

Site Adjacent to 87 Barton Lane, Nailstone CV13 0PY



**Design and Access/Planning Statement (including parking
provision details):
Demolition of existing building, greenhouses and raised beds
and erection of 2 no. two bedroom houses**

Suzanne Asher BA (Hons), DipTP

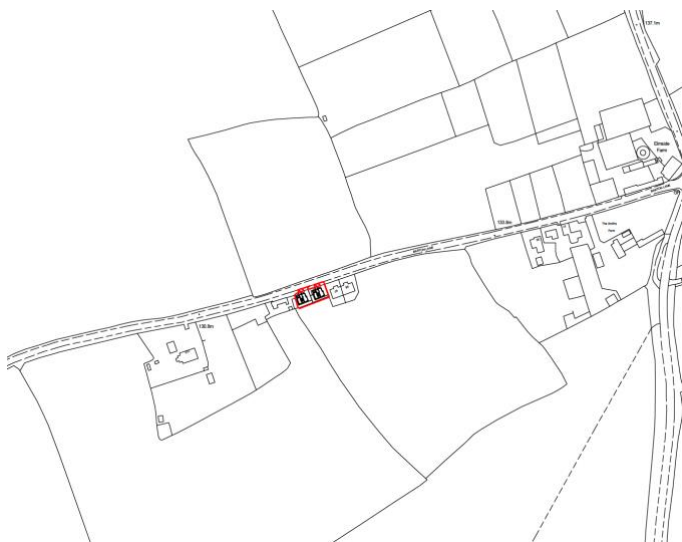


July 2025

1.0 Site Location and Description, Application Background and Site History

- 1.1** The site is located on the southern side of Barton Lane, to the west of Nailstone. It is occupied by a dilapidated single-storey building previously used as a workshop (former Use Class B1), greenhouses and raised garden beds.
- 1.2** There is residential use on both sides, and fields to the north and south. The site is accessed from Barton Lane.
- 1.3** The site has no allocations on the Hinckley and Bosworth Policies Map; it is in the countryside. It is not in any conservation area and there are no listed buildings on the site or nearby. It is in flood zone 1 with a low risk of flooding.
- 1.4** The site is less than 400m from the edge of Nailstone; 5 minutes' walk. Shops and services can be easily accessed in Barlestone (4 minute drive) and Ibstock (5 minute drive).

Figure 1 – Location Plan



- 1.5** The Hinckley and Bosworth planning applications database does not show any planning history for the site.

2.0 The Proposals

- 2.1** It is proposed to demolish the building and greenhouses and remove the garden beds, and build 2 new two-storey (ground floor and roofspace) detached houses.
- 2.2** Each house will have a living/dining room, kitchen, W.C. and utility room on the ground floor, and two bedrooms and a bathroom in the roofspace. Each house will measure 133sqm.
- 2.3** The houses will have outdoor amenity spaces of 147sqm and 131sqm. There will be bin storage to the side.
- 2.4** The walls of the houses will be render. The roofs will be tiled and pitched, with front and rear dormers and front and side gables. Windows and bifold rear doors will be grey uPVC framed and the front door will be brown uPVC.

Parking Provision Details

- 2.5** Each house will have a driveway with parking for two cars. Each house will have a cycle store to the rear.

3.0 Relevant Planning Policies

National Policy

- 3.1** The National Planning Policy Framework (NPPF, 2024) sets out the Government's planning policies for England and how these are expected to be applied in both plan making and decision making.
- 3.2** Sustainable development is at the heart of the planning system and the NPPF seeks to achieve this through three overarching objectives: economic, social and environmental.
- 3.3** At para. 11, the NPPF sets out the need for plans and decisions to apply a presumption in favour of sustainable development. In terms of decision making, local planning authorities are expected to approve development proposals that accord with an up-to-date development plan without delay.
- 3.4** Footnote 8 says that, for applications for housing where the local planning authority cannot demonstrate a five year supply of deliverable housing sites, housing policies in the Local Plan are considered 'out-of-date'. This means that the Council is expected to grant planning permission for schemes unless their adverse impacts 'significantly and demonstrably' outweigh their benefits, when assessed against the policies in the NPPF taken as a whole. This is often referred to as the 'tilted balance'.
- 3.5** The Council's Housing Delivery Test Action Plan (June 2024) says at para. 3.2.11 that:
- "The latest housing supply position is showing a recovery, with the latest figure being just below the five-year target at 4.89 years."*
- 3.6** Para. 61 states that it is the Government's aim to significantly boost the supply of housing and para. 73 recognises the contribution that small and medium sized windfall sites can make to meeting housing targets.
- 3.7** Para. 83 says that:
- "To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities... Where there are groups of smaller settlements, development in one village may support services in a village nearby."*
- 3.8** Para. 84 says that planning decisions should avoid the development of isolated homes in the countryside.
- 3.9** Para. 124 says that planning policies and decisions should promote an effective use of land in meeting the need for homes, making as much use as possible of previously-developed land.
- 3.10** Para. 135 states that proposals should be well-designed, respect local character and ensure a high level of amenity for existing and new users.

Local Policy

- 3.11** The Hinckley and Bosworth Core Strategy (2009) at Policy 12 designates Nailstone as a Rural Village and states that development will be allowed within the settlement boundary. It says that sites will be allocated for a minimum of 20 new homes.
- 3.12** Table 3 shows that there is a high need for ‘Medium and Larger Family Units’ which includes 2-bedroom units. Policy 16 says that density in the rural areas should be at least 30 dwellings /hectare.
- 3.13** The Site Allocations and Development Management DPD (2016) shows the settlement boundary of Nailstone, which is less than 400m from the site. It states at para. 8.20 that:
- “Nailstone has no local shopping provision but has a number of congregational community facilities.”*
- 3.14** Sites are allocated for a total of 22 dwellings at Land Rear of Bulls Head, Land North of Bagworth Road and Land Adjacent to 6 Main Street.

Figure 2 – Extract From Settlement Boundary Map



- 3.15** Policy DM4 seeks to protect the countryside.
- 3.16** Policy DM10 states that development will be permitted if there is no significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, it provides a good level of amenity for occupiers, and it complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and uses.
- 3.17** Policy DM17 says there must not be a significant adverse impact upon highway safety and Policy DM18 says that all proposals for new development will be required to provide an appropriate level of parking provision.
- 3.18** Policy DM19 says that existing employment areas are identified on the policies map, and fall into three categories - A, B and C – with varying levels of protection.
- 3.19** The Council’s Good Design Guide (2020) requires new houses to meet national space standards, integrate modern bin and cycle storage and provide high quality materials and

boundary treatments. With regard to infill sites it says that built development should be of a similar scale, mass and roof form to the wider context, allowing it to sit comfortably within the streetscene. Wherever possible, development should respect building lines.

3.20 It says that ensuring adequate space between and around buildings is recognised as a core component of residential amenity.

