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# Regulation Committee

**Tuesday 21st July 2020**

**10.00 am**

**A virtual meeting via Zoom meeting software**

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The following members are requested to attend this virtual meeting:

**Chairman:** Peter Gubbins  
**Vice-chairman:** Andy Soughton

Jason Baker  
Neil Bloomfield  
Malcolm Cavill  
Adam Dance

Henry Hobhouse  
Tony Lock  
Sue Osborne  
Crispin Raikes

David Recardo  
Paul Rowsell  
Linda Vjeh  
William Wallace

Any members of the public wishing to address the meeting during either Public Question Time or regarding a Planning Application, need to email [democracy@southsomerset.gov.uk](mailto:democracy@southsomerset.gov.uk) by 9.00am on Monday 20<sup>th</sup> July 2020.

This meeting will be viewable online via:

**[https://www.youtube.com/channel/UCSDst3IHGj9WoGnwJGF\\_soA](https://www.youtube.com/channel/UCSDst3IHGj9WoGnwJGF_soA)**

For further information on the items to be discussed, please contact:  
[democracy@southsomerset.gov.uk](mailto:democracy@southsomerset.gov.uk)

This Agenda was issued on Monday 13 July 2020.

*Alex Parmley, Chief Executive Officer*

**This information is also available on our website  
[www.southsomerset.gov.uk](http://www.southsomerset.gov.uk) or via the mod.gov app**

# Information for the Public

In light of the coronavirus pandemic (COVID-19), the Regulation Committee will meet virtually via video-conferencing to consider and determine planning applications. For more details on the regulations regarding remote / virtual meetings please refer to the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 as part of the Coronavirus Act 2020.

## Regulation Committee

Meetings of the Regulation Committee are usually held monthly, at 10.00am, on the third Tuesday of the month (unless advised otherwise). However during the coronavirus pandemic these meetings will be held remotely via Zoom and the starting time may vary.

Agendas and minutes of meetings are published on the council's website at:  
<http://modgov.southsomerset.gov.uk/ieDocHome.aspx?bcr=1>

Agendas and minutes can also be viewed via the mod.gov app (free) available for iPads and Android devices. Search for 'mod.gov' in the app store for your device, install, and select 'South Somerset' from the list of publishers, then select the committees of interest. A wi-fi signal will be required for a very short time to download an agenda but once downloaded, documents will be viewable offline.

## Public participation at meetings (held via Zoom)

### Public question time

We recognise that these are challenging times but we still value the public's contribution to our virtual meetings.

If you would like to address the virtual meeting during Public Question Time or regarding a Planning Application, please email [democracy@southsomerset.gov.uk](mailto:democracy@southsomerset.gov.uk) by 9.00am on Monday 20<sup>th</sup> July 2020. When you have registered, the Chairman will invite you to speak at the appropriate time during the virtual meeting.

The period allowed for participation in Public Question Time shall not exceed 15 minutes except with the consent of the Chairman and members of the Committee. Each individual speaker shall be restricted to a total of three minutes.

This meeting will be streamed online through YouTube at:  
[https://www.youtube.com/channel/UCSDst3IHGj9WoGnwJGF\\_soA](https://www.youtube.com/channel/UCSDst3IHGj9WoGnwJGF_soA)

### Virtual meeting etiquette:

- Consider joining the meeting early to ensure your technology is working correctly.
- Please note that we will mute all public attendees to minimise background noise. If you have registered to speak during the virtual meeting, the Chairman or Administrator will un-mute your microphone at the appropriate time. We also respectfully request that you turn off video cameras until asked to speak.
- Each individual speaker shall be restricted to a total of three minutes.
- When speaking, keep your points clear and concise.
- Please speak clearly – the Councillors are interested in your comments.

## **Planning Applications**

***It is important that you register your request to speak at the virtual meeting by emailing [democracy@southsomerset.gov.uk](mailto:democracy@southsomerset.gov.uk) by 9.00am Monday 20<sup>th</sup> July 2020. When you have registered, the Chairman will invite you to speak at the appropriate time during the virtual meeting.***

Comments about planning applications will be dealt with at the time those applications are considered, rather than during the Public Question Time session.

Comments should be confined to additional information or issues, which have not been fully covered in the officer's report. Members of the public are asked to submit any additional documents to the planning officer at least 72 hours in advance and not to present them to the Committee on the day of the meeting. This will give the planning officer the opportunity to respond appropriately. Information from the public cannot be tabled at the meeting. It should also be noted that, in the interests of fairness, the use of presentational aids (e.g. PowerPoint) by the applicant/agent or those making representations will not be permitted. However, the applicant/agent or those making representations are able to ask the Planning Officer to include photographs/images within the officer's presentation subject to them being received by the officer at least 72 hours prior to the meeting. No more than 5 photographs/images either supporting or against the application to be submitted. The Planning Officer will also need to be satisfied that the photographs are appropriate in terms of planning grounds.

At the committee chairman's discretion, members of the public are permitted to speak for up to 3 minutes each and where there are a number of persons wishing to speak they should be encouraged to choose one spokesperson to speak either for the applicant or on behalf of any supporters or objectors to the application. The total period allowed for such participation on each application shall not normally exceed 15 minutes.

The order of speaking on planning items will be:

- County Council, Town or Parish Council Representative
- Objectors
- Supporters
- Applicant and/or Agent

Ward members, if not members of the Regulation Committee, will speak after the town/parish representative.

In exceptional circumstances, the Chairman of the Committee shall have discretion to vary the procedure set out to ensure fairness to all sides.

