

<b>Application Details</b>	
Application Reference	2024/0607/FUL.
Application Types	Full Application
Extension of Time	Agreed to
Description	Erection of dwelling and car port and formation of vehicular access
Site Address	Land South Of Corner Cottage Blackey Lane To Withy Lane Neighbourne Shepton Mallet Somerset
Parish	Aswhick Parish
Conservation Area	Not relevant
Somerset Levels and Moors Ramsar Catchment Area	Not relevant
AONB	Not relevant
Case Officer	Carlton Langford
Agent	Salmon Planning
Applicant	Mr T D'ovidio
Reason for referring application to Members	This application is referred to the Chair and Vice Chair of the Planning Committee as the case officer's recommendation to refuse differs from that of the Parish Council.

**1. Recommendation**

1.1 Recommendation for refusal.

## **2. Executive Summary of key reasons for recommendation**

2.1 This application relates to a parcel of land located at Goodrest Cottage with the village hamlet of Neighbourne, which doesn't benefit from development limits. As such there is no development plan policy support for the application.

## **3. Planning Obligations, conditions and informatives**

### **3.1 Obligations**

None

### **3.2 Conditions**

The recommendation is for refusal. \_

## **4. Proposed development, Site and Surroundings**

4.1 The site is agricultural land situated located a top of the valley within the open countryside.

4.2 The application seeks full planning permission for the erection of dwelling, garden curtilage and car port and formation of vehicular access from the highway to the rear.

## **5. Relevant Planning History**

5.1 2016/0112/FUL – Erection of dwelling – Refused Oct 2017 and dismissed at Appeal May 2019. Refusal reasons as follows:

1. Policies CP1 and CP2 of the Local Plan make it clear that strict controls are to be placed on residential development outside settlement boundaries and Paragraph 55 of the NPPF suggests that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as the exceptional quality or innovative nature of the design of the dwelling. Based on the supporting information and drawings received, the proposed dwelling is neither of exceptional design quality nor innovative in its design to be truly outstanding or innovative for the reason that the scheme fails to conclusively demonstrate that the dwelling could be constructed from the innovative building material proposed (material derived from quarry waste) and therefore, fails to reflect the highest standards of architecture and fails to significantly enhance its immediate setting. With no special circumstance to justify the proposed development, the proposed dwelling is an isolated new home in the countryside contrary to Policies CP1, CP2 and CP4 of the Mendip District Local Plan 2006-2029 (adopted December 2014) and Policies within the National planning Policy Framework including paragraph 55.

2. With no special circumstance to justify the proposed development, the dwelling would fail to maintain or enhance its immediate setting and its urbanising effect and encroachment into

the countryside would have a harmful impact on the countryside's intrinsic character here. The development would therefore be contrary to the provisions of Saved Policy DP1, 4 and 7 of the Mendip District Local Plan 2006-2029 (Adopted Dec 2014) and the Policy within the National Planning Policy Framework to include Paragraph 17.

## 6. Habitat Regulations Assessment

Not required for this application

## 7 Consultation and Representations

Statutory consultees (the submitted comments are available in full on the Council's website).

### 7.1 Statutory/Non Statutory Consultees

7.2 It should be noted not all statutory consultees are consulted on all planning applications. The circumstances for statutory consultation are set out in the Development Management Procedure Order.

7.3 The full comments are available on the Council's website.

Consultees	Consultee Comments
<b>Ashwick Parish Council</b>	Confirm support
<b>Divisional Member</b>	offered No Comment
Highways Development Officer:	Standing advice
Contaminated Land:	No comments
Coal Authority: Low Risk Area	Standing Advice Applies.
Ecologist Minerals	offered No Comment
Rights of Way	offered No Comment
	No objections

### 7.4 Local consultation and representation

Local Representations: 5 letters of objection received raising the following concerns –

- Impact of ground stability
- Inappropriate design and appearance
- Impact on the character and appearance of the landscape
- Unsustainable location
- Loss of amenity for neighbouring properties (overbearing)
- Loss of outlook for neighbouring properties
- Restricted access arrangements
- Traffic impacts (narrow lanes)
- Impact on services (water and electricity supply)
- Impact on wildlife
- Cumulative impact

## **8. Relevant planning policies and Guidance**

**8.1** Section 70(2) of the Town and Country Planning Act 1990, as amended ("the 1990 Act"), requires that in determining any planning application regard is to be had to the provisions of the Development Plan, so far as is material to the application and to any other material planning considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) ("the 2004 Act") requires that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise.