3.21 With regard to driveways it says that these should be at least 5.5m long so that vehicles do not overhang the highway and 3m wide, if providing access to a property. Permeable surfaces should be used.

4.0 Planning Assessment

Principle of Development

4.1 The site is previously-developed land, meeting the below NPPF definition:

“Previously developed land: Land which has been lawfully developed and is or was occupied by a permanent structure and any fixed surface infrastructure associated with it, including the curtilage of the developed land...”

4.2 The proposal therefore accords with the NPPF para. 124 which prioritises previously-developed land for the development of new homes. The proposal will optimise the potential of a currently overgrown disused site, providing two new houses on a small windfall site, in accordance with the NPPF paras. 61 and 73.

4.3 Para. 84 says that planning decisions should avoid the development of isolated homes in the countryside. The site is less than 400m from the settlement boundary of Nailstone. The Council views Nailstone as an appropriate location for new housing, having designated it as a Rural Village (Core Strategy Policy 12) and allocated sites there for 22 dwellings. The Site Allocations and Development Management DPD notes that whilst the settlement has no shopping provision, it has a number of congregational community facilities. Para. 83 of the NPPF says that in rural areas, where there are groups of smaller settlements, development in one village may support services in a village nearby. The proposed new houses will support services in nearby Ibstock and Barlestone.

4.4 The definition of ‘isolated homes’ is discussed in the Dartford judgement¹ (see Appendix 1). Para. 15 states that:

“However, the definition of previously developed land, in the context of the present case, takes as its starting point that the proposed development is within the curtilage of an existing permanent structure. It follows that a new dwelling within that curtilage will not be an “isolated” home. There will already be a permanent structure on the site.”

4.5 This is the case with the site at Barton Lane; there is already a permanent structure on the site, which will be replaced along with the erection of a second structure. The houses will therefore not be isolated. In addition there are existing houses on both sides of the site; it is an infill site.

¹ [2017] EWCA Civ 141, Dartford Borough Council vs Secretary of State for Communities and Local Government

4.6 Further discussion in the Braintree judgement² (see Appendix 2). Paras. 31 and 32 say that:

“In my view, in its particular context in paragraph 55 [now 84] of the NPPF, the word ‘isolated’ in the phrase ‘isolated homes in the countryside’ simply connotes a dwelling that is physically separate or remote from a settlement. Whether a proposed new dwelling is, or is not ‘isolated’ in this sense will be a matter of fact and planning judgement for the decision-maker in the particular circumstances of the case in hand.

What constitutes a settlement for these purposes is also left undefined in the NPPF. The NPPF contains no definitions of a ‘community’, a ‘settlement’ or a ‘village’. There is no specified minimum number of dwellings, or population. It is not said that a settlement or development boundary must have been fixed in an adopted or emerging local plan, or that only the land and buildings within that settlement or development boundary will constitute the settlement. In my view a settlement would not necessarily exclude a hamlet or a cluster of dwellings...”

4.7 In the case of the proposal site, it is not isolated or remote because it is within a cluster of dwellings; it is an infill site with dwellings on both sides. Furthermore it is less than 400m from the settlement boundary of Nailstone.

4.8 With regard to the loss of an employment site – the site, although used for B1 use in the past, is not recognised as an employment site on the Council’s Policies Map or in the Employment Land and Premises Review (2024). Given that it is therefore not a recognised Category A, B or C employment site, it does not have any policy protection under Policy DM19 to prevent it being redeveloped for housing.

4.9 The Council cannot currently demonstrate a five year housing land supply and this means that the Council is expected to grant planning permission for schemes unless their adverse impacts ‘significantly and demonstrably’ outweigh their benefits, when assessed against the policies in the NPPF taken as a whole. As we set out in the below sections, the proposal will not have any adverse impacts and the benefits of providing two new homes, supporting shops and services in nearby villages and improving the appearance of a run down rural site, are substantial.

Design and Appearance

4.10 The buildings have been designed to be similar to the neighbouring houses to the east, with a ground floor and roofspace, front and side gables and dormers. Materials will also be similar to those on the neighbouring houses, with render walls and a tiled roof. The design accords with the requirements of the NPPF para. 135, Policy DM10 and the Good Design Guide. The proposal will improve the appearance of a currently run-down, overgrown site, in line with Policy DM4.

4.11 The density of the site will be 42 dwellings/hectare, in line with Core Strategy Policy 12. The proposal is for 2-bedroom houses, which Table 3 of the Core Strategy shows there is a high need for.

² [2018] EWCA Civ. 610 in the Court of Appeal, Braintree District Council vs (1) Secretary of State for Communities and Local Government, (2) Greyread Ltd and (3) Granville Developments

Figure 3 – Neighbouring Houses



Neighbour Amenity

- 4.12** The proposal has been designed to avoid any loss of light to or overlooking of neighbouring houses or gardens. The houses will be 1.5 storeys high and so will not be overbearing. The proposal accords with the NPPF para. 135 and Policy DM10.

Standard of Accommodation

- 4.13** The houses will exceed the minimum floorspace standard for a 2-storey, 2-bedroom, 4-person house which is 79sqm. The proposal accords with the NPPF para. 135, Policy DM10 and the Good Design Guide.

Access, Parking and Refuse

- 4.14** It is unlikely that the addition of two dwellings at this location will have any significant impact on the highway network. The proposal therefore accords with Policy DM17.
- 4.15** Each house will have a driveway with parking for two cars; this is an appropriate level of provision in line with Policy DM18. Each house will have bin and cycle storage in line with the Good Design Guide.

5.0 Conclusions

- 5.1** It is proposed to demolish the building and greenhouses and remove the garden beds, and build 2 new two-storey (ground floor and roofspace) detached houses.
- 5.2** The proposal will provide two new family houses on a previously-developed infill site close to Nailstone. It will make efficient use of land and will support shops and services in the nearby villages.
- 5.3** The Council cannot currently demonstrate a five year housing land supply and this means that the Council is expected to grant planning permission for schemes unless their adverse impacts 'significantly and demonstrably' outweigh their benefits, when assessed against the policies in the NPPF taken as a whole. The proposal will not have any adverse impacts and the benefits of providing two new homes, supporting the vitality of nearby villages and improving the appearance of a run down rural site, are substantial.

- 5.4** The houses have been well-designed, respecting local character. The houses will provide a high standard of accommodation for residents and will not have any impacts on neighbours.
- 5.5** There will be no adverse impact on the highway network and adequate car parking, cycle parking and bin storage is proposed.
- 5.6** The proposal accords with national and local planning policies. It comprises sustainable development and should be approved.



