

Area North Committee – 26 March 2014

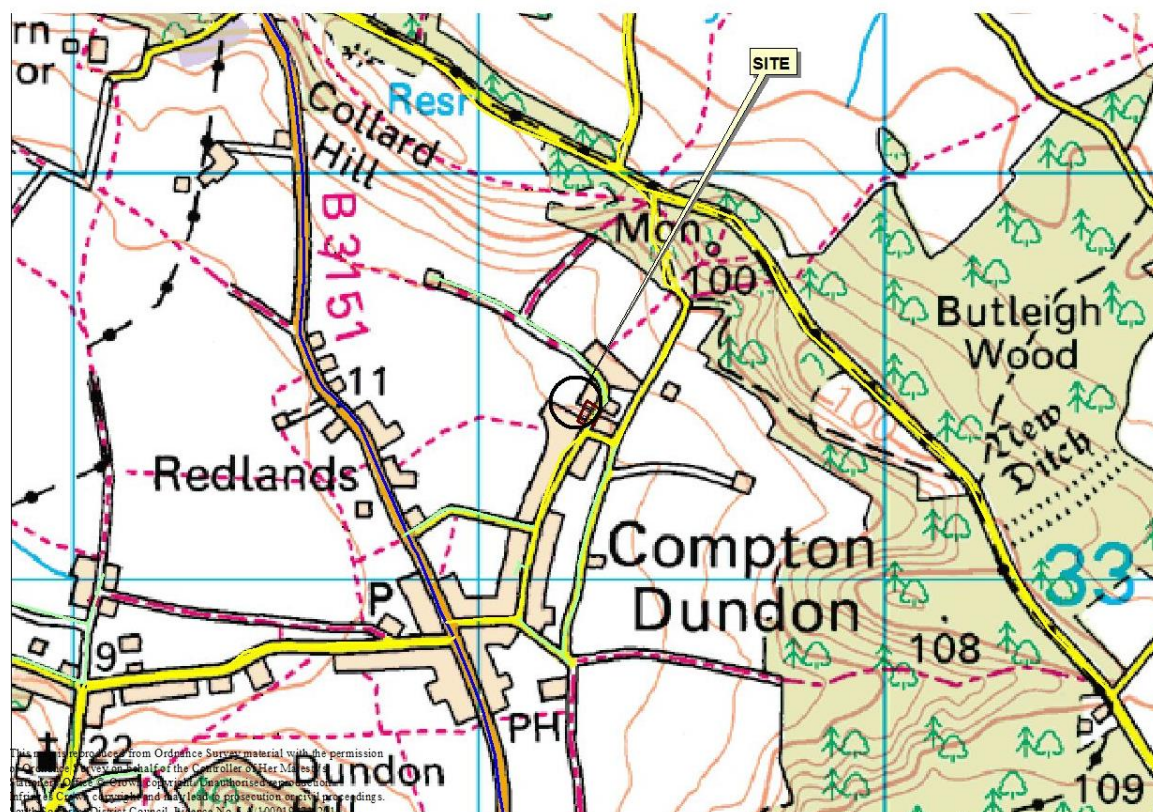
## Officer Report On Planning Application: 13/03983/OUT

<b>Proposal :</b>	Residential development of land for up to two dwellings and formation of new vehicular and pedestrian access (GR 349211/133309)
<b>Site Address:</b>	Land At Laws Farm, Middle Way, Compton Dundon.
<b>Parish:</b>	Compton Dundon
<b>WESSEX Ward (SSDC Members)</b>	Cllr Pauline Clarke Cllr David Norris
<b>Recommending Case Officer:</b>	Alex Skidmore Tel: 01935 462430 Email: alex.skidmore@southsomerset.gov.uk
<b>Target date :</b>	2nd December 2013
<b>Applicant :</b>	Mr And Mrs M A Searle
<b>Agent: (no agent if blank)</b>	Mr Diccon Carpendale Wessex House, High Street, Gillingham, Dorset SP8 4AG
<b>Application Type :</b>	Minor Dwellings 1-9 site less than 1ha

### REASON FOR REFERRAL TO COMMITTEE:

This application for one dwelling is outside settlement limits is referred to committee as a departure from the saved policies of the local plan.

