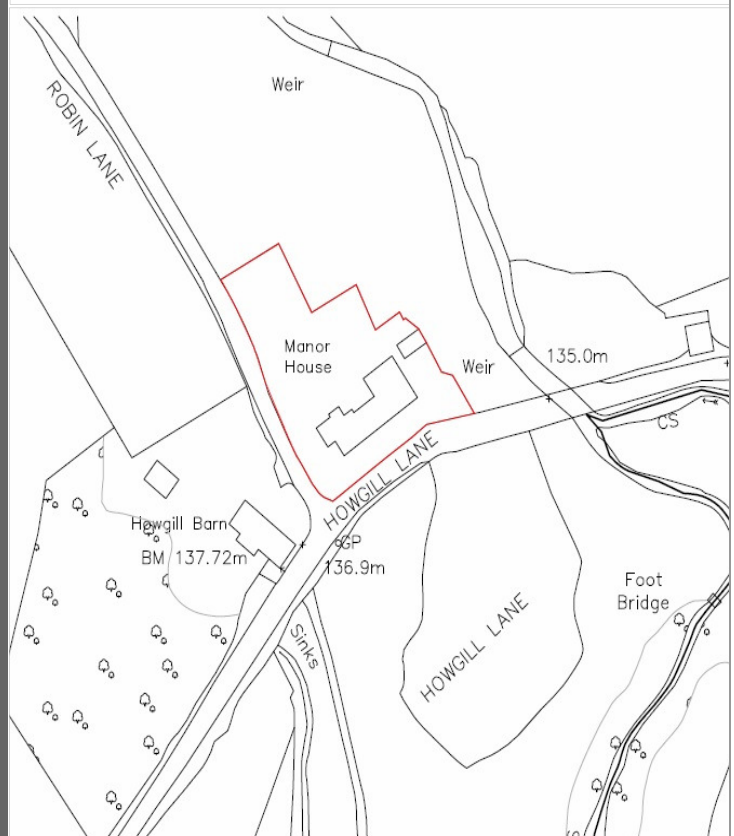


**Manor House Barn
Howgill Lane
Rimington
Clitheroe
BB7 4EF**

**Conversion of existing barn
to dwelling and associated
alterations to access**



Proposed South East Elevation
Scale 1:100



Client:
Mr & Mrs. Taylor

Planning

Support

Statement

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Appendix 1: Copy of High Court Judgement: Braintree District Council v Secretary of State for Communities and Local Government [2017] EWHC 2743 (Admin), November 2017

1. Introduction

- 1.1 This Planning Statement has been prepared by JWPC Chartered Town Planners on behalf of the applicants, Mr and Mrs Taylor. The Statement supports a full planning application seeking the conversion of a former barn within the curtilage of an existing dwelling known as Manor House Farm. The full extent of the works is described at Chapter 3 of this document.
- 1.2 The Statement should be read alongside the submitted application documentation, namely:
- The planning application forms;
 - The existing and proposed plans prepared by Sunderland Peacock Architects;
 - The supporting Bat Habitat and Activity Survey prepared by Simply Ecology; and
 - The supporting Tree Survey prepared by Yew Tree and Gardens.
- 1.3 The chapters that follow will provide an understanding of the existing site, as well as a description of the proposed development and the rationale behind the proposal. The Statement identifies the relevant local planning policies within the Ribble Valley Core Strategy and national planning policies contained within the National Planning Policy Framework (NPPF) as well as relevant case law to conclude that the development should be supported by the Local Planning Authority (LPA).
- 1.4 Bearing in mind the LPA's duty under Paragraph 187 of the NPPF, it is requested that the Agents are contacted in the first instance if any further information is required to enable a positive determination.