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Neutral Citation Number: [2017] EWCA Civ 141
Case No: C1/2016/1664

**IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM THE HIGH COURT, QUEENS BENCH DIVISION
Mr Charles George QC
(sitting as a Deputy High Court Judge)
CO/4129/2015**

Royal Courts of Justice
Strand, London, WC2A 2LL
14 March 2017

B e f o r e :

**LADY JUSTICE GLOSTER
(VICE PRESIDENT OF THE COURT OF APPEAL, CIVIL DIVISION)
and
LORD JUSTICE LEWISON**

Between:

DARTFORD BOROUGH COUNCIL

Appellant

- and -

**THE SECRETARY OF STATE FOR COMMUNITIES AND LOCAL
GOVERNMENT AND ORS**

Respondent

MR A BOWES (instructed by Sharpe Pritchard LLP) for the Appellant
MR C BANNER (instructed by the Government Legal Department) for the Respondent
Hearing date : 9 March 2017

HTML VERSION OF JUDGMENT▲

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Lord Justice Lewison:

1. The sole issue on this appeal was the meaning of "previously developed land" (often called "brownfield land") as defined by the glossary forming part of the National Planning Policy Framework.
2. That definition reads as follows:

"Previously developed land: Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or has been occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures; land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time."
3. The context in which the issue arises is that on 23 July 2015 a planning inspector allowed an appeal against the refusal by Dartford BC to grant planning permission for a change of use of land to a private gypsy and traveller caravan site comprising one mobile home and one touring caravan. The site in question was within the residential curtilage of Shirehall Farm. Shirehall Farm is within the Green Belt, and is not in a built-up area.
4. The inspector decided that the site qualified as previously developed land because:
 - i) It was within the curtilage of a permanent structure (namely Shirehall Farm) and
 - ii) It was not excluded as "land in built-up areas such as private residential gardens, parks, recreation grounds and allotments".

5. Dartford does not challenge the first of those reasons: the challenge is to the second. The argument is that all private residential gardens are excluded from the definition of previously developed land, whether or not they are in a built-up area. Any other interpretation, so it is said, would give rise to conflicting policies within the NPPF. At the conclusion of the hearing we announced that the appeal would be dismissed with reasons to follow. These are my reasons for joining in that decision.
6. The approach to the interpretation of the NPPF is the same as the approach to the interpretation of a development plan document: *R (Timmins) v Gedling BC* [2015] EWCA Civ 19, [2015] PTSR 837 at [24]; *Hopkins Homes Ltd v Secretary of State for Communities and Local Government* [2016] EWCA Civ 168, [2016] PTSR 1315 at [24]. The correct approach to the interpretation of a development plan document was laid down by the Supreme Court in *Tesco Stores Ltd v Dundee CC* [2012] UKSC 13, [2012] PTSR 983. In that case Lord Reed said at [18] that "policy statements should be interpreted objectively in accordance with the language used, read as always in its proper context." He went on to make an important point at [19]:

"That is not to say that such statements should be construed as if they were statutory or contractual provisions. Although a development plan has a legal status and legal effects, it is not analogous in its nature or purpose to a statute or a contract. As has often been observed, development plans are full of broad statements of policy, many of which may be mutually irreconcilable, so that in a particular case one must give way to another. In addition, many of the provisions of development plans are framed in language whose application to a given set of facts requires the exercise of judgment. Such matters fall within the jurisdiction of planning authorities, and their exercise of their judgment can only be challenged on the ground that it is irrational or perverse... Nevertheless, planning authorities do not live in the world of Humpty Dumpty: they cannot make the development plan mean whatever they would like it to mean."

7. It is particularly that feature, namely that broad statements of policy may be irreconcilable, that differentiates a development plan document from a contract which one would expect to be internally consistent. Like a development plan document, the NPPF is also full of broad statements of policy; and it would be crying for the moon to start the process of interpretation with the idea that there is no tension between statements of policy pulling in different directions.

8. The starting point is, of course, the words themselves read as a matter of ordinary English. The critical words are:

"land in built-up areas such as private residential gardens, parks, recreation grounds and allotments"

9. In my judgment the words "such as" state clearly that what follows are examples of something. Examples of what? They can only be examples of the more general expression that precedes them, namely "land in built-up areas". As a matter of ordinary English I cannot see that any other meaning can be given to this sentence. "Land in built-up areas" cannot mean land *not* in built-up areas. It is argued that this interpretation means that other parts of the NPPF are in conflict with each other. Even if that were true it is not the business of an interpreter to go searching for possible ambiguities or conflicts in order to detract from the obvious meaning of the words to be interpreted.

10. The alleged conflict within the NPPF upon which Mr Bowes relied was the juxtaposition of two of the core planning principles in paragraph 17 of the NPPF, and a conflict between paragraphs 14, 55 and 111. I start with paragraph 17. This provides that twelve core principles should underpin both plan making and decision taking. Two of those principles are:

"take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;" and

"encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value;"

11. There is in truth no conflict between these two core principles, as is demonstrated by the more detailed policies about the Green Belt. Paragraph 87 of the NPPF states that:

"As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances."

12. Paragraph 89 goes on to say that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. But that general policy is immediately qualified by exclusions, one of which is:

"limited infilling or the *partial* or complete *redevelopment of previously developed sites* (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development." (Emphasis added)

13. Accordingly, the NPPF accommodates the definition of previously developed land within the general policy about development in the Green Belt. If a new building is a partial redevelopment of a previously developed site it is not to be regarded as inappropriate redevelopment in the Green Belt, provided that it has no greater impact on the openness of the Green Belt than the existing development. The proviso also means that the encouragement of development on brownfield land is not, at least in the Green Belt, unqualified. So any possible tension is resolved.

14. Nor do I see any conflict between the definition and paragraphs 55 or 111 of the NPPF. Paragraph 55 states that:

"Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances..."

15. However, the definition of previously developed land, in the context of the present case, takes as its starting point that the proposed development is within the curtilage of an existing permanent structure. It follows that a new dwelling within that curtilage will not be an "isolated" home. There will already be a permanent structure on the site. Paragraph 111 states:

"Planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value."

16. This paragraph expressly adopts the expression "previously developed land" and I cannot see that there is any conflict in so doing.

17. Mr Bowes also relied on statements made by the Minister when introducing changes to previous versions of planning policy contained in PPS3. Before commenting on that argument it is worth recalling why Lord Reed said that development plan documents were to be objectively interpreted. His explanation also at [18] was:

"The development plan is a carefully drafted and considered statement of policy, published in order to inform the public of the approach which will be followed by planning authorities in decision-making unless there is good reason to depart from it. It is intended to guide the behaviour of developers and planning authorities."

18. The same is true of the NPPF. In the Foreword to the NPPF the responsible Minister stated:

"By replacing over a thousand pages of national policy with around fifty, written simply and clearly, we are allowing people and communities back into planning."

19. In *Timmins* at [24] Richards LJ said that the NPPF was "on the face of it a stand-alone document which should be interpreted in its own terms and is in certain respects more than a simple carry-across of the language in the guidance it replaced." In *Turner v Secretary of State for Communities and Local Government* [2016] EWCA Civ 466 at [21] Sales LJ said:

"The NPPF was introduced in 2012 as a new, self-contained statement of national planning policy to replace the various policy guidance documents that had proliferated previously. The NPPF did not simply repeat what was in those documents. It set out national planning policy afresh in terms which are at various points materially different from what went before."