## **If a Councillor has declared a Disclosable Pecuniary Interest (DPI) or a personal and prejudicial interest**

In relation to Disclosable Pecuniary Interests, a Councillor is prohibited by law from participating in the discussion about the business on the agenda that relates to this interest and is also required to leave the room whilst the relevant agenda item is being discussed.

Under the new Code of Conduct adopted by this Council in July 2012, a Councillor with a personal and prejudicial interest (which is not also a DPI) will be afforded the same right as a member of the public to speak in relation to the relevant business and may also answer any questions, except that once the Councillor has addressed the Committee the Councillor will leave the room and not return until after the decision has been made.

## **Recording and photography at council meetings**

Recording of council meetings is permitted, however anyone wishing to do so should let the Chairperson of the meeting know prior to the start of the meeting. The recording should be overt and clearly visible to anyone at the meeting, but non-disruptive. If someone is recording the meeting, the Chairman will make an announcement at the beginning of the meeting.

Any member of the public has the right not to be recorded. If anyone making public representation does not wish to be recorded they must let the Chairperson know.

The full 'Policy on Audio/Visual Recording and Photography at Council Meetings' can be viewed online at:

<http://modgov.southsomerset.gov.uk/documents/s3327/Policy%20on%20the%20recording%20of%20council%20meetings.pdf>

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# **Regulation Committee**

**Tuesday 21 July 2020**

## **Agenda**

**1. Minutes**

To approve the minutes of the Regulation Committee held on 2<sup>nd</sup> June 2020.

**2. Apologies for Absence**

**3. Declarations of Interest**

**4. Public Question Time**

**5. Planning Application 20/00251/OUT - Land South of Chilthorne Knapp  
Chilthorne Hill Chilthorne Domer BA22 8QZ (Pages 6 - 21)**

**6. Date of Next Meeting**

The next scheduled meeting of the Regulation Committee will be held on Tuesday 18<sup>th</sup> August 2020 at 10.00am. However this meeting will only take place if there is business to conduct.