**8.2** The site lies in the former Mendip area. For the purposes of determining current applications the local planning authority considers that the adopted development plan comprises:

- Mendip District Local Plan Part I: Strategy and Policies (December 2014)
- Mendip District Local Plan Part II: Sites and Policies (December 2021) (post JR version)

**8.3** Relevant policies of the development plan in the assessment of this application are listed below.

### Policies of the Mendip District Local Plan Part I: Strategy and Policies (December 2024)

- CP1 – Mendip Spatial Strategy
- CP2 – Housing Provision
- CP4 – Sustaining Rural Communities
- DP1 – Local Identity and distinctiveness
- DP4 – Mendip Landscapes
- DP5 – Biodiversity and ecology
- DP6 – Bats
- DP7 – Design and Amenity
- DP9 – Transport
- DP10 – Parking

### Other Relevant Documents

- National Planning Policy Framework (NPPF) (2024)
- National Planning Practice Guidance
- Design and Amenity of New Development, Policy DP7 SPD (March 2022)
- National Design Guide (2019)

### The National Planning Policy Framework 2024

The National Planning Policy Framework (NPPF), last update December 2024 sets the Governments planning policies for England and how these are expected to be applied.

Relevant Chapters of the NPPF include:

- 2: Achieving sustainable development
- 4: Decision-Making
- 5: Delivering a sufficient supply of homes
- 9: Promoting sustainable transport

## **9. Material Planning Considerations**

9.1 The main planning issues relevant in the assessment of this application are as follows:

- The principle of development
- Design, Appearance, and Scale of the Development
- Residential Amenity
- Ecology and Tree Protection
- Highway Safety and Parking Provision

### **Principle of the Use:**

10.1 The site is within the small rural hamlet of Neighbourne outside any recognised development limit and therefore a site within the open countryside.

10.2 As the site is located in the countryside, the proposal does not accord with the strategy for the delivery of new housing, as set out in the Local Plan. Policies CP1 and CP2 seek to direct new residential development towards the principal settlements and within defined Development Limits, which is consistent with the aims of creating sustainable development and protecting the countryside as described in the NPPF. Policy CP4, amongst other things, seeks to strictly control residential development in the open countryside save for specific exceptions (Development Policies DP12, 13, and 22), which do not apply in this case.

10.3 There is a little in in the way of day-to-day services and facilities within Neighbourne, with the nearest settlement being Oakhill classes as a secondary village with some service and facilities. However, access to Oakhill or any other nearby settlements offering services and facility, is constrained by the limited transport options available within Neighbourne. Further, the narrow, largely unlit lanes without any pavements limit transport options for residents of the

dwelling, resulting in the development being wholly reliant on the use of the private car and therefore unsustainable in transport terms. This would be in conflict with the strategic policies of the LP, that supports proposals where transport to a site is capable by means other than the private car. The Framework also recognises the need for a genuine choice of access modes. The site would not offer any real alternatives for access to the site other than to use the private car and would not therefore meet this objective.

10.4 Accordingly, the proposed development would conflict with Policies CP1, CP2, CP4 and CP9 of the LP, and as such the Framework, which collectively seek to ensure development proposals are located in suitable and sustainable locations having regard to the use of a private car.