2. Site Characteristics

Site and Surroundings

- 2.1 The site which forms the subject of this application is situated in the hamlet of Howgill on the north side of Howgill Lane. The site is approximately 700 metres from to the east of village of Rimington and 2.5 kilometres south of the village of Gisburn. The site is close to the district boundary and was formerly in the district of West Riding of Yorkshire.
- 2.2 The application site currently comprises an existing two-storey former farmhouse and its adjoining two storey barn of similar proportion to the house. Both the dwelling the barn are sandstone and rubble elevations under slate. The dwelling known as Manor House Farm has a centred doorway entrance with plain stone surround to windows and doors. It is situated amongst a sporadic group of dwellings and other farm buildings along Howgill Lane stretching to the east of Rimington. The properties in the immediate surrounding area include a number of similar farmhouses with associated barns some of which have already been converted to dwellings or additional residential accommodation, or are no longer used for agricultural purposes.



Aerial photograph showing the application site, house and adjoining barn to the centre of the picture and the nearest neighbouring property (BING maps)

- 2.3 The adjoining barn already has a number of openings including a small cart door entrance with segmental arched head to the front elevation and a smaller but similar arched opening to the side. Historically during the time when the barn was used for agriculture the building has been extended by way of a similar pitched roof two storey building to the rear elevation which almost doubles the original footprint. The building is now used for domestic purposes associated with Manor House Farm including storage at ground floor and a home office or study to the first floor. There are outbuildings to the rear including a timber frame stable block and other semi-permanent buildings. These buildings are likely to be removed as part of this proposal.
- 2.4 In planning policy terms the site is situated within Open Countryside as designated through the Districtwide Local Plan Map. With regards to constraints, the site does not fall within a Conservation Area and there are no known heritage assets within the area surrounding the site.
- 2.5 It is acknowledged that there are a number of trees within and along the boundaries of the site. As such a Tree Survey has been undertaken and is submitted with this application to essentially identify how the proposed access is able to be created without impact on the trees in question. Similarly, the site and existing buildings have been surveyed for the presence of bats and their habitat and the findings are submitted with this application in the form of an Ecological Report.
- 2.6 Although the application site sits close to Howgill Beck beyond the eastern boundary, according to the Flood Map for planning the site is located within Flood Zone 1. As such, the site is not considered to be at risk of flooding and a Flood Risk Assessment is not required in this instance.

3. Application Proposal

- 3.1 The submitted application seeks planning permission for the conversion of the existing barn to a single dwelling. There are no significant external alterations proposed to the building and no further extensions or additions are required. As such, the footprint of the existing building will remain unchanged.
- 3.2 The existing building in its current format is of appropriate size to convert well to a single dwelling. Internally the building will provide a good-sized family dwelling over two storeys. The ground floor will comprise a lounge, kitchen dining area, formal dining area and utility room. The first floor comprises four bedrooms (two with en-suite bathrooms) and a family bathroom.
- 3.3 All new windows and doors will be timber frame to match those of the existing dwelling at Manor House. Externally existing masonry and roofing materials, namely stone and slate, will be appropriately and sympathetically repaired or replaced where necessary.
- 3.4 With regards to amenity space the existing dwelling has a good sized garden to the front, side and rear. This existing curtilage is proposed to be subdivided to create two separate front and rear gardens for both the existing and proposed dwellings, including sufficient space to accommodate the parking of residents and visitors vehicles as necessary. The proposed individual curtilages will be commensurate with a family size homes of this size in this location.
- 3.5 The existing vehicular access and associated parking to the front of the barn will be retained for use by the future occupant of the converted barn. As such, it is evident that additional parking will be required for the existing dwelling. Therefore, the application further proposes the creation of a new vehicular access to the rear of the existing farmhouse via Robin Lane. An area of hard standing is provided to accommodate three vehicles should it be required. In doing so, there will be limited harm to the character of the surrounding area.

4. Planning Policy

- 4.1 The proposed application will require consideration against adopted national and local planning policies which are summarised below.