# Agenda Item 5

## **Officer Report On Planning Application: 20/00251/OUT**

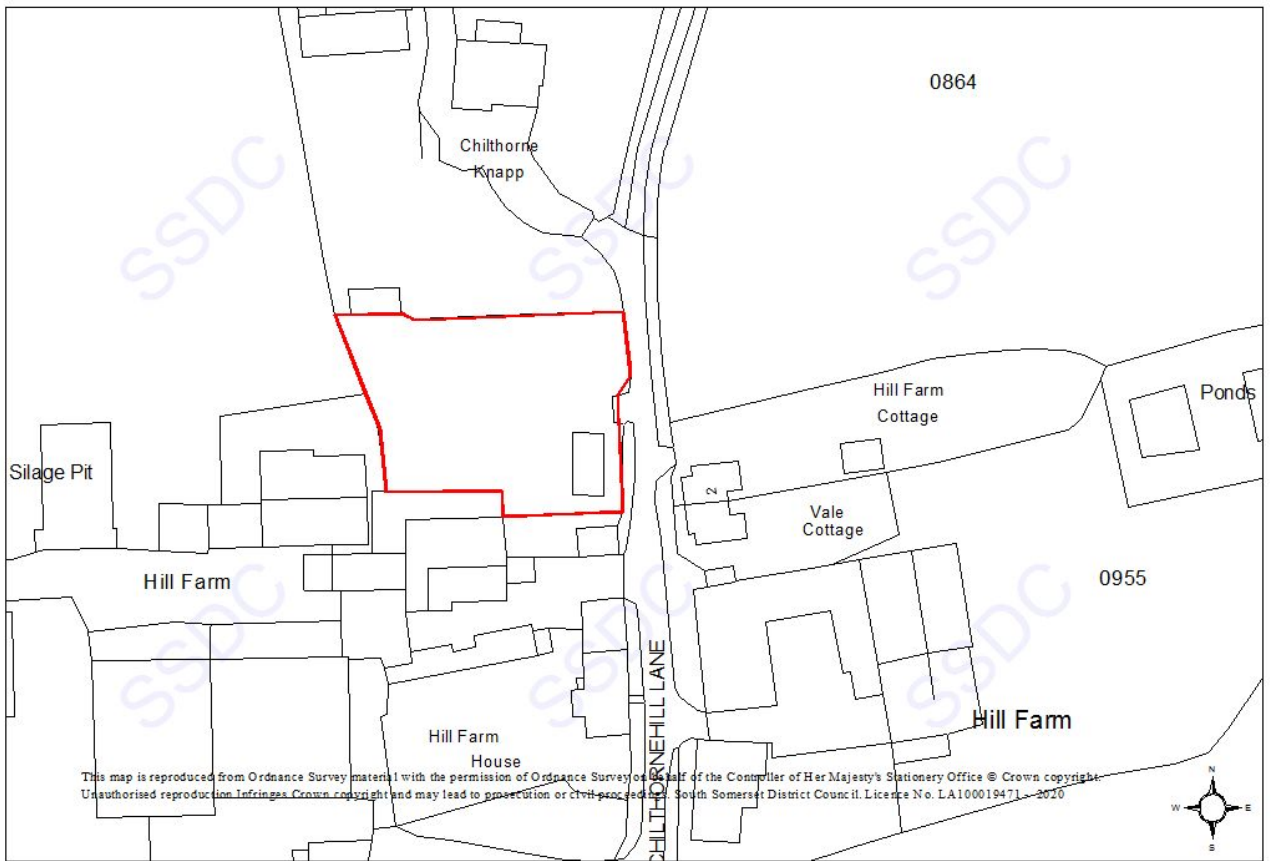
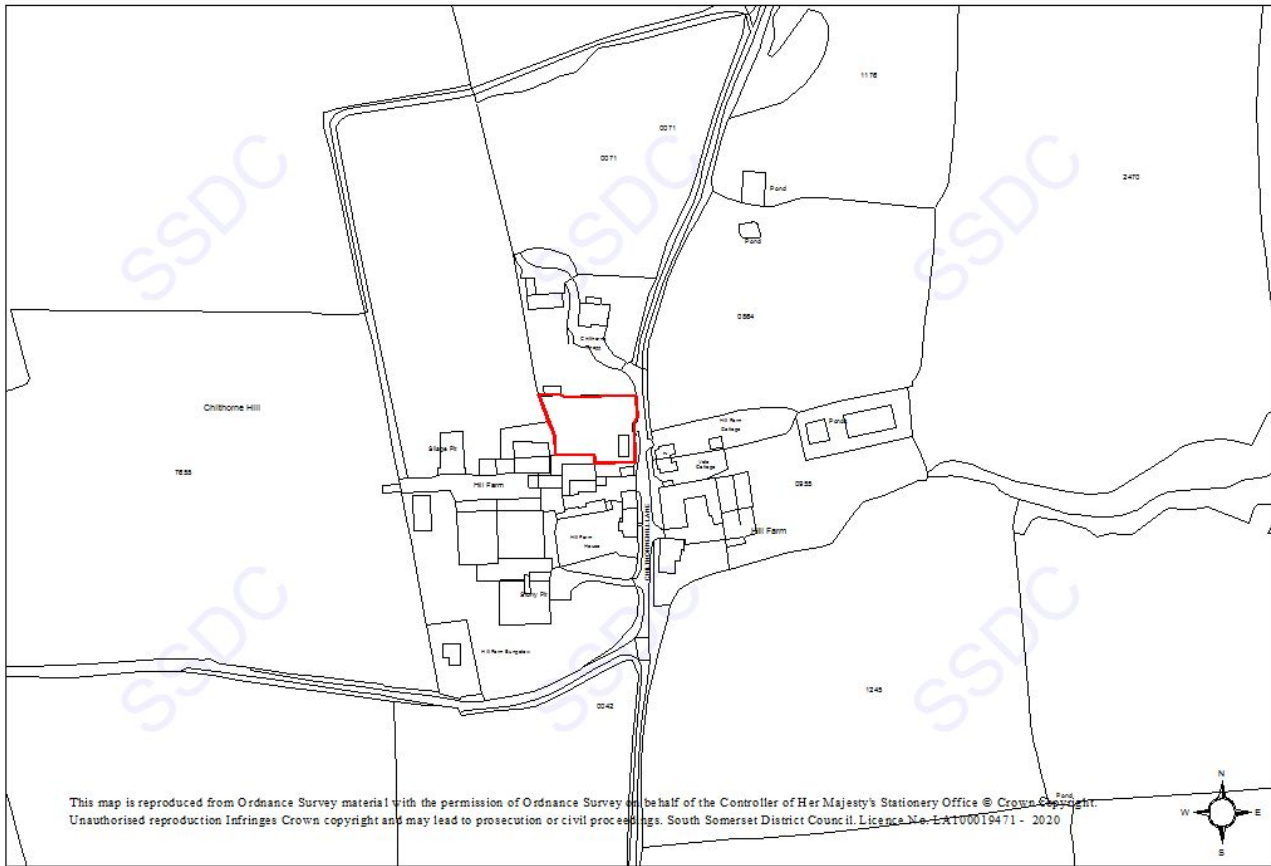
<b>Proposal :</b>	Outline application with all matters reserved for the erection of a dwelling
<b>Site Address:</b>	Land South Of Chilthorne Knapp Chilthorne Hill Chilthorne Domer BA22 8QZ
<b>Parish:</b>	Chilthorne Domer
<b>NORTHSTONE, IVELCHESTER &amp; ST MICHAEL'S Ward (SSDC Member)</b>	Cllr Tony Capozzoli Cllr Charlie Hull Cllr Paul Rowsell
<b>Recommending Case Officer:</b>	Jane Green
<b>Target date :</b>	23rd March 2020
<b>Applicant :</b>	Mr Mark Warren
<b>Agent: (no agent if blank)</b>	Mr Peter Smith Hollyfield Hewish Crewkerne TA18 8QR United Kingdom
<b>Application Type :</b>	Minor Dwellings 1-9 site less than 1ha

### **REASON FOR REFERRAL TO COMMITTEE**

The application has been referred to Regulation Committee at the request of the Lead Specialist - Planning given the potential for district-wide implications should the application be approved.

At the Area East Consultative Committee on 13 May 2020 members voted 12 in favour of approving the 2 starred planning permission.

# SITE DESCRIPTION AND PROPOSAL



The application site is a parcel of land, approximately 0.14ha, situated to the south of Chilthorne Knapp off Chilthorne Hill beyond the north-west edge of Chilthorne Dormer. The site was last used for breeding pigs and there are the remains of several pig sty's with associated hardstanding.

To the south is Hill Farm House which is a Grade II listed building. The plot falls within the curtilage of that listed building. The plot is accessed via Chilthorne Hill which is a single track lane running approximately 950m from Tintinhull Road.

This is an outline application with permission with all matters reserved for the erection of a dwelling and single garage.