20. However, in both *Timmins* and *Turner* the court accepted that, at least in the case of the Green Belt, previous policy guidance remained relevant. I do not, however, consider that previous policy guidance should be invoked in order to create ambiguities in the NPPF where the language of that document is clear. Nor do I consider that that was the process that the court sanctioned in *Redhill Aerodrome Ltd v Secretary of State for Communities and Local Government* [2014] EWCA Civ 1386, [2015] PTSR 274. The question in that case was whether "any other harm" should be given a restrictive meaning limited to what was described "Green Belt harm" as opposed to "non-Green Belt harm". In the result the court interpreted the words by giving them their ordinary meaning. "Any other harm" meant "any other harm"; not "some other harm". The reference to previous guidance was deployed in order to rebut an argument that there had been a policy shift which justified a more restrictive and unnatural interpretation.

21. Mr Bowes drew our attention to the decision of this court in *Adedoyin v Secretary of State for the Home Department* [2010] EWCA Civ 773, [2011] 1 WLR 564. That case concerned the Immigration Rules which, unlike ministerial statements of planning policy, must be placed before Parliament. The question was whether the word "false" meant "dishonest" or merely "incorrect". At [70] Rix LJ said:

"... in a situation where a word, such as here "false", has two distinct, and distinctively important, meanings, there is a genuine ambiguity which makes it legitimate, in construing Rules which are expressions of the executive's policy, to consider what the executive has said, publicly, about its rules. Clearly, what a minister says in Parliament, expressed as an assurance, and especially on the occasion of a debate arising out of the tabling of amended rules, is of particular, and may be of decisive, importance..."

22. I do not consider that he derives any help from that case. That was a case in which there was an ambiguity on the face of the rules. Here there is no ambiguity on the face of the NPPF. The Minister's statement relied on was not a statement about the NPPF, so it is not covered by Rix LJ's observations. Nor was there any ambiguity in PPS 3 itself. Mr Bowes does not in fact rely on previous policy guidance: so his reliance is not within what was contemplated by *Timmins* or *Turner*. The alleged ambiguity only arises if the Minister's statement in Parliament is literally interpreted without regard to the text of the revised policy that he was introducing. I do not regard that as a legitimate approach to the interpretation of the NPPF.

23. In my judgment it would be quite wrong to expect the public, for whose benefit the NPPF is published, or indeed a would-be developer, to have to undertake the investigation of previous iterations of government planning policy in order to understand the NPPF, let alone ministerial statements introducing previous iterations of policy. Indeed that would defeat one of the main purposes of promulgating the NPPF in the first place. If I may repeat something I have said before:

"The public nature of these documents is of critical importance. The public is in principle entitled to rely on the public document as it stands, without having to investigate its provenance and evolution." (*R (TW Logistics Ltd) v Tendring DC* [2013] EWCA Civ 9, [2013] 2 P & CR 9 at [15])

24. For these reasons I did not consider that statements made by ministers about previous iterations of policy could detract from the clear words of the definition of previously developed land.
25. I note that when Lindblom LJ granted permission to appeal he did not do so on the ground that the appeal had a real prospect of success, but because there was some other compelling reason for the appeal to be heard. I agree with his view on the merits of the appeal, which is why I agreed to its dismissal.

Lady Justice Gloster, Vice-President of the Court of Appeal, Civil Division:

26. I agree with the reasons given by Lord Justice Lewison for the dismissal of this appeal.

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APPENDIX 2



Neutral Citation Number: [2018] EWCA Civ 610

Case No: C1/2017/3292

IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM THE ADMINISTRATIVE COURT
PLANNING COURT
MRS JUSTICE LANG DBE
[2017] EWHC 2743 (Admin)

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 28 March 2018

Before:

Lord Justice McCombe
and
Lord Justice Lindblom

Between:

Braintree District Council

Appellant

- and -

**(1) Secretary of State for Communities and
Local Government**
(2) Greyread Ltd.
(3) Granville Developments

Respondents

Dr Ashley Bowes (instructed by **Sharpe Pritchard LLP**) for the **Appellant**
Mr Stephen Whale (instructed by **the Government Legal Department**) for the
First Respondent
Mr Paul Shadarevian Q.C. and Mr John Dagg (instructed by **Ellisons Solicitors**) for the
Second and Third Respondents

Hearing date: 14 March 2018

Judgment Approved by the court
for handing down
(subject to editorial corrections)

Lord Justice Lindblom:

Introduction

1. Did an inspector determining a planning appeal misinterpret and misapply government policy in paragraph 55 of the National Planning Policy Framework (“the NPPF”) that local planning authorities “should avoid new isolated homes in the countryside unless there are special circumstances ...”? That is the central question in this appeal. It involves no controversial issue of law.
2. With permission granted by Lewison L.J. on 8 January 2018, the appellant, Braintree District Council, appeals against the order of Lang J., dated 15 November 2017, dismissing its application under section 288 of the Town and Country Planning Act 1990 challenging the decision of an inspector appointed by the first respondent, the Secretary of State for Communities and Local Government, allowing appeals by the second and third respondents, Greyread Ltd. and Granville Developments, respectively under section 174 and section 78 of the 1990 Act. Granville’s section 78 appeal was against the council’s refusal, on 13 April 2016, of an application for planning permission for the erection of two detached single-storey dwellings on the sites of two agricultural buildings with landscaping on land to the east of Lower Green Road, Blackmore End, Wethersfield in Essex.
3. The site is in the village of Blackmore End, but was outside the settlement boundary defined in the emerging development plan. It lies between Wright’s Farmhouse to the north and Lealands Farmhouse to the south. Two pre-fabricated agricultural buildings that had once stood on the site were demolished in 2015. Greyread’s section 174 appeal was against an enforcement notice issued by the council on 25 April 2016 against an alleged breach of planning control on the same site, involving, on one part of the site, the demolition of a cattle shed and the partial erection of a single-storey building, the laying of footings and a concrete base, and on the other, the demolition of a cattle shed and the laying of footings and a concrete base.
4. The two appeals were dealt with together, on the parties’ written representations. The inspector undertook a site visit on 17 January 2017. His decision letter allowing the appeals, and granting planning permission for the development, is dated 3 February 2017.

The issue in the appeal

5. The council’s challenge to the decision was on a single ground, which was that the inspector had misunderstood and therefore misapplied the policy in paragraph 55 of the NPPF. That argument, rejected by Lang J., is now pursued in this court. The crucial issue is the meaning of the word “isolated” in the expression “new isolated homes in the countryside”.

Paragraph 55 of the NPPF

6. Paragraph 55 of the NPPF is in section 6, “Delivering a wide choice of high quality homes”. It states:

“55. To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:

- the essential need for a rural worker to live permanently at or near their place of work in the countryside; or
- where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or
- where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or
- the exceptional quality or innovative nature of the design of the dwelling.