National Planning Policy Framework (NPPF)

- 4.2 The NPPF indicates that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 7 states that there are three dimensions to sustainable development: economic, social and environmental; and that these roles are mutually dependent and should be sought simultaneously through the planning system. At the heart of the NPPF is a ***presumption in favour of sustainable development*** (paragraph 14). The following paragraphs of the NPPF are relevant to the preparation and consideration of this proposal.
- 4.3 **Paragraph 17** sets out 12 core land-use planning principles which should underpin both plan-making and decision-taking. The principles which are relevant to this application state that planning should:
- Be a creative exercise in finding ways to enhance and improve places in which people live their lives;
 - Proactively drive and support sustainable economic development to deliver the homes that the country needs;
 - Seek high-quality design and good standards of amenity for all existing and future occupants of land and buildings;
 - Encourage the effective use of land by reusing land that has been previously developed, provided it is not of high environmental value;
 - Encourage multiple benefits from the use of land in urban and rural areas, recognising that some open land can perform many functions.
- 4.4 Section 4 (Promoting Sustainable Transport) at Paragraph 32 states with regards to access and highways that new development should only be prevented or refused on transport grounds where the residual cumulative impacts are severe.
- 4.5 Section 6 (Delivering a Wide Choice of High Quality Homes) states that local planning authorities should boost significantly the supply of housing. Here the NPPF highlights that meeting housing development needs is a key principle of good planning, and providing new homes is paramount to

proactively driving and supporting sustainable economic development. With regards to sustainable development in rural areas **Paragraph 55** identifies special circumstances for homes in the countryside one of which is where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting.

- 4.6 Section 7 (Requiring Good Design) at **Paragraphs 56 and 57** states that good design is indivisible from good planning and should contribute positively to making places better for people, emphasising the importance of planning positively for the achievement of high-quality and inclusive design for all development. **Paragraph 61** goes on to state that although visual appearance and the architecture of individual building are very important factors, securing high-quality and inclusive design goes beyond aesthetic considerations. Planning should address the connections between people and places and the integration of new development into the natural, built and historic environment.

Ribble Valley Core Strategy (2014)

- 4.7 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and the NPPF requires applications to be determined in accordance with the Development Plan, unless other material considerations indicate otherwise. In this case the Development Plan consists of the adopted Ribble Valley Core Strategy.
- 4.8 Policy **DMG1** (General Considerations) states that all development must (amongst other considerations) be of a high standard of building design; be sympathetic to existing and proposed land uses in terms of its size, intensity and nature as well as scale, massing, style, features and building materials; ensure safe access can be provided which is suitable to accommodate the scale and type of traffic likely to be generated; achieve efficient land use and the reuse and remediation of previously developed sites where possible.
- 4.9 Policy **DMH3** (Dwellings in the Countryside and AONB) states that within areas defined as Open Countryside or AONB (the site is not within the AONB), residential development will be limited to (in this case):
2. The appropriate conversion of buildings to dwellings provided they are suitably located and their forms and general design are in keeping with their surroundings, structurally sound and capable of conversion without the need for complete or substantial reconstruction.

4.10 Policy **DMH4** (The Conversion of Barns and Other Buildings to Dwellings) states that permission will be granted for the conversion of building to dwellings where:

1. The building is not isolated i.e it is within a defined settlement or forms part of an already group of building, and
2. There would be no unnecessary expenditure by public authorities and utilities on the provision of infrastructure, and
3. There would be damaging effect on the landscape or harm to nature conservation interests, and
4. No detrimental effect on the rural economy, and
5. Consistent with the conservation of the natural beauty of the area
6. Existing nature conservation aspect of the existing structure are preserved or adequately mitigated.

The Policy further states that building to be converted must also be (in summary):

1. Structurally sound and capable of conversion;
2. Of sufficient size to provide the accommodation without the need for further extensions; and
3. The building and its materials are appropriate to its surrounding and worthy of retention; and
4. Has a genuine history of use for agriculture.