## **HISTORY**

882753 - Erection of Bungalow and garage - refused 16.11.1988

19/02241/OUT - Outline application with all matters reserved for the erection of a dwelling - Refused

Comment: The application was refused on three grounds. 1) Unsustainable location not justified 2) Unacceptable living conditions due to proximity to farmstead 3) Insufficient information submitted to demonstrate any benefit would outweigh conservation of heritage asset

## **POLICY**

Section 38(6) of the Planning and Compulsory Purchase Act (2004), and Paragraphs 2, 11, and 12 of the NPPF indicate it is a matter of law that applications are 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)

Policy SD1 - Sustainable Development  
Policy SS2 - Development in Rural Settlements  
Policy EQ1 - Addressing Climate Change in South Somerset  
Policy EQ2 - General Development  
Policy EQ3 - Historic Environment  
Policy EQ4 - Biodiversity  
Policy EQ5 - Green Infrastructure  
Policy TA5 - Transport Impact of New Development  
Policy TA6 - Parking Standards

### Planning Practice Guidance (PPG)

### National Planning Policy Framework - March 2019

Part 2 - Achieving sustainable development  
Part 5 - Delivering a sufficient supply of homes  
Part 8 - Promoting healthy and safe communities  
Part 9 - Promoting sustainable transport  
Part 11 - Making effective use of land  
Part 12 - Achieving well-designed places  
Part 14 - Meeting the challenge of climate change, flooding and coastal change



Part 15 - Conserving and enhancing the natural environment  
Part 16 - Conserving and enhancing the historic environment

Other

Somerset County Council Parking Strategy (September 2013)

Somerset County Council Highways Development Control - Standing Advice (June 2017)

**CONSULTATIONS**

**Chilthorne Domer Parish Council:**

In light of there being no changes to the application to that previously submitted the Council wish to make the same comments as at the time of that submission:

'Whilst the Parish Council does not have any objection to the principle of a single new dwelling on this site they do however have a number of concerns as detailed below:

- a. Concerns regarding the run off of water both during and after construction;
- b. There is a potential for overlooking of other residential properties;
- c. What sewage treatment arrangements will be in place;
- d. Appropriate materials should be used.

The Parish Council note that the site is in close proximity to a working farm and there may be potential run-off from the farm to the site, and that the quality of the highway to the site is substandard due to a lack of maintenance by Somerset County Council.'

**County Highways:**

Standing Advice applies.

**SDDC Highways Consultant:**

'I refer to the comments I made in response to the previous planning application on this site (19/02241/OUT). I do not understand why the previously requested 2.4m back and parallel splay cannot be provided across the whole site frontage with a maximum height of 600mm. The other normal requirements in terms of annotating the width of the proposed access, ensuring the first 5m is properly consolidated and surfaced, installing drainage measures across the access to prevent surface water from discharging onto the highway, ensuring a maximum gradient of 1:10, and showing the appropriate level of parking with 4.8m x 2.4m delineated bays independent of turning all appear achievable and could easily be shown on the submitted plan'

**SDDC Conservation Officer:**

The objection to the previous application was based on the lack of a Statement of Heritage Impact. Whilst one has been submitted, it is barely more than a reproduction of the list description and states that there are listed buildings in the vicinity that may or may not be visible. Because all matters are reserved there is great difficulty in testing the statement that '..thus it is submitted that the impact from the proposed development upon the setting of the heritage asset is at worst minimal and falls far short of being significant or substantial'.

This shows a misunderstanding of Chapter 16 of the National Planning Policy Framework. Paragraph 196 makes it clear that significant or substantial harm can only be allowed where there is substantial

public benefit. That is not the case here. The harm that they are acknowledging as minimal falls under Paragraph 196 which states:

'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage assets this harm should be weighed against the public benefits of the proposal including securing its optimal viable use.'

### **SSC Rights of Way:**

'I can confirm that there is a public right of way (PROW) recorded on the Definitive Map that runs along part of the access to the site at the present time (restricted byway Y 4/20). I have attached a plan for your information.

We have no objections to the proposal, subject to the following:

#### 1. Specific Comments

Restricted byways can be used by members of the public on foot, horseback, pedal cycle and by non-mechanically propelled vehicles such as horse drawn carriages.

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 Y 4/20. 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.

#### 2. General Comments

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

### **MOD:**

'The development falls within the Statutory Safeguarding Aerodrome (Any Development), Birdstrike and Technical Zones surrounding RNAS Yeovilton and is 4.42km SW of the Aerodrome.

#### *Aerodrome Safeguarding*

'The proposed development site occupies the statutory height and technical safeguarding zones that ensure air traffic approaches and the line of sight of navigational aids and transmitters/receivers are not impeded. The airspace above and around aerodromes is safeguarded to maintain as assured, obstacle free environment for aircraft manoeuvre. This development site sits beneath a piece of protected airspace called the Inner Horizontal beneath the approach and take off climb to RNAS Yeovilton. The approach, take off and Obstacle Limitation surfaces need to be kept free of obstruction from tall structures to ensure that aircraft transiting to and from or circuiting the aerodrome can do so safely.

#### *Technical*

The proposed development is also within the area protecting the operation of the Precision Approach Radar (PAR) that surveys the approach to the main runway at RNAS Yeovilton. The site of the proposed development occupies statutory height safeguarding zones that serve to ensure air traffic approaches and the line of sight of transmitters/receivers navigational aids are not impeded.

#### *Birdstrike*

Within this zone, the principal concern of the MOD is that the creation of new habitats may attract and support populations of large and or flocking birds close to the aerodrome so detail of: the planting pallet

and introduction of berry bearing species would need to be provided.

As this is an outline application and in light of the development falling within the above Statutory Safeguarding Zones, precise detail will be required at Full Planning/Reserve Matters stages relating to the elevations of the dwelling house and garage and specific detail regarding the landscaping scheme in order to carry out the required assessment.'