Such a design should:

- be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;
- reflect the highest standards in architecture;
- significantly enhance its immediate setting; and
- be sensitive to the defining characteristics of the local area.”

7. The corresponding guidance in paragraph 50-001-20160519 of the Planning Practice Guidance (“the PPG”) states:

“How should local authorities support sustainable rural communities?

- It is important to recognise the particular issues facing rural areas in terms of housing supply and affordability, and the role of housing in supporting the broader sustainability of villages and smaller settlements. This is clearly set out in [the NPPF], in the core planning principles, the section on supporting a prosperous rural economy and the section on housing.
- A thriving rural community in a living, working countryside depends, in part, on retaining local services and community facilities such as schools, local shops, cultural venues, public houses and places of worship. Rural housing is essential to ensure viable use of these local facilities.
- Assessing housing need and allocating sites should be considered at a strategic level and through the Local Plan and/or neighbourhood plan process. However, all settlements can play a role in delivering sustainable development in rural areas – and so blanket policies restricting housing development in some settlements and preventing other settlements from expanding should be avoided unless their use can be supported by robust evidence
- [The NPPF] also recognises that different sustainable transport policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas [NPPF Part 4 “Promoting sustainable transport” para 34].”

The council’s refusal of planning permission and statement of case

8. The council refused planning permission for three reasons. The relevant part of the decision notice, in the first reason for refusal, states:

“1. ... Guidance on new development within rural areas is also set out in [the NPPF]. ... Para.55 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. ...

The site is located in the countryside beyond any defined settlement boundaries and in a location where there are limited facilities, amenities, public transport links and employment opportunities. ... The proposal would introduce new housing development beyond the defined settlement limits and would be contrary to the objectives of securing sustainable patterns of development and the protection of the character of the countryside. Development at this location would undoubtedly place reliance on travel by car.”

9. In its statement of case, under the heading “Environmental Considerations (Reason 1)”, the council amplified that reason for refusal. Having noted that Greyread and Granville had in their statement of case referred to paragraph 55 of the NPPF, it acknowledged that “the NPPF encourages LPAs to be responsive to rural circumstances and to plan housing developments to reflect the local need”. It went on to say:

“As highlighted by the appellant [the NPPF] also requires the intrinsic character and beauty of the countryside to be recognised, seeks to support the transition to a low carbon future in a changing climate, conserving and enhancing the natural environment and reducing pollution. This is in addition to actively managing patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.

Quite clearly, as with many planning decisions, there is a need to balance all material considerations and it is highly likely that future occupants of the two dwellings proposed would be heavily reliant upon the private motor car to access everyday services, community facilities and sources of employment.

... .”

The inspector’s decision letter

10. The inspector identified four main issues in the section 78 appeal: first, “[the] effect of the development on the character and appearance of the area”; second, “[the] effect on the setting of neighbouring listed buildings”; third, “[accessibility] to services and facilities”; and fourth, “[the] overall balance and whether the appeal proposal constitutes sustainable development in the countryside” (paragraph 2).
11. Before dealing with those four issues, the inspector considered relevant planning policy in the development plan and in the NPPF. He said that Policy CS5 of the Braintree District Council Local Development Framework Core Strategy (adopted in September 2011) “strictly controls development outside town development boundaries and village envelopes to uses appropriate to the countryside”, and that Policy RLP2 of the Braintree District Local Plan Review (adopted in July 2005) “has a similar effect” (paragraph 3). He referred to the policies in paragraphs 49 and 14 of the NPPF (paragraph 4), noted that the council “now acknowledges that it cannot demonstrate a five-year supply of deliverable housing sites”

(paragraph 5), concluded that “[on] the most favourable analysis, deliverable housing sites fall significantly below the 5-year supply required by the Framework”, and that “Policies CS5 and RLP2 ... must be considered out-of-date so that Framework paragraph 14 is also engaged” (paragraph 6).

12. On the first main issue, the effect of the development on the character and appearance of the area, the inspector said (in paragraphs 8 and 9 of his decision letter):

“8. Blackmore End is a recognisable village and is characterised by linear development extending along several roads. There is a dispersed pattern of development along Lower Green Road. The Council refers to the change to village character and to the suburbanising effect it considers would result from the development. However, the site has previously been occupied by two agricultural buildings and the two dwellings would reflect the footprint of those buildings. The proposed dwellings would be single storey and would be of a simple form. The site is well screened in views from the road by hedging, although the provision of visibility splays would reduce that to some extent. Much of the appeal site would remain undeveloped and further planting could be required by condition. A condition could also control extensions and further buildings, so that the site could retain much of its open character. The fenestration and doors shown on the submitted drawing would give the dwellings an inappropriate suburban character. However, there is scope to require revised details of those matters, allowing a more appropriate design to be achieved. Details of materials could also be controlled by condition to reflect local character.

9. I conclude that subject to appropriate conditions the development would not result in material harm to the character and appearance of the surrounding area. The site is not within a settlement boundary and the development would therefore conflict with policies CS5 and RLP2. It would not accord with the development plan’s approach of concentrating development in towns and in village envelopes. On the other hand there are a number of dwellings nearby and the development would not result in the new isolated homes in the countryside to which Framework paragraph 55 refers.”

13. On the second main issue, the inspector concluded that there would not be material harm to the settings of the grade II* listed Wright’s Farmhouse to the north of the site or to the setting of the grade II listed Lealands Farmhouse to the south (paragraph 13).

14. On the third main issue, the accessibility of services and facilities, he concluded (in paragraph 14):

“14. Blackmore End has a very limited range of services and facilities. There is, for example, no local shop, the nearest being about 2 miles away. In its emerging Local Plan the Council identifies 5 Service Villages. They do not include Blackmore End, the nearest being Sible Hedingham which is about 4 miles away. It is likely that those occupying the dwellings would rely heavily on the private car to access everyday services, community facilities and employment. While this weighs against the development, it is consistent with the Framework that sustainable transport opportunities are likely to be more limited in rural areas.”

15. Under the heading “The Overall Balance and Sustainable Development”, the fourth main issue, the inspector stated his main conclusions (in paragraph 16):

“16. Accessibility to services, facilities and employment from the site other than by car would be poor. On the other hand, the development would make a modest contribution to meeting housing need. In addition, subject to appropriate conditions, there would not be material harm to the character and appearance of the surrounding area or to the setting of listed buildings. A minor economic benefit would arise from developing the site and the economic activity of those occupying the dwellings. There would be conflict with policies CS5 and RLP2 but those policies are out-of-date and are worthy of limited weight. Applying the test set out in Framework paragraph 14, I find that there are not adverse impacts of granting permission which would significantly and demonstrably outweigh the benefits, when assessed against Framework policies as a whole. Nor are there specific policies in the Framework which indicate that the development should be restricted. The proposal would amount to sustainable development. Permission should be granted in accordance with the Framework’s presumption in favour of sustainable development.”

