

## Officer Report On Planning Application: 16/02370/OUT

<b>Proposal :</b>	Outline planning application for residential development consisting of 3 dwellings, with all matters reserved, except for means of access.
<b>Site Address:</b>	Land Off Higher Kingsbury Milborne Port
<b>Parish:</b>	Milborne Port
<b>MILBORNE PORT Ward (SSDC Member)</b>	Cllr Sarah Dyke
<b>Recommending Case Officer:</b>	Lee Walton Tel: (01935) 462324 Email: lee.walton@southsomerset.gov.uk
<b>Target date :</b>	30th August 2016
<b>Applicant :</b>	Mr I Skinner
<b>Agent: (no agent if blank)</b>	Mr tony allen The Old Fire Station EC Salt Lane SALISBURY Wiltshire SP1 1DU United Kingdom
<b>Application Type :</b>	Major Dwlgs 10 or more or site 0.5ha+

### REASON FOR REFERRAL

This application is referred to the committee at the request of the Ward Member with the agreement of the Area Chairman to enable local concerns to be fully debated.

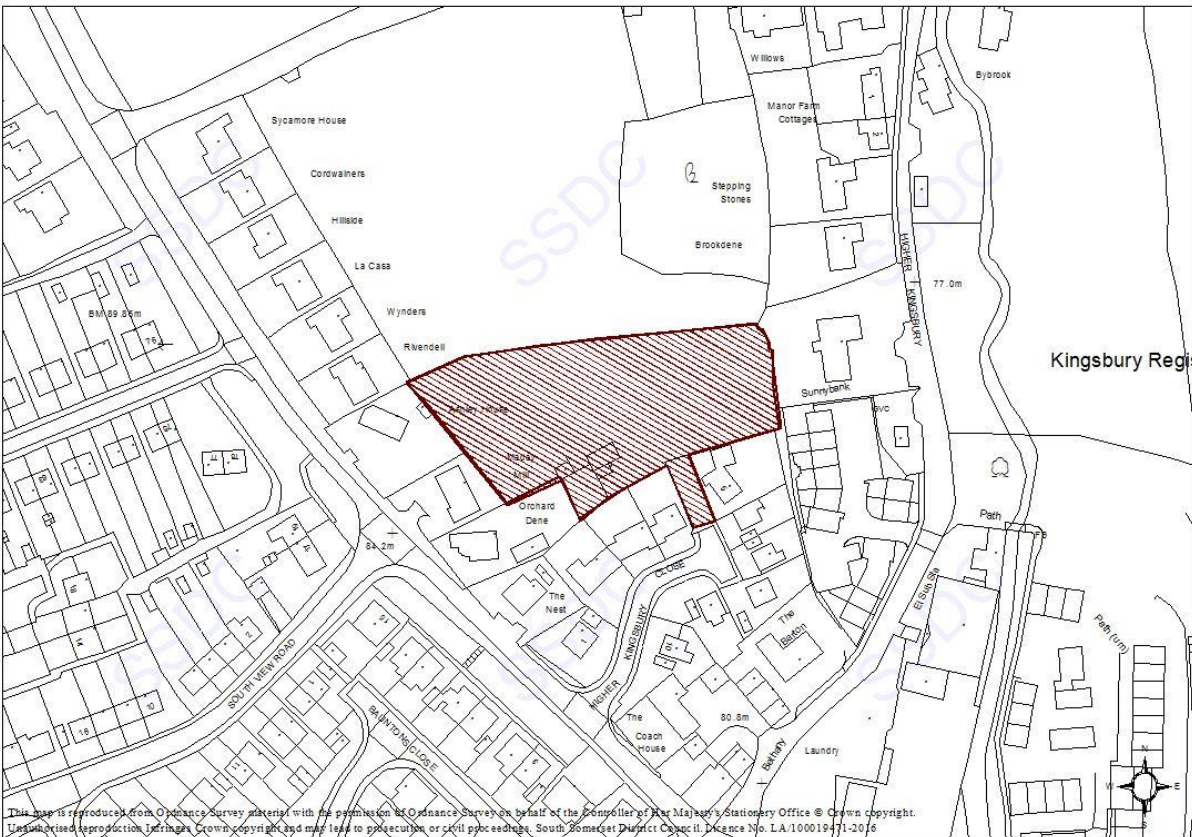
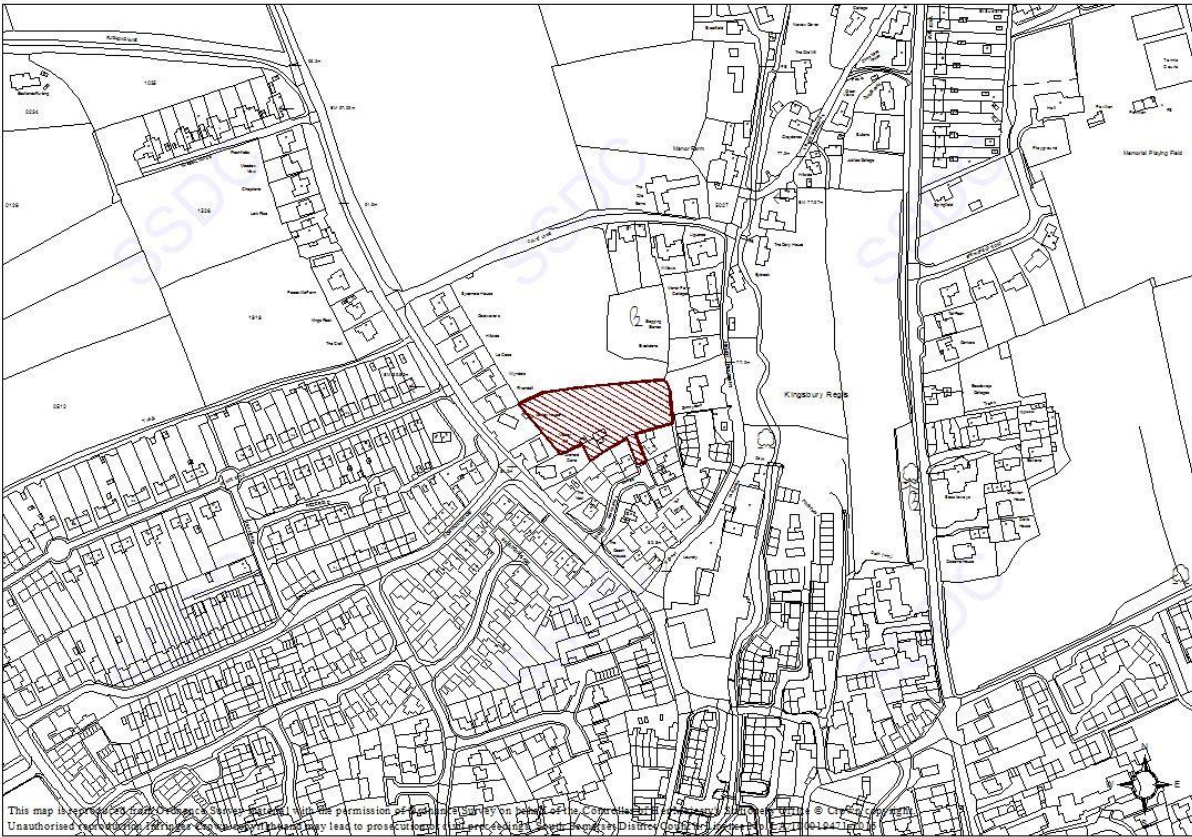
### BACKGROUND