General Permitted Development Order (2015)

4.11 Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) permits development consisting of a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within use class C3 (dwellinghouses). In simple terms, the legislation sets out that the conversion of an existing building to a residence is achievable without the need for planning permission, subject to a number of caveats and a statutory process via the prior approval process.

4.12 It is acknowledged that the existing barn does not qualify in that it has had an intervening use since it was last use for agricultural purposes but this recent change in permitted development highlights the Government's intention to boost significantly the supply of housing and is an important material consideration in the determination of this application.

5. Planning Considerations

5.1 The key issues in the consideration of this application are:

- i) The principle of the barn conversion in this location;
- ii) The appropriateness of alterations proposed to the barn, its design, character and appearance;
- iii) All other material considerations such as access, biodiversity and trees.

The Principle of the Development

- 5.2 As identified above, Core Strategy Policy DMH3 identifies scenarios whereby housing development within areas defended as Open Countryside or AONB are considered appropriate. One such scenario is the appropriate conversion of buildings to dwellings provided they are suitably located and their form and general design are in keeping with their surroundings. It states further that buildings must be structurally sound and capable of conversion without the need for complete or substantial reconstruction. The conversion of the existing barn therefore clearly complies with this policy.
- 5.3 Further guidance on proposals to convert barns to dwellings is provided in CS Policy DMH4 which states that planning permission will be granted for the conversion of buildings to dwellings where the building is not isolated in the landscape. Therefore, in determining whether the current proposal is policy compliant the key issue is whether location of the building is considered isolated.
- 5.4 There have recently been a number of useful cases which have considered the term isolated referred to at Paragraph 55 of the NPPF (and in the CS Policy DMH4). The most relevant is the recent High Court decision *Braintree District Council v Secretary of State for Communities and Local Government* [2017] EWHC 2743 (Admin) (Copy of the Decision at Appendix 1). In this case the Council challenged the decision of a Planning Inspector in determining that a proposal for new housing in the countryside would not result in new “isolated homes” because “there are a number of dwellings nearby”. Lang J rejected the Council’s case, agreeing with the Secretary of State that the word “isolated” in Paragraph 55 of the NPPF should be given its ordinary, objective meaning. This is a home “far away from other places, buildings, or people; remote” (Oxford Concise English Dictionary).

- 5.5 The judgement provides clarification that a proposed new dwelling which is outside of a settlement or urban area is not automatically to be considered “isolated” for the purpose of applying Paragraph 55 of the Framework.
- 5.6 The barn adjoins an existing dwelling at Manor House Farm and is situated amongst a group of dwellings including Howgill Barn, Howgill Mill, Myrvel House and Howgill Farm as well as others. Indeed this group of dwellings is known and referred to as the hamlet of Howgill. Given the location and situation of the barn the building cannot be considered ‘isolated’.
- 5.7 In addition CS Policy DMH4 lists further requirements that the building to be converted must be 1) structurally sound and capable of conversion with the need for extensive rebuilding or major alteration; 2) Be of a sufficient size to provide necessary living accommodation without the need for further extensions which would harm the character of appearance of the building, and; 3) The character of the building and its materials are appropriate to its surroundings and the building and its materials are worthy of retention because of its intrinsic interest or potential or contribution to its setting, and 4) The building has a genuine history of use for agriculture or another rural enterprise. Once again, the proposed application is considered compatible with each of the requirements of this policy.
- 5.8 The re-use of an existing building is also seen as positive contributor to achieving ‘sustainable development’ as set out at Paragraphs 7 and 17 of the NPPF. The Government’s intention to ensure that existing buildings within the countryside are brought into an active use is moreover emphasised within the General Permitted Development Order (2015).
- 5.9 There can be no doubt the conversion of the existing barn is endorsed by and therefore entirely compatible with policies at both local and national level. The development will help to achieve the Governments aims to boost significantly the supply of housing.