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

The proposed development is immediately adjacent to Hill Farm and there is potential for noise and odours and flies from the farm affecting the occupants of the new property. Any new development should not be prejudicial to the future use of the farm. Environmental Protection would not normally recommend granting permission so close to an agricultural premises but if such permission was granted the following conditions would be required:

1. Before the development commences, a report shall be submitted to the Local Planning Authority for written approval detailing how the residential elements shall be designed and constructed with the aim that habitable rooms comply with the standards set out in BS8233.

Activity	Location	07:00 to 23:00
Resting	Living Room	35 dB LAeq, 16 hour
Dining	Dining room/area	40 dB LAeq, 16 hour
Sleeping (daytime resting)	Bedroom	35 dB LAeq, 16 hour

2. A scheme of ventilation shall be designed that allows whole-house ventilation without the necessity to open windows on the southern aspect of the proposed property. Intakes for the ventilation system should be on the northern side of the property.

Reason: In order to mitigate the effect of noise, flies, dust and odour on residents of the new property.

The demolition of the existing pig pens, site clearance and construction of the new premises all have the potential to impact on the residential properties directly opposite. Therefore:

3. Noise emissions from the site during the development of the site i.e. the demolition, clearance and redevelopment of the site, shall be limited to the following hours where noise is audible at any point at the boundary of any noise sensitive dwelling:

Mon - Fri 08.00 - 18.00

Sat 08.00 - 13.00

All other times, including Sundays, Bank and Public Holidays there shall be no noisy activities

4. There shall be no burning of materials arising on site during any phase of the demolition, site clearance and redevelopment.

Finally as a former agricultural premises there is potential for contamination from the storage of fuels, and pesticides. Therefore 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

## Ecology:

'Blackdown Environmental undertook an Ecological Appraisal of land and three buildings located off Chilthorne Hill, Chilthorne Domer, Somerset in May 2019. The results of the survey were as follows:

There are nine records of bats and bat roosts within the 2km search area, the closest record provided is of unidentified bats and is approximately 140m from the site.

The three buildings comprise a Nissen hut, 12 pig sties and a wooden garage/shed. All three buildings were assessed with negligible potential to support roosting bats due to a combination of factors including level of dereliction, absence of suitable roosting opportunities and high internal light levels.

A single bird nest was identified within the garage/shed and the pig stys are suitable for nesting birds although no evidence of nesting was identified.

The land surrounding the buildings has been recently cleared and is currently dominated by bare ground with patches of tall ruderal vegetation such as nettle.

A number of immature and semi-mature trees bound the eastern and northern extents of the survey and several trees have been identified with low potential to support roosting bats due to dense ivy on the trunks.

### ENPA recommendations

In accordance with local and national policy, wildlife legislation, and to follow the requirements of the mitigation hierarchy and for biodiversity net gain, please attach the following conditions to any planning permission granted:

#### Bats

To avoid impacts on bats and their roosts any buildings and trees to be removed will be undertaken when summer roosting bats, associated with the Nissan hut and trees containing a thick covering of ivy, are less likely to be present: 1st November - 31st March.

In the (unlikely) event that a bat is discovered during the course tree felling and building demolition works, works must cease immediately and not recommence until an appropriate strategy has been agreed with the appointed ecologist; and if required, an application made to Natural England for a bat licence. Bats should not be handled or removed in any way unless by a licenced bat worker or ecologist.

Reason: All bats are afforded protection under the Habitats Regulations 2017 by which populations are to be maintained at Favourable Conservation Status as defined under Article 1 of the Habitats Directive 1992

#### Birds

The commencement of works shall not take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of the buildings to be demolished, and vegetation comprised of trees, shrubs, scrub and ruderal vegetation for active birds' nests immediately before works proceed and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.

Reason: Nesting birds are afforded protection under the Wildlife and Countryside Act 1981 (as amended). Although this is a legal obligation the law does not specify a time period - some species can breed outside the time frame given.

## Reptiles

Any vegetation above 10cm that is to be cleared as part of the proposal will initially be reduced to a height of 10 centimetres above ground level by hand, brushings and cuttings removed and the remainder left for a minimum period of 48 hours of fine warm weather (limited rain and wind, with temperatures of 10°C or above) before clearing to minimise the risk of harming/killing any reptiles that may be present and to encourage their movement onto adjoining land. Once cut vegetation, including existing short vegetation should be maintained at a height of less than 10cm for the duration of the construction period. The rock pile on the eastern boundary should be dismantled by hand by a competent ecologist to allow any sheltering reptiles to naturally disperse. A letter confirming these operations and any findings will be submitted to the Local Planning Authority by the ecologist responsible.

Reason: Reptile species are afforded protection from intentional and reckless killing or injury under the Wildlife and Countryside Act 1981 (as amended). Outside the period from April to October these species are likely to be in torpor or hibernation when disturbance is likely to pose a risk to survival.