This application comprises a resubmission of an earlier refusal, ref: 15/05449/OUT that sought the principle of 3 dwellings, whose reason for refusal was:

01. The proposed development site has been arbitrarily defined to exclude land, also owned by the applicant, which has been previously identified for development. As such the proposal has been artificially contrived to exclude areas of the wider site to avoid triggering the need for the on-site provision of affordable housing as required by Policy HG3. Such piecemeal development, in the absence of measures to deliver the necessary requirements on a pro-rata basis, is contrary to Policies HG3 and SS6 of the South Somerset Local Plan 2006- 2028.

The current application resubmits the outline proposal for residential development that consists of 3(no.) dwellings. This follows the May 2016 Court of Appeal decision (SoS CLG vs West Berks/Reading) that clarified Local Authorities should not seek contributions from schemes of 10 units or less. Whilst it is considered Policy HG3 is valid, the most recent legal ruling must be given significant weight and therefore the council would not seek an affordable housing obligation from this development. The relevance of the applicant's arbitrarily drawing their red outline to avoid including more than 0.2 hectares is superseded by the court of appeal judgement. The reason for refusal therefore falls away.

### SITE DESCRIPTION AND PROPOSAL



The site is located adjacent to development limits with residential properties to south, west and east of the application site. The land drops at the eastern boundary adjoining the curtilage of a

single storey dwelling known as Sunny Bank. The land generally rises northwards and forms a green wedge where the countryside projects towards the centre of the village. Higher Kingsbury Close to the south is a small purpose built cul-du-sac estate. The field access is taken from Higher Kingsbury Close.