Design, Character and Appearance

- 5.10 In order to be considered acceptable the proposal must incorporate a high standard of design which is appropriate to the area in terms of scale, massing, style, features and building materials and of an overall visual appearance which relates to the surrounding landscape as stipulated in Core Strategy Policy DMG1. Following the advice and expertise of Chartered Architects at Sunderland Peacock Associates the proposed alterations are considered sympathetic to the original barn. The proposed design will complement its surroundings.

- 5.11 The proposed development seeks to convert an existing building and will make the best use of the existing fabric of the building. Although the building is characterful and reflects its historic use as a barn, in its current condition it does appear unused and uninhabited and create a visual blot when considered in the context of its immediate surroundings. The proposed conversion and aesthetic improvement to the external fabric and appearance of the barn will inevitably improve its appearance to the benefit of the site and the character of the wider surrounding countryside.
- 5.12 The proposed curtilage already forms part of the existing residential curtilage in use by the adjoining dwelling. There will be no alteration required to the extent of the existing boundaries of the site and there will therefore be no significant increase in domestic paraphernalia as a consequence. It is therefore considered that there will be now further impact on the character of the open countryside or the agricultural setting of the building. In this regard, it is also important to remember the spirit of current permitted development rights (as referred to within Paragraphs 4.11 – 4.12 above) in allowing the conversion of barns to dwellings. In theory, had the building continued to be used for agricultural purposes then it would be possible to convert the barn via the prior approval process. This is a material consideration in the determination of planning application, as recently clarified in *Mansell v Tonbridge and Malling BC* [2017] EWCA Civ 1314. A copy of this Judgement can be provided for the LPA on request if necessary.
- 5.13 The alterations required to create the proposed access and associated areas of hard standing to the rear of Manor House Farm along Robin Lane (referred to below) will have a negligible impact on the character of the site and the surrounding open countryside area. Any trees or shrubs which are required to be removed as a consequence (referred to below) are non-native ornamental and considered to be of low retention value, as detailed within the submitted Tree Report by Yew Tree and Gardens.
- 5.14 Overall the works required to convert this vacant barn will seek to preserve those key features which illustrate its agricultural past whilst also enhancing the buildings general appearance by repairing and maintaining the barn to make it habitable to modern standards. These works will enhance the immediate setting, as endorsed by the NPPF, which will also be improved by its permanent occupation, securing the future of the building for generations to come.

Other Material Considerations

- 5.15 **Access:** The existing parking area associated with Manor House Farm is proposed to be utilised for the converted barn. As such, a new access is to be created to the rear of Manor House Farm along Robin Lane some 50 metres north of its junction with Howgill Lane. The proposed access/egress will allow for visibility splays of 2.5 metres by 39 metres (northerly) and 31 metres (southerly). Levels of traffic along the section of highway are extremely low. Furthermore given the width of the highway along Robin Lane traffic speeds are naturally slow (20mph or less). Therefore the proposed visibility splays are in accordance with Manual for Streets and are considered more than adequate in this instance.
- 5.16 **Biodiversity:** A survey was undertaken by ecologists at Simply Ecology in order to assess the ecological value of the site and the presence of any notable habitat or protected wildlife. Whilst the survey found some evidence of bat activity, it was the professional ecologist judgement that the barn conversion will result in the loss of a small common pipistrelle day roost. The proposal would therefore have a low impact on this species. In consideration of the proposed development mitigation measures are suggested (including the provision of new alternative roosts) which will address the associated impacts and allow the LPA to impose conditions to ensure that there is no loss of habitat.
- 5.17 **Trees:** The proposal does have the potential to implicate trees or their root systems as part of the new access which is proposed to north-west boundary of the site to the rear of Manor House Farm. As such it was considered prudent to undertake a Tree Survey and the results have been submitted with this application. The report concludes that the surveyed trees are of relatively low retention value and that it is possible to carry out the proposed works without additional damage/stress being placed upon those trees to be retained.
- 5.18 **Flooding:** As referred to within Chapter 2 the site is situated within Flood Zone 1 and as such it has not been considered necessary to submit a Flood Risk Assessment with the application. As with the existing dwelling, the proposed development will be suitably drained and is not considered to increase the risk of flooding elsewhere.
- 5.19 With regards to all material considerations, the proposal is entirely appropriate and compliant with policies contained within the Core Strategy.