Did the inspector misinterpret and misapply the policy in paragraph 55 of the NPPF?

16. The relevant legal principles are clear and uncontentious. They need not be set out at length. The interpretation of planning policy, whether in the development plan or in statements of national policy, is ultimately a matter for the court. When the meaning and effect of a planning policy are contested, the court must avoid the mistake of treating the policy in question as if it had the force or linguistic precision of a statute – which it does not – and must bear in mind that broad statements of policy do not lend themselves to elaborate exegesis. The court’s task is to discern the objective meaning of the policy as it is written, having regard to the context in which the policy sits (see the judgment of Lord Reed in *Tesco Stores Ltd. v Dundee City Council* [2012] UKSC 13, at paragraphs 19 to 22, Sullivan L.J.’s judgment in *Redhill Aerodrome Ltd. v Secretary of State for Communities and Local Government* [2015] P.T.S.R. 274, at paragraph 18, and the judgment of Lord Carnwath in *Suffolk Coastal District Council v Hopkins Homes Ltd.* [2017] UKSC 37, at paragraph 24, and the judgment of Lord Gill at paragraphs 72 to 74). The application of policy, however, is for the decision-maker, on a true understanding of what the policy means, but with freedom to exercise planning judgment as the policy allows or requires – subject to review by the court on *Wednesbury* principles alone (see my judgment in *Mansell v Tonbridge and Malling Borough Council* [2017] EWCA Civ 1314, at paragraphs 41 and 42).
17. The court will not lightly accept an argument that an inspector has proceeded on a false interpretation of national planning policy or guidance (see Lord Carnwath’s judgment in *Suffolk Coastal District Council*, at paragraph 25). Nor will it engage in – or encourage – the dissection of an inspector’s planning assessment in the quest for such errors of law (see my judgment in *St Modwen Developments Ltd. v Secretary of State for Communities and Local Government* [2017] EWCA Civ 1643, at paragraph 7). Excessive legalism in the planning system is always to be deprecated (see my judgment in *Barwood Strategic Land II LLP v East Staffordshire Borough Council* [2017] EWCA Civ 893, at paragraphs 22 and 50).

18. The policy with which we are concerned – the policy in paragraph 55 of the NPPF – has already received some attention in this court – though only slight. In *Dartford Borough Council v Secretary of State for Communities and Local Government* [2017] EWCA Civ 141, Lewison L.J., in paragraph 15 of his judgment, said the relevant definition of previously developed land took as its starting point that the proposed development would be within the curtilage of an existing permanent structure, and it followed, therefore, that “a new dwelling within that curtilage will not be an ‘isolated’ home” for the purposes of the policy in paragraph 55.
19. In the court below, Lang J. recorded the council’s argument, in the light of the policies in paragraphs 28 and 55 of the NPPF and the corresponding guidance in the PPG, that “in applying [paragraph 55 of the NPPF], and considering whether proposed development amounted to “new isolated homes in the countryside”, it was irrelevant that the development was located proximate to other residential dwellings”, and that “[the] key question was whether it was proximate to services and facilities so as to maintain or enhance the vitality of the rural community” (paragraph 22 of the judgment).
20. The judge noted that the word “isolated” in paragraph 55 is not defined in the NPPF. In her view, however, it was to be given its “ordinary objective meaning of “far away from other places, buildings or people; remote” ...” (paragraph 24 of the judgment). As for the “immediate context” of the policy, she said “[this] suggests that “isolated homes in the countryside” are not in communities and settlements and so the distinction between the two is primarily spatial/physical” (paragraph 25). In its “broader context” the policy was, in her view, seeking to “promote the economic, social and environmental dimensions of sustainable development, and to strike a balance between the core planning principles [in paragraph 17 of the NPPF] of “recognising the intrinsic character and beauty of the countryside” and “supporting thriving rural communities within it” ...”. Thus the council’s “analysis of the policy context [was] far too narrow in scope” (paragraph 26). The policy in favour of locating housing “where it will “enhance or maintain the vitality of rural communities”” was “not limited to economic benefits”. The word “vitality” was “broad in scope and includes the social role of sustainable development ...”. The council’s restriction of “isolated” homes to those that were “isolated from services and facilities” would “deny policy support to a rural home that could contribute to social sustainability because of its proximity to other homes” (paragraph 27). Paragraph 55 of the NPPF “cannot be read as a policy against development in settlements without facilities and services since it expressly recognises that development in a small village may enhance and maintain services in a neighbouring village, as people travel to use them” (paragraph 28). She concluded that the council was “seeking to add an impermissible gloss to [paragraph 55 of the NPPF] in order to give it a meaning not found in its wording and not justified by its context” (paragraph 29). She saw support for her interpretation of the policy in what Lewison L.J. had said about it in his judgment in *Dartford Borough Council* (paragraphs 30 and 31).
21. It followed, in the judge’s view, that the inspector’s understanding of the policy, in paragraph 9 of his decision letter, was correct (paragraph 32). She saw nothing unlawful in the remainder of his assessment of the proposal on its planning merits (paragraphs 33 to 37). She was satisfied, therefore, that the inspector had “correctly interpreted [paragraph 55 of the NPPF], and applied it properly to the facts and matters which arose in this appeal” (paragraph 38).

22. For the council, Dr Ashley Bowes submitted that the policy in paragraph 55 of the NPPF establishes a presumption against “new isolated homes in the countryside”, which competes with the “presumption in favour of sustainable development” in paragraph 14. It is capable of disengaging the so-called “tilted balance” in that paragraph, because it is one of the “specific policies” in the NPPF that “[indicates] development should be restricted” (see my judgment in *Barwood v East Staffordshire Borough Council*, at paragraph 22). If a proposal offends the policy in paragraph 55, its prospects of gaining planning permission may therefore be much reduced. Dr Bowes submitted that the inspector, having failed to grasp the true meaning of the policy in paragraph 55, also failed to apply the policy for the “presumption in favour of sustainable development” in paragraph 14 of the NPPF, and that his decision was therefore unlawful.
23. Dr Bowes’ main submission was that Lang J.’s construction of the policy in paragraph 55 was incorrect, that the word “isolated” in the third sentence of paragraph 55 can mean either physical or functional isolation, and that, in the application of the policy, both of these two concepts are relevant and significant. The judge’s focus on physical isolation, as opposed to functional, was in error. A decision-maker must always consider two questions: first, “whether the site is physically isolated relative to settlements and other development”, and secondly, of equal importance, “whether the site is functionally isolated relative to services and facilities”. Only if both of those questions are answered in the negative will the proposal comply with the policy – unless “special circumstances” are demonstrated. To consider only the first question would be to ignore, and fail to give effect to, the basic purpose of the policy, which is to sustain the rural economy by supporting local services and facilities. The Government’s intention here, Dr Bowes submitted, was that new housing in rural areas should be located so as to support those services and facilities, and thus maintain and enhance the vitality of rural communities. As the guidance in paragraph 50-001-20160519 of the PPG makes plain, housing has an “essential” role to play in ensuring the viability of those services and facilities. Therefore, Dr Bowes contended, under the policy in paragraph 55 of the NPPF, housing that would be “isolated” from services and facilities should be avoided unless there are “special circumstances”.
24. This argument seems somewhat different from that presented to the judge. The contention before her, as I understand it, was that the fact of a site’s presence within a rural settlement, close to other dwellings, was irrelevant under the policy in paragraph 55, at least if the settlement lacked services and facilities of its own.
25. Lang J.’s analysis was supported by Mr Stephen Whale for the Secretary of State and Mr Paul Shadarevian Q.C. for Greyread and Granville.
26. In my view the judge’s conclusions were sound, and her understanding of the policy in paragraph 55 correct.
27. Our task, as Mr Whale and Mr Shadarevian submitted, is to construe the words of the policy itself, reading them sensibly in their context. This is not a sophisticated exercise, and it need not be difficult. It is, in fact, quite straightforward. Planning policies, whether in the development plan or in the NPPF, ought never to be over-interpreted. As this case shows, over-interpretation of a policy can distort its true meaning – which is misinterpretation.
28. The first thing to be said about the policy in paragraph 55 is that it is expressed in general and unprescriptive terms. It does not dictate a particular outcome for an application for