The layout shows a road access taken from Higher Kingsbury Close at its north east corner between nos. 4 and 5, and involves the widening of the current field access to serve the new residential scheme. Once on site the estate road is proposed forms an east- west axis. The layout is 'illustrative' and shows detached family homes comprising 3(no.) two storey dwellings. These are given to be 5 bedroom but scale is not being considered by the outline.

The application is supported by a Planning Statement (June 2016).

## **HISTORY**

15/05449/OUT - Outline application for residential development consisting of 3 dwellings, with all matters reserved, except for means of access, Refused. (OFFICER note: the reason for refusal reflects the Policy HG3 requirement for contributions where the application site exceeded 0.2 hectare and in coming forward the application sought to avoid such contributions through a arbitrarily drawn red outline.

14/04927/OUT - Revised Outline Planning Application for 10 Dwellings with All Matters Reserved, except for means of access, layout and scale - Refused and Appeal Dismissed.

14/00791/OUT - Outline planning application for the erection of 10 dwellings with some matters reserved (revised scheme) - Refused.

13/04830/OUT - Outline planning application for 10 dwellings with all matters reserved except for means of access, layout and scale, Withdrawn to consider further the highway and residential amenity issues that had been raised.

91/01646/OUT - Residential development of land. Refused and appeal dismissed.

## **POLICY**

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

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

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

SD1 - Sustainable Development.

SS5 - Delivering New Housing Growth

EQ2 - General Development

TA6 - Parking Standards

TA5 - Transport Impact of New Development

HG3 - Provision of Affordable Housing

HG4 - Provision of Affordable Housing

SS6 - Infrastructure Delivery

SS1 - Settlement Strategy

National Planning Policy Framework (March 2012):

4. Promoting sustainable transport
6. Delivering a wide choice of high quality homes
7. Requiring good design

Somerset County Council Parking Strategy, Sept 2012.

Somerset Highways Standing Advice - June 2015.

## **CONSULTATIONS**

**Milborne Port Parish Council** - considers that the reduction of planned development from 10 to 3 dwellings with larger plot sizes and increased landscaping makes this an acceptable development subject to Highways assessment of vehicle access and turning provision (information pending) which had been a concern with the previous applications. It is also noted that there is strong opposition from other residents in this quiet close to the proposal.

**County Highway Authority** - The proposal appears to provide a shared surface arrangement which will allow vehicles and pedestrians to access the site using the singular road surface without need for a footway. Visibility does not appear to be an issue due to the fact that vehicle speeds are likely to be low given the nature of the road. Each dwelling will need to be served by a properly consolidated and surfaced access before it can be brought into use. Conditions are proposed.

**SSDC Landscape Officer** - The house numbers are now greatly reduced to 3 plots only, which whilst likely to result in properties of greater scale, should allow for greater green space, and tree planting also. Consequently my views are as previously expressed, i.e; the site is contained on 3 sides by development, and whilst it is agricultural land, the built surround exerts a strong urban character, for the prospect of development not to appear incongruous. Neither has the site a significant visual profile. Consequently I see no landscape issue to tell against the potential for housing here. I am wary of the proposal to site a two-storey house on plot 1, given its dominant relationship with housing to the east. Consequently I would advise that if you are minded to grant consent, that outline consent is not tied to the layout before us at the moment.

**County Archaeologist** - No objection.

**SSDC Environmental Protection** - condition contaminated land watching brief.

**Natural England** - No objection.

## **REPRESENTATIONS**

9 Households have responded objecting to the proposal, raising the following concerns:

- 1992 and 2015 Appeal decisions dismissed similar development on the same site on the basis of amenity harm for occupants of no. 5 Higher Kingsbury Close
- The proposed narrow access and proximity to existing properties will be detrimental to the living conditions and amenities enjoyed by adjacent occupants in 4 and 5 Higher Kingsbury Close. The proposal will significantly and demonstrably harm the residential amenity of the occupiers of numbers 4 and 5 Higher Kingsbury Close, contrary to prevailing policy.
- No defensive space between no.5 and proposed access road; glare of car lights
- The exit from Higher Kingsbury Close to Wick Road is often impeded by the parking

- from the laundry and laundry workers
- There have been two large residential developments in the village recently, an increase of over 200 houses
  - The refuse vehicles have to reverse into the Close
  - Noise, pollution and presence of traffic

## **CONSIDERATIONS**

### **Principle of Development:**

Milborne Port is a sustainable location identified for growth over the plan period. There is support in principle. The relevance of Policy HG3, as noted above, is changed following the Appeal Court decision. This removes the previous reason for refusal. Accordingly there is the need to review the material considerations and whether there has been any change since the last refusal. The main considerations include character and appearance, highway safety and residential amenity.