### SITE DESCRIPTION AND PROPOSAL





This application is seeking outline planning permission, with all matters reserved, to establish the principle to erect up to two dwellings on this site. The application as originally supported sought the erection of up to four dwellings however during the application the applicant requested that the description be amended for the erection of up to two dwellings.

The application site is located outside but immediately adjacent to the development area as defined by the South Somerset Local Plan and is situated adjacent to residential properties to the south, north and east.

The land to the west is agricultural and previously operated as a pig and poultry holding however a pre-existing legal agreement (which formed part of application 04/03166/FUL which relates to the redevelopment of barns at Laws Farm to four dwellings) restricts the use of the old pig and poultry units from accommodating livestock of any kind.

The site comprises a small agricultural paddock that is raised up above the lane to the east and the residential barn conversion scheme to the south and retained by natural stonewalls on these sides with a post and rail fence above. The land is also raised up above the ground floor level of the adjacent neighbouring house to the north. There is an existing vehicular access located towards the southeast corner of the site and leads on to Middle Way lane the east. There is a row of conifer trees growing along the west boundary as well as mature tree and shrub planting on adjacent land to the west and north. The group of trees growing immediately to the northwest are protected by a Tree Preservation Order (TPO)

The neighbouring property immediately to the north, known as Tudor House, as well as the original farmhouse at Laws Farm to the south, are both grade II listed.

**RELEVANT HISTORY:**

Application site:

790523: (Outline) Erection of two detached dwellings with garages. Refused 1979 for the following reason:

"The proposal constitutes an over intensification of development on this site which is also partly occupied by an existing septic tank drainage system, thus proving injurious to the amenities of the locality and not in the interests of public health."

86119: (Outline) Erection of a dwelling and formation of a new vehicular access. Permitted 1970.

72367: (Outline) Erection of a bungalow and private garage and formation of a vehicular access. Permitted 1965.

Adjacent site to south (Laws Farm):

04/03166/FUL: Conversion of existing barns to four dwellings and garages. Permitted 2005.

**POLICY**

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.

The development plan comprises the South Somerset Local Plan. The policies of most relevance to the proposal are:

ST3 - Development Areas  
 ST5 - General Principles of Development  
 ST6 - The Quality of Development  
 EH5 - Development Proposals Affecting the Setting of Listed Buildings  
 EC3 - Landscape Character  
 EC7 - Networks of Natural Habitats  
 EC8 - Protected Species  
 EP1 - Pollution and Noise  
 EP5 - Contaminated Land  
 EU4 - Water Services  
 TP1 - New Development and Pedestrian Movement  
 TP7 - Car Parking

National Planning Policy Framework:

Part 4 - Promoting sustainable transport  
 Part 6 - Delivering a wide choice of high quality homes  
 Part 7 - Requiring good design  
 Part 8 - Promoting Healthy Communities  
 Part 10 - Meeting the challenge of climate change, flooding and coastal change  
 Part 11 - Conserving and enhancing the natural environment  
 Part 12 - Conserving and enhancing the historic environment

## OTHER POLICY CONSIDERATIONS:

Verrington Hospital Appeal Decision 11/02835/OUT - this established that the Council did not then have a demonstrably deliverable 5-year housing land supply as required by the NPPF (para. 47).

Slades Hill Appeal Decision 12/03277/OUT - on the basis of the Annual Housing Monitoring Report 2012 the Council conceded that it could not demonstrate a deliverable 5 year housing land supply. This was accepted by the Inspector (29/10/13).

The 2013 Annual Housing Monitoring Report to District Executive demonstrates that, as of 31st December 2013 the Council still does not have a demonstrably deliverable 5 year housing land supply. District Executive resolved (06/02/13) to undertake 6 monthly monitoring to keep the situation under continual review.