## Biodiversity and protected species net gain

As enhancement and compensation measures, and in accordance with National Planning Policy Framework (NPPF), please apply the following conditions to any planning permission granted, to be captured within a Biodiversity Mitigation and Enhancement Plan (BMEP) to be submitted to the LPA:

- 1 x Build-in WoodStone Bat Box (<https://www.nhbs.com/build-in-woodstone-bat-box>), or similar, to be installed on the southern and/or western elevation of the new building, at a height of over 3m.
- Installation of 2 X standard bird nest box, purchased or built, on to a mature tree on site, facing north or east, at a height above 3m.
- Installation of 1 x RSPB artificial house martin nesting cups ( <https://shopping.rspb.org.uk/garden-bird-nest-boxes/house-martin-terracotta-nest-box.html?ClickType=Image&ListType=&ListName=&Position=19> ) will be erected onto the external wall surface under the eaves on the north or east elevation on the new dwelling
- 1 x integrated bee bricks (<https://www.nhbs.com/bee-brick>) must be built into the external wall space of the new building. The brick will be placed one meter above ground level on a south facing aspect, vegetation must not block the entrance holes. Solitary bees are harmless and do not sting.
- All new shrubs must be high nectar producing to encourage a range of invertebrates to the site, to provide continued foraging for bats. The shrubs must also appeal to night-flying moths which are a key food source for bats. The Royal Horticultural Society guide, "RHS Perfect for Pollinators, [www.rhs.org.uk/perfectforpollinators](http://www.rhs.org.uk/perfectforpollinators)" provides a list of suitable plants both native and non-native.
- Any new fencing must have accessible hedgehog holes, measuring 13cm x 13cm to allow the movement of hedgerows into and out of the site.

Reason: To ensure the development contributes to the Government's target of no net biodiversity loss as set out in the National Planning Policy Framework; ; South Somerset District Council Local Plan - Policy EQ4 Biodiversity; and the authorities obligations for biodiversity under the Natural Environment and Rural Communities Act 2006. To ensure the success of mitigation measures are sustained for the duration of the development and that there is no net biodiversity loss in the long term as per Government and local minerals planning policy. Furthermore, the recently updated National Planning Policy Framework states in section 15, paragraph 170, that "Planning policies and decisions should contribute to and enhance the natural and local environment by: ... d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.'

## REPRESENTATIONS

One letter of representation has been received objecting to the proposal.

The comments are summarised briefly, in no particular order, as follows:

- Unsustainable location
- Proposal is next to a working dairy farm with associated noise and smells
- Loss of privacy and overlooking
- Noise nuisance from milking machine which starts at 5am and the milk tanker arriving around midnight
- Issue with flies in the summer
- Presence of water, drainage and slurry irrigation pipes between pigsties and shed to the south. Fracturing the pipes would deny water to cows troughs and slurry pollution
- Proposal on narrow strip sandwiched between an agriculturally tied property and a working dairy farm
- No mains sewage facility - concerns over discharge of water
- Asbestos roofs on existing sheds
- Single access lane with no infrastructure to support anymore dwellings

## CONSIDERATIONS

### Principle of Development

Section 38(6) of the Planning and Compensation Act 1991 states that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise.

The NPPF at Paragraphs 2 and 47 reinforces this requirement and at Paragraph 12 states that the presumption in favour of sustainable development does not change the statutory status of the development plan as a starting point for decision making, and that where a planning application conflicts with an up to date (emphasis added) development plan, permission should not normally be granted.

In October 2019 a report was accepted by the District Executive that confirmed that the Council is currently unable to demonstrate that it has a 5 year supply of deliverable housing land as required by paragraph 73 of the NPPF. In such circumstances paragraph 11 d) In relation to decision taking is engaged, this states that 'where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.'

Footnote 7 to Paragraph 11 explains that:

'This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.'

The NPPF is a material consideration in planning decisions, and as the Government's expression of planning policy and how this should be applied, should be given significant weight in the decision-making process. The NPPF places great emphasis on the need to plan for and deliver new housing throughout the UK, and local planning authorities (LPAs) are required to support the Government's objective of

significantly boosting the supply of homes. The responsibility of local planning authorities in supporting the Government's ambitions include identifying and updating annually a supply of specific deliverable sites to provide five years' worth of housing against their housing requirement.

The application would see the creation of a four bedroom residential dwelling through the erection of a new dwelling on site.

In policy context, national guidance contained within the NPPF sets out a presumption in favour of sustainable development. The NPPF states that in order to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.

Paragraphs 60 and 61 states that to determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance - unless exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals. In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for.

Within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes).

The Supporting Statement makes reference to paragraph 61 of the NPPF and that '..the LPA are required under Section 1 of the Self Build and Custom Housebuilding Act 2015 to maintain a register of interested parties and to make provisions to satisfy the identified need.' And that there is no policy to address this.

The LPA monitor self-build demand and CIL monitoring data. This demonstrates that the LPA are more than meeting the demand on the Register at present. The LPA are only required to grant planning permission for enough serviced plots to meet the demand on the register. There is no guidance from the MHCLG to LPA's as to how they demonstrate that the demand is being met, but even if it determines that they can only use the data relating to a CIL exemption being issued, then the need is being met. Limited weight is to be afforded to the dwelling being self-build. It should not therefore in itself, be enough to warrant approval of a site that would otherwise be unacceptable.

Policy SD1 of the Local Plan also recognises that, when considering development proposals, the Council will take a proactive approach to reflect the presumption in favour of sustainable development contained in the NPPF and seek to secure development that improves the economic, social and environmental conditions within the District. Planning applications that accord with the policies in the Local Plan will be approved without delay, unless material considerations indicate otherwise.

Policy SS1 highlights the areas where new development is expected to be focused, grouping certain towns and villages into a hierarchy of settlements including the Strategically Significant Town (Yeovil), Primary Market Towns, Local Market Towns and Rural Centres. All other settlements are 'Rural Settlements', which Policy SS1 states 'will be considered as part of the countryside to which national countryside protection policies apply (subject to the exceptions identified in Policy SS2).'

Policy SS2 states:

'Development in Rural Settlements (not Market Towns or Rural Centres) will be strictly controlled and limited to that which:

- Provides employment opportunities appropriate to the scale of the settlement; and/or
- Creates or enhances community facilities and services to serve the settlement; and/or
- Meets identified housing need, particularly for affordable housing.