### **Character and Appearance (Layout and Scale):**

While the current outline considers only access in any detail, the illustrative layout as was originally submitted, showed three large dwellings spaced out across the site. The illustrative layout tends to show that an acceptable scheme can come forward without detriment to character and appearance.

### **Highway Safety (Access):**

The Highway Authority propose conditions and no other objection is received from them with regard to the access point that has proven a point of local controversy. The reduction in the number of houses is noted, and although these are expected to be large scale the resulting traffic movement is considered would have been reduced that in part addresses the earlier concerns of adjacent occupants. It is considered that an acceptable scheme can come forward as part of the Reserved Matters.

### **Impact on Residential Amenity:**

The recent appeal considered the access point wedged between numbers 4 and 5 Higher Kingsbury Close and the Inspector concluded that there was a neighbour amenity concern sufficient to warrant the appeal being dismissed. This followed the earlier 1992 appeal decision that also made reference to neighbour amenity. The current application clearly results in a significant change in the number of proposed dwellings. Seen in context the 2014 refusal whose appeal was dismissed sought 10 dwellings, the 1992 appeal had considered 5 dwellings, and the current application seeks 3 dwellings - a not insubstantial reduction in the number of proposed dwellings. The Landscape Architect has certain reservations with plot 1, but Reserved Matters can consider the detail. A condition seeks to limit the development to no more than two storey although it is quite possible that a one or one and half storey may come forward dependent on any constraints identified in considering detailed finishes. In terms of the reduction in the number of dwellings the significant reduction identified is considered to have addressed the neighbour amenity concerns of numbers 4 and 5 that had previously identified (at the time of the most recent appeal).

### **Neighbour Concerns:**

Their objections are noted and considered, as appropriate, under the respective sub-headings of the officer report. In considering the current application the primary issue of concern is whether the reason for refusal has been addressed. As stated above the refusal had been on the basis that the applicant had sought to avoid the financial contributions although since the court of appeal decision this reason for refusal has fallen away.

## **RECOMMENDATION**

Approve.

01. The proposed development of three dwellings is considered makes for an acceptable residential scheme without detriment to character and appearance, highway safety, and neighbour amenity given the number of dwellings involved, and as such is considered accords with Policy TA5, TA6 and EQ2 of the South Somerset Local Plan 2006- 2028.

**SUBJECT TO THE FOLLOWING:**

01. Approval of access, appearance landscaping, layout and scale (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: To accord with the provisions of Article 3 of the Town and Country Planning (General Development Procedure) Order 2015.

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.

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

03. The development hereby permitted shall be begun, not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: In accordance with the provisions of S92 (2) Town and Country Planning Act 1990 (as amended by S51 (2) Planning and Compulsory Purchase Act 2004)

04. The development hereby permitted shall be carried out in accordance with the red outline identified in the approved plan: jw583- 200 Rev H received 31 May 2016. The layout and indications of scale are 'illustrative' and need not come forward in considering Reserved Matters.

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

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

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

06. Three dwellings are hereby permitted. The dwellings shall not be more than two storey in height.

Reason: To avoid any ambiguity as to what is approved and anticipated.

07. Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway, details of which shall have been submitted to and approved in writing by the Local Planning Authority. Such provision shall be installed prior to commencement of development and thereafter maintained at all times

Reason: In the interests of highway safety further to Policy TA5 and EQ2 of the South Somerset Local Plan 2006- 2028.

08. The development hereby permitted shall not be commenced until the required parking and a properly consolidated and surfaced turning space for vehicles has been provided and constructed within the site in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority. Such parking and turning spaces shall be kept clear of obstruction at all times and shall not be used other than for the parking and turning of vehicles in connection with the development hereby permitted.

Reason: In the interests of highway safety further to Policy TA5 and EQ2 of the South Somerset Local Plan 2006- 2028.

09. The proposed roads and turning spaces where applicable shall be constructed in such a manner as to ensure that each dwelling before it is occupied shall be served by a properly consolidated and surfaced carriageway to at least course level between the dwelling and existing highway.

Reason: In the interests of highway safety further to Policy TA5 and EQ2 of the South Somerset Local Plan 2006- 2028.

10. Before the dwellings hereby permitted are first brought into use, a properly consolidated and surfaced access shall be constructed (not loose stone or gravel) details of which shall have been submitted to and approved in writing by the Local Planning Authority. The access shall be constructed in accordance with the agreed design and shall be maintained in the agreed form thereafter at all times.

Reason: In the interests of highway safety further to Policy TA5 and EQ2 of the South Somerset Local Plan 2006- 2028.