Nevertheless in such circumstances, the National Planning Policy Framework (NPPF) advises that relevant policies for the supply of housing should not be considered up to date (NPPF para. 49) and housing applications should be considered in the context of the presumption in favour of development. In this Council's case, the principal effect is that saved policy ST3 (Development Areas) no longer applies in relation to housing or mixed use proposals which should not be refused simply on the basis that they are outside Settlement Limits.

## CONSULTATIONS

**Compton Dundon Parish Council:** Recommend approval subject to a condition to restrict the number of dwellings to two. They also made the following observations:

- A detailed proposal will be required for soil retention along with north-south line between the western edge of the covenanted land and the proposed development;
- Access may be an issue since agreement will be required from the owner of the southern wall for its lowering to meet defined visibility splays.

**County Highways:** Raised no objection to the principle of the development and referred to their standing advice which sets out the need for visibility splays of 43m in either direction and an appropriate level of parking and turning to serve each dwelling.

**Environmental Protection:** No observations. I understand that the agricultural site adjoining Middleway is subject to a section 106 agreement preventing further agricultural housing of animals.

**Landscape Officer:** (Latest comments) No objection.

Since the initial submission we have discussed potential changes with the planning agent that has evolved toward the latest indicative plan offered in support of this outline proposal. Whilst I am still not convinced by the site being appropriate for development, I acknowledge that the latest plan has gone some way to lessen the impacts upon both the roadside wall; the setting of the listed building; and the retention of open space to the fore of the plots, as indicated on drawing 10189-5 revision D. The stepping of the roof level also assists in breaking-up the scale of the proposal, and whilst this element can be more positively fine-tuned, at this outline stage I am content that the principle is established to inform the detailed design of any potential reserved matters application. Consequently, the over-riding landscape objection is withdrawn.

(Earlier comments)

I see that my concerns relating to this proposal, i.e.; the loss of an open pasture field that is a component of local character; similarly the disruption of the street's enclosing stone wall; the introduction of a suburban courtyard into a rural fringe location; the erosion of the open setting to the listed building; and the likelihood of potential dominance of the listed building by the aggregated forms of development proposed here, are comparable to points that have already been raised by Greg Venn's response. I concur with his view that these are potential adverse effects upon local character, and the adjacent listed building, which are likely to arise from the form of development being proposed, and suggest there to be clear grounds for refusal, LP policies ST5 para 4, and EH3

**Conservation:** (Latest comments)

Whilst I retain some concerns over the principle of development here I have read and agree with the Landscape Officer's comments.

(Initial comments)

This is an important open space in the street scene. It is not appropriate just to fill the remaining gap in a street. The character shown is not in the vernacular of farm buildings in that it is three buildings formed loosely around what will inevitably be a highway standard access and turning space for cars and larger vehicles.

With regard to the listed building the statutory requirement on local planning authorities to 'have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses' (section 16). Advice on the consideration of setting is given in "The Setting of Heritage Assets" produced by English Heritage. This indicates that "development (that) is capable of affecting the contribution of a heritage asset's setting to its significance or the appreciation of its significance, it can be considered as falling within the asset's setting. English Heritage therefore recommends that local planning authorities should not interpret the concept of setting too narrowly". The proposal is immediately adjacent to the listed building and is clearly within its setting. The character of the setting is an open field which will be lost by the development next to it. I cannot see clear and convincing justification here which overrides the great weight that should be given to the assets conservation, or providing a positive improvement to the historic environment, as required by the NPPF.

**Ecology:** No objection. Recommends an informative relating to slow worms.

**Arborist:** No objections. The mature walnut growing close to the site is diseased and is likely to be short-lived. Recommend that the cypress hedge growing along the western boundary is removed if possible and replaced with something more appropriate or at least reduced in height to a maximum of 2m. Would like to see a high quality planting scheme included at reserved matters stage.

## REPRESENTATIONS

Written representations have been received from nine separate households within the village raising the following concerns:

- The application is contrary to the NPPF and Policies ST6 and EH5 of the SSLP.
- The site is outside limits and should remain so.
- This could set a precedent for further development in the area.
- Over development.
- Cramped form of development that will be out of keeping with the rest of the village.
- Loss of an important open green space.