planning permission. It identifies broad principles and indicates a broad approach. Local planning authorities are advised what “should” be done. The policy is not expressed as containing a “presumption”, and I would not read it as creating one. Rather, it indicates to authorities, in very broad terms, how they ought to go about achieving the aim stated at the beginning of paragraph 55: “[to] promote sustainable development in rural areas”. It does not set specific tests or criteria by which to judge the acceptability of particular proposals. It does not identify particular questions for a local planning authority to ask itself when determining an application for planning permission. Its tenor is quite different, for example, from the policies governing the protection of the Green Belt, in paragraphs 87 to 92 of the NPPF. The use of the verb “avoid” in the third sentence of paragraph 55 indicates a general principle, not a hard-edged presumption.

29. Secondly, the policy explicitly concerns the location of new housing development. The first sentence of paragraph 55 tells authorities where housing should be “located”. The location is “where it will enhance or maintain the vitality of rural communities”. The concept of the “vitality” of such a community is wide, and undefined. The example given in the second sentence of paragraph 55 – “development in one village” that “may support services in a village nearby” – does not limit the notion of “vitality” to a consideration of “services” alone. But it does show that the policy sees a possible benefit of developing housing in a rural settlement with no, or relatively few, services of its own. The third sentence of the paragraph enjoins authorities to avoid “new isolated homes in the countryside”. This is a distinction between places. The contrast is explicitly and simply a geographical one. Taken in the context of the preceding two sentences, it simply differentiates between the development of housing within a settlement – or “village” – and new dwellings that would be “isolated” in the sense of being separate or remote from a settlement. Under the policy, as a general principle, the aim of promoting “sustainable development in rural areas” will be achieved by locating new dwellings within settlements and by avoiding “new isolated homes in the countryside”. The examples of “special circumstances” given in the policy illustrate particular circumstances in which granting planning permission for an isolated dwelling in the countryside may be desirable or acceptable. But what is perfectly plain is that, under this policy, the concept of concentrating additional housing within settlements is seen as generally more likely to be consistent with the promotion of “sustainable development in rural areas” than building isolated dwellings elsewhere in the countryside. In short, settlements are the preferred location for new housing development in rural areas. That, in effect, is what the policy says.
30. Thirdly, the adjective “isolated”, which was the focus of argument before us, is itself generally used to describe a location. It is not an unfamiliar word. It is commonly used in everyday English. Derived originally from the Latin word “insula”, meaning an “island”, it carries the ordinary sense of something that is “... [placed] or standing apart or alone; detached or separate from other things or persons; unconnected with anything else; solitary” (The Oxford English Dictionary, second edition). This was the meaning favoured by the judge (in paragraph 24 of her judgment), and there is no dispute that in this respect she was right.
31. In my view, in its particular context in paragraph 55 of the NPPF, the word “isolated” in the phrase “isolated homes in the countryside” simply connotes a dwelling that is physically separate or remote from a settlement. Whether a proposed new dwelling is, or is not, “isolated” in this sense will be a matter of fact and planning judgment for the decision-maker in the particular circumstances of the case in hand.

32. What constitutes a settlement for these purposes is also left undefined in the NPPF. The NPPF contains no definitions of a “community”, a “settlement”, or a “village”. There is no specified minimum number of dwellings, or population. It is not said that a settlement or development boundary must have been fixed in an adopted or emerging local plan, or that only the land and buildings within that settlement or development boundary will constitute the settlement. In my view a settlement would not necessarily exclude a hamlet or a cluster of dwellings, without, for example, a shop or post office of its own, or a school or community hall or a public house nearby, or public transport within easy reach. Whether, in a particular case, a group of dwellings constitutes a settlement, or a “village”, for the purposes of the policy will again be a matter of fact and planning judgment for the decision-maker. In the second sentence of paragraph 55 the policy acknowledges that development in one village may “support services” in another. It does not stipulate that, to be a “village”, a settlement must have any “services” of its own, let alone “services” of any specified kind.
33. Does this reading of the policy in paragraph 55 fit the broader context of the policies for sustainable development in the NPPF and guidance in the PPG? I think it does.
34. Paragraph 7 of the NPPF refers to the “three dimensions to sustainable development: economic, social and environmental”, in which the “social role” involves “supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being ...”. Of the 12 “core land-use planning principles” in paragraph 17, the fifth is to “take account of the different roles and character of different areas ... recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it”. The eleventh is “actively [to] manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable”. And the twelfth is to “take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs”. Paragraph 28 states that local and neighbourhood plans should “promote the retention and development of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship”. The policy in paragraph 29 recognizes that “different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas”. And the policy in paragraph 34 says that “[plans] and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised”, but that “this needs to take account of policies set out elsewhere in this Framework, particularly in rural areas”.
35. None of those policies suggests a different understanding of the policy in paragraph 55 from mine. Indeed, if anything, I think they tend to confirm it.
36. In my opinion the language of paragraph 55 is entirely unambiguous, and there is therefore no need to resort to other statements of policy, either in the NPPF itself or elsewhere, that might shed light on its meaning. Mr Whale suggested that the use of the PPG to assist in construing policies in the NPPF would be inappropriate in principle. This is not something we have to decide, because the meaning of the policy we are dealing with here is plain on its

face and requires no illumination from the PPG or any other statement of national policy or guidance. But I doubt that it would be right to exclude the guidance in the PPG as a possible aid to understanding the policy or policies to which it corresponds in the NPPF. There may be occasions when that is necessary. But this, in my view, is not such a case.

