov.uk/environment-and-planning/rights-of-way/apply-for-a-temporary-closure-of-a-right-of-way>.

Public Representations

Following consultation, objections have been received from 13 nearby properties. The following comments are made:

- Site will be serviced by a narrow access.
- Access frequently blocked by milk tankers/feed deliveries.
- Harmful increase in private vehicles.
- Would cause conflict with farming operations.
- Would diminish the character of the area.
- No different circumstances to those that led to the refusal of the Class Q prior notification (noise/odours)
- Unknown size of the proposed house.
- Peril to users of the right of way.
- No services in the access.
- Increased risk of flooding.
- Would result in the break up of a viable smallholding.
- Potential conflict new occupiers as dairying is a 24 hour operation.
- Any temporary closure of the right of way may affect deliveries/milk collection at Greenways Farm.
- The existing extant prior notification consent for the light industrial building represents the 'best of two evils'.

CONSIDERATION

Principle of development:

This location would not generally be considered appropriate for additional infill development given its detachment from South Chard and general substandard surroundings for new build development. The principal issue relates to the 'fallback' that has been established for the conversion of the workshop and the weight that this is given in supporting the current proposal. The existing workshop building subject to the fallback is located alongside the site entrance, in very close proximity (34 metres) to the dairy building on the opposite side of the access track. The main consideration is whether the siting of the proposed new build dwelling in a better location further from the dairy farm with the benefits in terms of the impact on future occupiers would be sufficient a sufficient benefit over the prior approval consent for permission to be granted.

In terms of the distances involved the current prior approval building is approximately 34 metres from the dairy building whereas the proposed dwelling would be approximately 84 metres away. The proposed dwelling could also be designed in such a way to avoid bedrooms facing the farm.

Overall, the principle of a replacement dwelling is considered acceptable in principle given the improvements that would be achieved to the amenity of future occupants. A planning condition is considered to be reasonable to secure the demolition of the workshop building that has the existing prior approval consent for change of use prior to the commencement of works.

Visual amenity:

Additional information has been submitted during consideration of the application confirming that the scale of the dwelling at reserved matters could be restricted to certain parameters. It confirms that the gross internal floor area will be limited to 160m², eaves will be a max. of 3m and the ridge to be a maximum of 6.5 metres. This would represent an increase in scale from the existing but would not be a full two storey dwelling. To provide additional certainty as to the general scale of the proposal it is considered reasonable to secure these details via a planning condition.

Overall, it is considered that an acceptable design, scale and appearance can be achieved at the reserved matters stage.

Neighbour comments:

Moving to the representations received, the Agent has provided details of the limits to be applied to the footprint and height of the proposed dwelling, which are within the bounds expected in a domestic setting. There is the potential for conflict with the operation of Greenways Farm but this will be no different to the situation if the change of use is implemented. It is possible that the removal of a number of buildings from Hurtham Farm and movements associated with their use (especially the industrial unit used for metal fabrication) and the substitution of domestic movements may reduce the pressure on the access. The loss of an industrial unit was not considered sufficient reason to refuse issuing the prior notification certificate while the loss of some ancillary buildings is unlikely to affect the viability of the smallholding as the industrial unit represents an existing diversification from the principal function of the unit. The comments from SCC ROW are noted but any disruption to the right of way is likely to be less than from the consent which is hard on to the right of way.

CONCLUSION

Had this application been submitted without the current site history significant weight would have been given to the previously expressed concerns of the Environmental Protection Department and the isolated nature of the location. However, the circumstances are significantly altered by the existing consent and

the undesirability (in absolute terms) of placing a residential unit in such close proximity to livestock buildings associated with a dairy farm. This application gives the possibility of a better location for the dwelling where living conditions will be appreciably better for the occupants and where it is possible to approve a building which has a more positive impact upon the appearance of the surrounding area than the functional building subject to the change of use. For the above reasons the proposal is considered to be acceptable and therefore accords with Policies EQ2 and EQ7 of the South Somerset Local Plan (2006-2028).

RECOMMENDATION

Approval

The application represents a significant improvement over the existing prior approval 18/02652/PAP for change of use from light industrial to residential as this dwelling is a greater distance from the adjoining dairy farm and the associated smell, noise and disturbance arising from this use. It would prevent the implementation of the aforesaid change of use and would create the opportunity to produce a dwelling with a higher level of design constructed of better materials that would make a more positive contribution to the amenity of the surrounding area than the conversion of the existing functional building. All of these factors contribute to a set of unique material considerations applying to this site alone that overcomes the presumption against residential development in close proximity to noise and odour generators. For these reasons the proposal accords with Policies EQ2 and 7 of the Local Plan and leading to this positive recommendation.

SUBJECT TO THE FOLLOWING:

01. The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: As required by Section 92(2) of the Town and Country Planning Act 1990.

02. The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan 17COL E-100B, Proposed Site Plan 17CLO P-100B and Proposed Site Plan - domestic curtilage 17CLO P-101 and in accordance with the area and height limits listed in the email from the Agent dated 08/07/2019.

Reason: For the avoidance of doubt and in the interests of proper planning

03. Prior to the commencement of any works on site, the existing 'workshop' building shaded green on plan No. P-100B and the buildings annotated 04 (Commercial Building A), 05 (Commercial Building B), 06 (Lean to - to be demolished), 07 (Agricultural Building D - to be demolished), 09 (Animal pen - to be demolished) and 10 (Store - to be demolished) and shown on drawing 17CLO P-100 Revision B dated 16.4.2019 shall be demolished and all waste material removed from site.

Reason: Due to the very special material considerations for approving this dwelling in this unsustainable location in the open countryside where there would be a presumption against residential development and for the avoidance of doubt and in the interests of proper planning.

04. Any dwelling to be constructed on the site shall be limited to a gross floor area of 160 square metres and an eaves height of not more than 3 metres and a ridge height of not more than 6.5 metres as detailed in the Agents email dated 8.7.2019.

Reason: For the avoidance of doubt and in the interests of good planning and to preserve the character of the surrounding open area to accord with Policy EQ2 of the South Somerset Local Plan (2006-2028).

05. The change of use of agricultural land to residential use shall be limited to the domestic curtilage outlined in red on the approved plan titled 'Proposed Site Plan - domestic curtilage' numbered 17CLO P-101 Revision A dated 16.4.2019.

Reason: For the avoidance of doubt and in the interests of good planning.

06. Any access to the residential curtilage hereby approved shall be through the access annotated 03 on drawing 17CLO P-101 Revision A dated 16.4.2019. No other access shall be formed to that curtilage.

Reason: Due to the very special material considerations for approving this dwelling in this unsustainable location in the open countryside where there would be a presumption against residential development and for the avoidance of doubt and in the interests of proper planning.

07. 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 Policy EQ7 of the South Somerset Local Plan (2006-2028).

08. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), there shall be no extensions to this building without the prior express grant of planning permission.

Reason: In the interests of good planning and to accord with Policy EQ2 of the South Somerset Local Plan 2006 - 2028.

Informatives:

01. Please be advised that subsequent full or reserved matters approval by South Somerset District Council will attract a liability payment under the Community Infrastructure Levy. CIL is a mandatory financial charge on development and you will be notified of the amount of CIL being charged on this development in a CIL

Liability Notice.

You are required to complete and return the Assumption of Liability as soon as possible and to avoid additional financial penalties it is important that you notify us of the date you plan to commence development before any work takes place. Please complete and return the Commencement Notice. You are advised to visit our website for further details <https://www.southsomerset.gov.uk/cil> or email cil@southsomerset.gov.uk