- Unsympathetic and out of keeping with the rural character of the area.
- All the surrounding properties occupy large plots.
- Harmful impact upon the setting of listed buildings including Tudor Cottage, Laws Farmhouse, Lilac Cottage, Lamperts and Trays Farmhouse.
- The application does not recognise that the application site is considerably higher than the floor level of Tudor House.
- This is the oldest part of the village and as yet unspoilt.
- The site is considerably higher than the street, the ridge heights of the new dwellings will be much higher above the road have a negative impact upon the street scene.
- Stonewalls are traditional boundaries of all the properties along Compton Street. Wide splays to improve visibility from this site will necessitate the demolition of the roadside wall. This wall and the church path below it should be preserved.
- The setting of this area is further enhanced by the surrounding hills. Residents and tourists alike walk up Compton Street towards the footpaths which lead to the Hood Monument and the ridge of the Polden Hills. The hills can be viewed across the application site.
- Loss of privacy.
- Prejudicial to highway safety. Middle Way is a narrow, no through road, access to the site will be difficult. The proposal will lead to a substantial increase in traffic along Middleway as well as along Compton Street and the junction with B3151.
- The current access is not fit for purpose and will be hazardous to other road users. Vehicles entering and leaving the site will encroach on the driveway that is opposite the site.
- Substandard visibility splays.
- The access will be partially blind as it leads onto Middle Way and be a danger to pedestrians.
- The shared access should be sufficiently wide to allow two cars to pass each other.
- Increased run-off. Lower Compton Street already suffers from flooding.
- The frontage wall is a favoured habitat of the slow worm, a protected species.
- Increased pollution of the area.
- The landscape officer and conservation officer were both opposed to the development of this site but have now changed their minds.
- There is a restrictive covenant imposed on this land that prevents the building or erection of any structure, trees, shrubs or plants for a distance 13.75m back from the site frontage across its whole length and reduces the developable area by half.
- The proposed site plan does not indicate that it is for illustrative purposes only.
- I do not believe the applicant is the freeholder of the whole of the redline area. I believe the stone wall at the southernmost part of the site, which is to be reduced in height, is outside the applicant's ownership as is the land immediately abutting the eastern frontage of Tudor House.

## CONSIDERATIONS

This application is seeking outline planning permission, with all matters reserved, to establish the principle of erecting up to two dwellings on this site. The main issues in the consideration of this application are considered to be:

- The principle of development;
- Impact upon the setting surrounding listed buildings and visual amenity;
- Residential amenity;
- Highway safety; and
- Ecology

**Principle:**

The application site is a parcel of agricultural land measuring approximately 0.23 hectares in area that is located outside but immediately adjacent to a development area, as defined by the South Somerset Local Plan, and where new residential development is normally strictly controlled by local and national planning policy. However, given the lack of a deliverable five-year land supply policy ST3, which seeks to limit development outside settlement limits, can no longer be regarded as a constraint on residential development simply because it is outside development areas.

In these circumstances, the NPPF advises that policies for the supply of housing should not be considered up to date (para 49). Housing applications must therefore be considered in the context of the presumption in favour of sustainable development.

Whilst Compton Dundon is a relatively small village with few local facilities and services, the settlement does have a development area under the current local plan and the site immediately abuts this area and could be described as an infilling of this part of the settlement. Bearing this in mind and the contribution the scheme would make towards SSDC's five year land supply the proposed development is considered to be acceptable in principle.

**Impact upon the setting surrounding listed buildings and visual amenity:**

The application site comprises a small agricultural paddock raised above the adjoining road level and the adjacent listed property, Tudor House, to the north with a retaining stonewall and post and rail fence above running along the roadside and southern boundaries. As such the site has an open aspect to these sides with clear views into the site and across the site to Tudor House when viewed from Compton Street and Middle Way to the south. On the opposite side of the lane to the east is a bungalow which is raised up a similar level to the application site. To the south of the site is a newly completed barn conversion scheme and listed farmhouse (Laws Farm).