Development will be permitted where it is commensurate with the scale and character of the settlement, provides for one or more of the types of development above, and increases the sustainability of a settlement in general.'

Proposals for housing development should only be permitted in Rural Settlements that have access to two or more key services listed at paragraph 5.41. Those key services referred to in paragraph 5.41 of the Local Plan are local convenience shop, post office, pub, children's play area/sports pitch, village hall/community centre, health centre, faith facility and primary school.

Policy guidance clearly encourages new housing to be located with good accessibility to existing or proposed local shops, community facilities and primary schools and with good connection to public transport.

The application proposal would deliver one new residential unit. Policy SS2 states the delivery target that at least 2,242 dwellings built in Rural Settlements over the local plan period. This will be assessed for the contribution that would be made to meeting the housing needs. This proposal would amount to 0.04% of the annual requirement of 2,242 new homes (if it were assumed that annual requirements had continually been met such that no ongoing deficit had to be recovered). This is a very limited contribution, although it is considered that significant weight should be afforded in the determination of this planning application to the scheme's contribution to addressing the identified housing shortfall and meeting the Government's objective of securing a better balance between housing demand and supply.

The Design and Access Statement acknowledges that there are no facilities in the immediate area but goes on to say that Chilthorne Domer has a junior school, public house and a regular bus service into Yeovil. The site is approximately 950m to the main road through Chilthorne Domer and a further 575m to the school and 800m to the public house.

Although the plot is located within the parish of Chilthorne Domer, it is divorced from and some distance from the village itself and as such is located in the open countryside, remote from local services and where SS2 does not apply. It is considered that access to the key local services would be reliant on a vehicle, due to the access road from the village to the site being a single track road which is narrow in places, with no footpath or lighting, making it unreasonable to expect future occupants to walk safely to key services. There are public rights of ways across fields but again, this requires walking some distance to get to the community facilities. The route across the field is neither properly surfaced nor does it benefit from street lighting which makes it inaccessible to anyone with pushchairs or walking difficulties etc to use at night and for much of the year due to ground and weather conditions. Such pedestrian routes would be unsuitable for many and do not offer a safe or suitable means to access local services for future residents.

It is considered that the site is not sustainable as it is not suitable for new residential development due to the lack of safe accessibility for future residents to essential services and would be contrary to the South Somerset Local Plan 2006-28 and paragraph 32 of the NPPF, which seeks safe and stable access to the site for all people.

Therefore, it is considered that the proposed development constitutes unsustainable development that is contrary to policies SD1, SS1 and SS2 of the South Somerset Local Plan and to the aims and objectives of the National Planning Policy Framework 2019.



## Visual Amenity, Impact on Setting of Listed Building and Landscape Character

In terms of general visual impact, there are a variety of buildings and uses within the vicinity of the application site. The application plot is on sloping land with the higher levels to the rear of the plot. Although in an elevated position, the proposal is surrounded by farm buildings and dwellinghouse to the north, east and south. As such, notwithstanding the comments received, the proposed development is not considered to have a demonstrably adverse impact on landscape character or visual amenity of the area, in accordance with policy EQ2 of the Local Plan.

However, the site is located immediately to the north of Hill Farm which is a Grade II listed building. Other than a cluster of a few dwellings to the north and east, the site can be characterised as being in a rural location. The proposed development would infill a plot between Chilthorne Knapp and Hill Farm House which is a Grade II Listed building and located to the south of the application plot. The listed curtilage of Hill Farm House extends across the application site.

The National Planning Policy Framework Chapter 16 'Conserving and enhancing the historic environment' requires us to assess the impact that development will have on a heritage asset. In particular Paragraph 185 states:

'in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.'

Local Plan Policy EQ3 reflects the NPPF guidance. Heritage assets must be conserved and where appropriate enhanced for their historic significance and important contribution to local distinctiveness, character and sense of place. In addition Policy EQ2 requires all new development proposals to be designed to achieve a high quality which promotes the District's local distinctiveness and preserves or enhances the character and appearance of the District.

The objection to the previous application was based on the lack of a Statement of Heritage Impact. Whilst one has been submitted, it is barely more than a reproduction of the list description and states that there are listed buildings in the vicinity that may or may not be visible. Because all matters are reserved there is great difficulty in testing the statement that '..thus it is submitted that the impact from the proposed development upon the setting of the heritage asset is at worst minimal and falls far short of being significant or substantial'.

The Conservation Officer makes reference to Chapter 16 of the National Planning Policy Framework and feels that this has been misinterpreted. Paragraph 196 makes it clear that significant or substantial harm can only be allowed where there is substantial public benefit. That is not the case here. The harm that they are acknowledging as minimal falls under Paragraph 196 which states:

'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage assets this harm should be weighed against the public benefits of the proposal including securing its optimal viable use.'

In this case, the proposed development is highly likely to impact on the setting of the adjacent grade II listed building and the Conservation Officer has not given his support.

## Residential Amenity

Concern has been raised by neighbours and Parish Council relating to loss of privacy and overlooking. It is considered that a dwelling could be designed, with the appropriate orientation, window layout and landscaping to limit any adverse overlooking and could also be designed to limit any overbearing and shadowing. The impact on residential amenity in terms of overlooking and loss of privacy could be revisited at the reserved matters stage once the layout and appearance of the dwelling can be fully assessed.

Whilst the submitted site plan is only indicative, the applicant has demonstrated that a modest private garden area could be provided to serve the proposed dwelling. It is therefore considered that the proposed development could achieve an acceptable level of amenity for future occupants of the development.