37. In any event, the interpretation of the policy that I consider to be right seems entirely consistent with the guidance on plan-making in paragraph 50-001-20160519 of the PPG, including the proposition that “settlements can play a role in delivering sustainable development in rural areas – and so blanket policies restricting housing development in some settlements and preventing other settlements from expanding should be avoided unless their use can be supported by robust evidence”.
38. This all seems at one with Lewison L.J.’s observation about the policy – brief as it was – in paragraph 15 of his judgment in *Dartford Borough Council*.
39. I do not accept Dr Bowes’ argument that the word “isolated” in paragraph 55 must be understood as meaning either (a) “physically isolated” or (b) “functionally isolated” or “isolated from services and facilities”; that the decision-maker must therefore address two questions – first, whether the proposed new dwelling would be physically separate or remote from any other dwelling, and secondly, whether it would be isolated from services and facilities; and that if the proposed development would be either separate or remote from other dwellings or separate or remote from services and facilities, it offends the policy. This would be a strained and unnatural reading of the policy. In my view it is neither necessary nor appropriate to gloss the word “isolated” by reading an additional phrase into paragraph 55 whose effect would be to make the policy more onerous than the plain meaning of the words it actually contains. No such restriction is apparent in the policy, or, in my view, implicit in it.
40. On the interpretation suggested by Dr Bowes, the question of whether a proposed new dwelling on a site within a rural settlement would be an “isolated” new home under the policy would depend, or at least potentially depend, on the presence or absence of services in that particular settlement, rather than, say, in a neighbouring village. This could have the surprising consequence that a proposed dwelling on a site within a settlement, perhaps with several existing dwellings either side of it or surrounding it, would have to be regarded as a “new isolated [home] in the countryside”, simply because that settlement did not have any “services” of its own, whereas a similarly located dwelling in a smaller settlement that happened to have “services” of some kind within it – perhaps a shop or a public house – would not be “isolated”. Dr Bowes did not seek to deny this. And it would also follow that each and all of the existing dwellings in a settlement without “services” of its own would then have to be regarded as “isolated” too. It seems to me that this would be not merely an artificial construction of the policy, but also wholly unrealistic. I cannot accept that the Government intended the policy to have such an effect, or, if it did, that it would have failed to spell this out in paragraph 55.
41. Reading the policy as I would read it, as we were urged to do by the Secretary of State through Mr Whale, and as I think the Government plainly did intend, reflects common sense – as well as being the literal and natural construction. As the judge acknowledged (in paragraph 27 of her judgment), a policy directed to enhancing and maintaining the “vitality” of rural communities is a policy that embraces the “social” dimension of sustainable development. And as she said, to restrict the concept of an “isolated home” to one that is

“isolated from services and facilities” would be to deny the policy’s support – indeed, would turn it against – proposed dwellings that “could contribute to social sustainability because of [their] proximity to other homes”. This would seem contrary to the aim of the policy to maintain and enhance “the vitality of rural communities”, and would diminish the acknowledged benefit of development in one settlement supporting “services” in another.

42. I therefore reject Dr Bowes’ submission that the inspector took too narrow a view of the expression “new isolated homes in the countryside”. To give effect to the policy in paragraph 55, the inspector was not obliged to ask himself whether the proposed development would be “functionally” isolated as well as “physically”. He was required only to consider whether it would be physically isolated, in the sense of being isolated from a settlement. And he did that.
43. None of the descriptive parts of paragraphs 8 and 9 of the decision letter is said to be wrong in fact. There is no dispute that the inspector was right to describe Blackmore End as he did in paragraph 8 of his decision letter: “a recognisable village”. As he said in paragraph 9, there were “a number of dwellings nearby”. It is also undisputed that Blackmore End is not a settlement without any services and facilities. The inspector found, in paragraph 14 of the decision letter, that the settlement “has a very limited range of services and facilities”. That Blackmore End is indeed a settlement, and that there are dwellings a short distance to the north of the appeal site, others a short distance to the south, and another on the other side of the road, to the west, is obvious when one looks at a map. And it is not contested, or contestable, that if the word “isolated” in paragraph 55 of the NPPF means physically isolated in the sense of being isolated from a settlement, the inspector was entitled – as a matter of fact and planning judgment, if not simply as a matter of fact – to conclude at the end of paragraph 9 that “the development would not result in the new isolated homes in the countryside to which Framework paragraph 55 refers”.
44. In the circumstances, there was no need for “special circumstances” to be identified to justify a development of “new isolated homes in the countryside”. This was not such a development.
45. In my view therefore, the inspector did not misinterpret or misapply the policy in paragraph 55 of the NPPF. His understanding of the policy was accurate, and his application of it impeccable.
46. Nor did he fail to apply the policy for the “presumption in favour of sustainable development” in paragraph 14, given the agreed absence of a five-year supply of housing land (see paragraph 22(2) of my judgment in *Barwood v East Staffordshire Borough Council*). Even if one were to assume that the policy in paragraph 55 fell within the ambit of the exception in paragraph 14 for “specific policies” in the NPPF that “indicate development should be restricted” – which may or may not be so – the inspector, having understood the policy correctly and applied it lawfully, concluded in paragraph 9 of his decision letter that the proposal did not offend it. And he went on, in paragraph 16, to conclude not only that there were no “adverse impacts of granting permission which would significantly and demonstrably outweigh the benefits, when assessed against Framework policies as a whole” – the first exception, or the first limb of the exception, in paragraph 14 – but also, expressly, that there were no “specific policies in the Framework which indicate that the development should be restricted” – the second exception, or the second limb. He was satisfied that the proposal amounted to “sustainable development”. And he was also satisfied that it earned the

“presumption in favour of sustainable development”. This conclusion demonstrates a true understanding and proper application of the policy in paragraph 14 of the NPPF.

47. As Mr Shadarevian pointed out, when one reads the decision letter fairly as a whole, it is clear that in assessing the proposal on its planning merits the inspector considered all three dimensions of “sustainable development”: the “economic” role, the “social”, and the “environmental”. He did not neglect the fact that Blackmore End “has a very limited range of services and facilities”. He found it was “likely that those occupying the dwellings would rely heavily on the private car to access everyday services, community facilities and employment”. He acknowledged that “this weighs against the development”. But he also recognized that it was “consistent with the Framework that sustainable transport opportunities are likely to be more limited in rural areas” (paragraph 14 of the decision letter). And in drawing together his conclusions on the main issues when he came to consider “The Overall Balance and Sustainable Development”, he took into account his finding that “[accessibility] to services, facilities and employment from the site other than by car would be poor” (paragraph 16). Those conclusions did not, however, lead him to the view that any policy of the NPPF was breached. This was a matter of planning judgment for him. I do not think his approach can be faulted. His conclusions are not vitiated by any misinterpretation or misapplication of NPPF policy. They are unassailable in a legal challenge.
48. In my view therefore, the inspector made no error of law, and the judge was right to uphold his decision.

Conclusion

49. For the reasons I have given, I would dismiss this appeal.

Lord Justice McCombe

50. I agree.