The landscape officer and conservation officer have both remarked upon the importance of the openness of this site within the street scene, the retention of the stone wall along the frontage and the impact that the development of this site could have upon the setting of Tudor House. The scheme as originally submitted sought to erect up to four dwellings on the site and included an indicative layout plan showing a relatively high density courtyard arrangement with built form projecting close to the roadside boundary. The landscape officer and conservation officer both raised strong concerns in respect of the likely impact of such a scheme.

In response to their comments the application has been amended reducing the maximum number of houses sought to two, single-storey dwellings. It has also since emerged that a strip of land 13.5m deep that runs the entire length of the site, parallel with the road, is affected by a legal covenant preventing any new built development or planting from exceeding 500mm in height taking place on this part of the site. Although a legal covenant is not a material planning consideration, whilst it remains in force, it will clearly inform any future development that can take place on this site. To take account of this restriction and the reduced number of houses an amended indicative layout plan has been provided, this plan also indicates the retention of the existing access instead of the creation of the new access previously suggested.

In response to these amended details the landscape officer has dropped his objection and states that whilst he is not necessarily convinced that the site is appropriate for development, the revisions have ensured the retention of open space to the fore of the plots and reduced the potential impact upon the roadside wall and the setting of the listed building. This view is shared by the conservation officer who has raised no substantive concerns in relation to the impact of the proposal upon Tudor House.

This site is clearly a sensitive site within the street scene and contributes to the setting of the adjacent listed building and has evoked strong feelings from a number of local residents with regard to its potential impact. Whilst care will need to be taken with the final design of the houses to ensure they respond satisfactorily to these sensitivities it is considered that the details, in terms of the indicative layout, heights and levels are sufficient to demonstrate that such a scheme need not detract from the setting of the listed property Tudor House or be unduly prominent within the street scene. The suggested position of the houses, which has been largely dictated by the outstanding covenant, is such that the site should maintain a relatively open character as viewed on the approach from the south without leading to an unduly cramped or over-developed appearance.

Several local residents have stated that the development of this site will also adversely affect the setting of other more distant listed buildings include Laws Farmhouse, Lilac Cottage, Lamperts and Trays Farmhouse and impact on views out of this area of surrounding hills. The conservation officer has raised no concerns in respect of these other properties and given their distance from this site it is not accepted that their settings will be adversely affected. Given the relatively low height of the development it is not agreed that the setting of the wider area, in terms of views of surrounding hills and Hoods Monument, will be significantly affected.

On this basis it is difficult to argue that the development will lead to such harm that outline permission should be withheld on the basis of harm to any historic assets or visual amenity.

**Residential amenity:**

The site is raised up above the road and the neighbouring property Tudor House to the north, however the indicative information so far submitted has demonstrated how a scheme for two houses could be accommodated on this site without leading to any substantive harm through loss of light or privacy to this property or to the farmyard development to the south. It is noted that the occupiers of Orchard View, the bungalow opposite, have also raised concerns about loss of privacy, however, given that any views to this property will be across a public highway and there are clear views into the garden of Orchard View from the road it is not considered that this proposal will lead to an unacceptable loss of privacy to this property.

The site is adjacent to a farmyard previously operating as a pig and poultry unit. There is a prior legal agreement which prevents the use of these buildings from accommodating any livestock in the future; as such the Environmental Protection Officer is satisfied that there will not be any conflict between the proposed residential use of this site and the adjacent farm.

**Highway safety:**

Whilst access is a reserved matter it is, nonetheless, important to be satisfied at this stage that an appropriate form of access to the site could be achieved to serve this development. Under the revised indicative plan it is intended to utilise the existing field access located in the southeast corner of the field rather than create a new access as originally proposed. The applicant has confirmed that the high wall immediately to the south of the access is also within their control.

By utilising this existing access the majority of the front boundary wall will remain unaltered. Some works will be necessary to improve visibility in either direction including the slight reconfiguring and / or lowering of a short portion of the walls to 900mm either side of the access as well as the slight widening of the access. On this basis it is difficult to argue that such works will significantly erode the positive contribution that this wall



makes to the street scene.