The Environmental Protection Unit were consulted and responded that there is potential for noise, odours and flies from the farm affecting the occupants of the proposed property. Any new development should not be prejudicial the future use of farm. Comments were raised stating that they would not normally recommend granting permission so close to an agricultural premises but if such permission was granted conditions relating to noise emissions, ventilation and no burning of materials would be required.

Finally as a former agricultural premises there is potential for contamination from the storage of fuels, and pesticides. Therefore 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.

With the safeguard of several conditions, it is considered that the proposed new dwelling house would be able to put measures in place ensuring there would be no perceived detrimental impact upon surrounding residential amenity and due to disturbance arising from the activities and noise arising from the adjacent farmstead ensuring compliance with Policy EQ2 of the South Somerset Local Plan 2006-2028.

## Highway Safety

The County Highway Authority state that their Standing Advice applies.

The plans show a proposed garage, entrance driveway and turning bay. Parking will be considered further in the reserved matters stage. The application form states that the dwelling will have 4+ bedrooms. Parking provision sought by the Parking Strategy for this location would be 3.5 + 1 visitor parking space. At this stage though, the indicative layout suggests that there is sufficient capacity on-site for parking to be provided for the proposed dwelling in addition to on-site turning.

Therefore, it is not considered that the proposal would prejudice highway safety, and it is considered to accord with policies TA5 and TA6 of the Local Plan.

## Biodiversity

Local Planning Authorities have a statutory duty to ensure that the impact of development on wildlife is fully considered during the determination of a planning application under the Wildlife and Countryside Act 1981 (as amended), Natural Environment and Rural Communities Act 2006, The Conservation of Habitats and Species Regulations 2017 (Habitats Regulations 2017). Policy EQ4 of the Local Plan also

requires proposals to pay consideration to the impact of development on wildlife and to provide mitigation measures where appropriate.

The application has been supplemented with an Ecological Appraisal which has been reviewed by the Council's Ecologist. The Ecologist has recommended ecological conditions relating to bats, birds, reptiles, biodiversity and net gain. Subject to the imposition of these conditions, it is not considered that the proposal will have an unacceptable impact on biodiversity in accordance with Policy EQ4 or relevant guidance within the NPPF.

### PROW

There is a public right of way (PROW) recorded on the Definitive Map that runs along part of the access to the site at the present time (restricted byway Y 4/20). The PROW Officer was consulted on the application for which the following comments were received:

Restricted byways can be used by members of the public on foot, horseback, pedal cycle and by non-mechanically propelled vehicles such as horse drawn carriages. 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 the Restricted Byway Y 4/20. 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.

Any proposed works must not encroach onto the width of the PROW. An informative note is to be included should permission be granted.

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.
- Installing any apparatus within or across the 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.

The supporting statement states that the development will not encroach upon or restrict public use of path Y420 on foot or as authorised for a restricted byway.

### Other Matters

The site is not within a flood risk zone. Given the size of the site and the scale of development proposed,

it is not considered that the proposal would result in harm to flood risk, nor would a risk be posed to future occupants of the site. Foul drainage will discharge to an underground treatment plant on site. For development of this scale, the development would be subject to building control checks to ensure surface water from the properties is being appropriately managed.

#### Contributions, Affordable Housing, and CIL

It is noted that the applicant has provided and completed Form 7.

#### Conclusion

The Council accepts that it cannot currently demonstrate a five-year supply of deliverable housing sites and that, pursuant to paragraph 11 of the Framework, the weighted presumption in favour of sustainable development is engaged.

The proposed development would make a contribution towards meeting the housing shortfall within South Somerset. This would be a social and economic benefit. There would also be a limited and temporary economic benefit during the construction phase. However, due to the small scale of the development, such benefits are considered to be moderate.

The location of the site would lead occupants to be overly dependent on the motor car to access services and facilities. The proposal would introduce harmful impact to the living conditions of future occupiers due to the proximity to the working dairy farm. Furthermore, it is likely that the proposal will introduce harm to the setting of the listed building which, without a comprehensive Statement of Heritage Significance, cannot be properly assessed. These adverse impacts are considered to be significant, and to significantly and demonstrably outweigh the moderate benefits of the proposal. As such, it is considered that the presumption in favour of sustainable development therefore does not apply in this case.

As such, the proposed development is considered to represent an unsustainable form of development which is in an unsustainable location and will affect the setting of the listed building. Notwithstanding the Council's lack of five year land supply, the proposed development would be contrary to the provisions of Policies SD1, SS1, SS2 EQ2 and EQ3 of the South Somerset Local Plan and relevant guidance within the NPPF.

### **RECOMMENDATION**

Refuse

#### **For the following reasons:**

01. The proposal would provide a new dwelling in an unsustainable location, isolated from key services, which has not been appropriately justified. By reason of distance and the lack of a safe means of access, by foot or cycle, the application site is poorly related to local services and as such will increase the need for journeys to be made by private vehicles. The proposed development therefore constitutes unsustainable development that is contrary to policies SD1 and TA5 of the South Somerset Local Plan and to the aims and objectives of the National Planning Policy Framework 2019
02. With no submission of a comprehensive Statement of Heritage Significance, insufficient information has been provided to demonstrate that any benefit outweighs the great weight to be given to conservation of heritage assets. The proposal is therefore contrary to Section 16 of the

Listed Building and Conservation Areas Act, policy EQ3 of the South Somerset Local Plan 2006-28 and Chapter 16 of the National Planning Policy Framework 2019.

**Informatives:**

01. In accordance with paragraph 39 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/agent was advised that the proposal did not accord with the development plan and that there were no material planning considerations to outweigh these problems.