10.5 Notwithstanding the above, the Council cannot currently demonstrate a five-year housing land supply in accordance with the requirements of the NPPF. As a result, the policies within the Local Plan, which seek to prevent new housing outside the development limits of settlements (CP1 and CP2) currently have limited weight. Therefore, whilst regard should be given to the policies in the Local Plan, the 'presumption in favour of sustainable development' as set out in paragraph 11(d) of the NPPF applies. However, permission should not be granted where any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF taken as a whole or where its specific policies indicate that development should be restricted.

10.6 All aspects of the proposed development will be assessed below, and all of the factors weighed in the balance at the end of this report.

### **Design of the Development and Impact on the Street Scene and Surrounding Area:**

11.1 The hamlet of Neighbourne is characterised by a mix of residential dwellings of differing types which snake around the central green space which forms the application site.

11.2 The proposal is for a contemporary-designed, split-level four-bedroom house and car port with the principal living areas at ground floor and sleeping areas on the lower level, excavated into the sloping site. The scale of the proposal has been significantly reduced following the refusal of planning permission in 2017 (Dismissed at Appeal in 2019).

11.3 The completion of the contemporary-designed, replacement dwelling at Hill Top has provided a useful benchmark in determining the height parameters of the development. A cross-section through the site shows the ridge of the new dwelling falling about 1m below the eave's height of Hill Top and 1 m above 'The Little House'. This has significantly reduced the visual impact of the dwelling within the landscape.

11.4 In this revised location and reduced building footprint the building is more visually contained within the vegetative belt that surrounds two sides of the site and is less visible from the properties to the south-west and the public footpath.

11.5 The proposal takes design principles, including the material choices from the recently completed Hill top development which are considered acceptable within context.

11.6 The Applicant has commissioned a Landscape Feasibility Study. The report analysis of the landscape character of the area, which inspired the design process to "fit in with the overall form and layout of the surroundings". The site lies within the Landscape Character Area of

Nettlebridge Valley. The character of the immediate study area is described as a combination of small, steeply sided valleys and strong hedgerow vegetation and belts of landscape scale with generally contained middle distant views. Vegetation comprises robust field boundary hedgerows, hedgerow trees; settlement is infrequent and fields pastoral. The author of the study report states this amounts to an overtly rural landscape of high visual quality.

11.7 Taking above into consideration, the general scale, appearance and layout of this revised scheme, from that dismissed at Appeal in 2019, the application is considered to have addressed those concerns of the failure of the proposal to acceptably fit in with the overall form and layout of its surroundings through the building's scale, disposition on the land and elevated position.

11.8 However, whilst the proposal now accords with Policies DP1, DP4 and DP7 of the Local Plan, the policies of restraint outside of a settlement boundaries (CP1) should not be set aside in this case.

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

12.1 Other than having a significantly harmful visual impact on the wider amenity of the area, the scheme is unlikely to raise any immediate neighbouring amenity concerns such as overlooking or overshadowing as to warrant the application's refusal.

12.2 The proposal accords with the provisions of Policy DP7 of the Local Plan.

#### **Impact on Ecology:**

13.1 Whilst no response has been received from the Ecologist, an ecological report was received with the application which confirms that there will be no foreseeable adverse impacts on a protected habitat, or a protected species and no further surveys need to be carried out before planning permission can be granted.

13.2 No mitigation or compensation measures are required. The proposed development provides an opportunity to achieve a biodiversity net gain; therefore, recommendations are given to achieve this in the report which could be conditioned.

13.3 Whilst the report suggests that biodiversity net gain can be achieved, this is a necessary requirement of all developments and not seen as a benefit which might outweigh any other harms arising from the proposal.

13.4 The proposal accords with the provisions of Policies DP5 and DP6 of the Local Plan.

#### **Assessment of Highway Issues:**

14.1 A safe means of access can be achieved at the site along with adequate off-street parking provisions all in accordance with Policies DP9 and DP10 of the Local Plan.

#### **Refuse Collection:**

14.2 Ample space within the curtilage of the dwelling for bin storage.

#### **Other matters not already addressed:**

### *Impact of ground stability*

15.1 There is no evidence to suggest that the development of the site/land would adversely impact on the stability of the site. The site is within a low risk Coal Mining Area which has raised no concerns from the Coal Authority and neither has the site been quarried.