Some neighbours have stated that the access will need to be widened to 5m to meet highway standards, however, this would only apply if three or more houses were to be sharing a single access, in such circumstances the access drive would need to be wide enough to allow two vehicles to pass each other. In this instance, this does not apply.

Increased traffic using Middle Way and Compton Street as a result of the development has also been raised as a concern. The scale of this development however is relatively modest when compared to the existing level of development along these two roads and it is not accepted that the level of traffic generated by the two additional houses would generate undue increased pressure upon the local highway network or related substantive safety concerns. It is noted that the highway authority has raised no objections in this regard.

Overall it is accepted that an appropriate means of access should be achievable.

**Drainage and flooding:**

The application site is located outside flood zones 2 & 3 and as such is considered to be at low risk of flooding and provided the development is served by an appropriate drainage scheme there is no reason why it should result in any additional runoff from the site.

**Ecology:**

It is possible that there are slow worms on the site and the council's ecologist has recommended an advisory informative to bring this to the attention of the applicant. The ecologist has raised no other concerns.

**Other matters:**

There is a conifer hedge growing along the rear boundary which screens the site from the adjacent farmyard and a number of mature trees growing around the perimeter of the site. None of these trees have been identified for removal and in any case the Council's Arborist does not consider any of these trees worthy of protection. A group Tree Preservation Order has been imposed on trees growing to the northwest of the site however there is no reason why the development should adversely affect these trees.

**Conclusion:**

For the reasons set out above the proposed development is considered to be an acceptable form of development that will not result in any demonstrable harm to visual or residential amenity, will not adversely affect the setting of surrounding historic buildings or be unduly prejudicial to highway safety. The application is therefore considered to accord with the aims and objectives of the NPPF and Policies ST5, ST6, EH5, EC7 or EC8 of the South Somerset Local Plan and is recommended for approval.

**RECOMMENDATION**

Grant permission for the following reason:

The proposed development, by reason of its location and scale, is considered to be an appropriate form of development that makes efficient use of land and respects the character and setting of the adjacent listed building, causes no demonstrable harm to residential or visual amenity or highway safety. The proposal therefore accords with the aims and objectives of the National Planning Policy Framework and Policies ST5, ST6, EH5, EC7 and EC8 of the South Somerset Local Plan.

**SUBJECT TO THE FOLLOWING:**

01. Details of the layout, scale, appearance, access and landscaping (herein called the "reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

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

02. 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 and the development shall begin no later than three years from the date of this permission or not later than two years from the approval of the last "reserved matters" to be approved.

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

03. The development hereby permitted shall be carried out in accordance with the following approved plan drawing 10189-1 Rev B received 11/03/2014.

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

04. The development hereby permitted shall comprise no more than 2 dwellings.

Reason: To ensure that the level and density of development is appropriate to the location in accordance with policies ST5, ST6 and EC3 of the South Somerset Local Plan.

05. Before the development hereby permitted is commenced, foul and surface water drainage details to serve the development, shall be submitted to and approved in writing by the Local Planning Authority and such approved drainage details shall be completed and become fully operational before the development hereby permitted is first brought into use. Following its installation such approved scheme shall be permanently retained and maintained thereafter.

Reason: In the interests of environmental health and flooding to accord with Policies EU4 and ST5 of the South Somerset Local Plan.

06. Prior to any works commencing a scheme detailing the restoration / reinstatement of a footway (Church Path) over the frontage of the site shall be submitted to and agreed in writing by the Local Planning Authority. The agreed details shall be fully implemented prior to the first occupation of the development and thereafter retained in perpetuity.

Reason: In the interest of the amenity of the locality to accord with Policy ST6 of the South Somerset Local Plan.

**Informatives:**

01. Reptiles (particularly slow worms) are likely to be present on the site and could be harmed by construction activity, contrary to legislation (Wildlife and Countryside Act 1981), unless appropriate precautionary measures are employed. Suitable measures could include appropriate management of the vegetation to discourage reptiles away from areas of risk, reptile exclusion fencing, and/or translocation of animals from the site. An ecological consultant should be commissioned to undertake further reptile specific survey and provide site specific advice.