### *Traffic impacts (narrow lanes)*

15.2 Whilst the location of the site might be seen as an unsustainable location in transport terms, one additional dwelling in this location is unlikely to result in additional traffic generation which might be construed as severe resulting in unacceptable highway safety issues over the wider transport network.

### *Impact on services (water and electricity supply)*

15.3 These are matters under separate legislation.

## **Environmental Impact Assessment**

16.1 This development is not considered to require an Environmental Statement under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

## **Equalities Act**

17.1 In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

## **Conclusion and Planning Balance:**

18.1 Paragraph 11 of the NPPF sets out that decisions should apply a presumption in favour of sustainable development and that, under criterion d) where the policies which are most important for determining the application are out of date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Given the lack of a five-year housing land supply, paragraph 11 d) of the Framework is engaged.

18.2 The Council's spatial strategy for the District for the period 2006 – 2029 is set out within Core Policy 1 of the Mendip District Local Plan. Amongst other aspects, it establishes a hierarchy for development, with the majority of development to be directed towards the five principal settlements within the District, with more limited development opportunities promoted in secondary villages and other villages and hamlets.

18.3 The policy sets out that development in the open countryside will be strictly controlled but may be exceptionally permitted in line with the provisions of Core Policy 4.



18.5 Together the above policies provide support for rural development. Nonetheless, it remains that development proposals should be located where there are choices in the mode of transport available, as well as ensuring new developments are suitably located to facilities. These LPP1 policies are reflective of the National Planning Policy Framework (the Framework) objectives to guide development to sustainable locations.

18.6 As per the assessment above, the application site is situated within the open countryside remote from any services and facilities with the nearest settlement, with any discernible services and facilities, being 2km away and only safely or conveniently accessible by private transport.

Accordingly, the proposed development would be in an unsuitable location having regards to the spatial strategy set out in the development plan and national policy. Indeed, it conflicts with Core Policies CP1, CP2 and CP4 of the LP. It also conflicts with Policy DP9 of the LPP1 which seek to maximise the use of sustainable forms of travel. Similarly, the proposal would not align with the approach in the Framework in respect of promoting walking, cycling and public transport where possible. The location is not considered sustainable.

18.7 Whilst the proposal might deliver modest benefits for the duration of the construction phase, the proposal will bring very few ongoing economic or public benefits, and the benefits of delivering 1 dwelling would make very little contribution to assisting the Council's shortage of housing land within the District as a whole.

18.8 In conclusion, the site is seen as being remote from any day-to-day facilities or services. The scheme would not promote the use of sustainable modes of transport and end users would be heavily reliant on a private motor vehicle. Also, in the absence of demonstrating an exception development under Policy CP4 of the Local Plan, the proposal represents an urban encroachment into the countryside which fails to preserve the character of the countryside for its own intrinsic value. In terms of the planning balance, the harms as described carry a significant level of weight which demonstrably outweigh the very limited benefits of the proposal and the application is therefore recommendation of refusal.

#### **Recommendation for refusal as follows.**

18.1 The site lies in the countryside where development is strictly controlled. The proposal does not represent sustainable development by virtue of its distance and poor accessibility and connectivity to local services and facilities and would foster growth in the need to travel by private vehicle. In the absence of demonstrating an exception development under Policies CP1 and CP4 of the Local Plan, the proposal represents an urban encroachment into the countryside which fails to preserve the character of the countryside for its own intrinsic value. The limited benefits of bringing forward housing supply in this location and the limited economic benefits for the wider community do not in this case outweigh the harm identified. The proposal is therefore considered to be contrary to the provisions of Policies CP1, CP2, CP4, DP1, DP4 and DP9 of the Mendip District Local Plan Part 1: Strategy and Policies 2006 - 2029 (adopted 15th December 2014) and guidance within the National Planning Policy Framework – December 2024 to include paragraphs 11d)ii), Chapters 5 and 9.