6. Summary and Conclusions

- 6.1 This Statement has been prepared by JWPC Chartered Town Planners in support of a planning application which seeks planning permission for the conversion of a Manor House Barn, adjoining an existing dwelling (Manor House Farm) in the hamlet of Howgill, near Rimington.
- 6.2 When considered in the context of the presumption in favour of sustainable development, the proposed development is entirely compatible with local planning policies, namely Policy DMH3 and DMH4, which allows for the appropriate conversion of existing buildings in the open countryside and as such accords with the Development Plan. Similarly the proposal is compatible with the provisions of the NPPF which endorse the reuse of redundant or disused buildings. This is encouraged within the NPPF and is consistent with the Government's definition of 'sustainable development'. Reference has been made to a recent High Court Judgement which provides further clarity that the site cannot be considered 'isolated' for the purposes of applying Paragraph 55 of the NPPF.
- 6.3 The design and conversion of the proposed dwelling is characterful and in keeping with the local vernacular. The detailed elevations and choice of materials will complement the surroundings whilst reflecting the buildings in the surrounding area, providing an enhancement to the immediate setting.
- 6.4 The associated residential curtilage is entirely reasonable and proportionate to the scale and footprint of the dwelling. There is no visual harm as a consequence of the proposed changes and overall, there are no adverse impacts associated with this development which is considered to deliver a number of benefits including boosting the supply of housing as identified in this Statement.
- 6.5 This Statement has highlighted that given the local circumstances, site characteristics and design, the current planning application should be approved in line with the Development Plan and all other material planning considerations.

JWPC Chartered Town Planners Ltd

January 2018

Appendix 1: Copy of High Court Judgement: Braintree District Council v Secretary of State for Communities and Local Government [2017] EWHC 2743 (Admin), November 2017



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England and Wales High Court (Administrative Court) Decisions

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Cite as: [2017] EWHC 2743 (Admin), [2017] WLR(D) 785

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Neutral Citation Number: [2017] EWHC 2743 (Admin)

Case No: CO/1207/2017

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
PLANNING COURT

Royal Courts of Justice
Strand, London, WC2A 2LL
15 November 2017

B e f o r e :

MRS JUSTICE LANG DBE

Between:

↗BRAINTREE↘ DISTRICT COUNCIL

Claimant

- and -

(1) SECRETARY OF STATE FOR COMMUNITIES
AND LOCAL GOVERNMENT

(2) GREYREAD LIMITED

(3) GRANVILLE DEVELOPMENTS LIMITED

Defendants

Ashley Bowes (instructed by Sharpe Pritchard) for the Claimant
Gwion Lewis (instructed by the Government Legal Department) for the First Defendant
John Dagg (instructed under the Direct Access Scheme) for the Second and Third Defendants
Hearing date: 24 October 2017

HTML VERSION OF JUDGMENT

Crown Copyright ©

Mrs Justice Lang :

1. The Claimant ("the Council") applied under section 288 of the Town and Country Planning Act 1990 ("TCPA 1990") to quash the decision of the First Defendant, made by an Inspector on his behalf, on 3 February 2017, in which he allowed an appeal by the Third Defendant against the Council's refusal of planning permission.
2. The Third Defendant applied for planning permission to erect two detached single-storey dwellings on land east of Lower Green Road, Blackmore End, Wethersfield, Essex (hereinafter "the appeal site"). Previously there had been two agricultural buildings on the appeal site, which had been demolished.
3. On 4 March 2016, the Council refused planning permission. Its reasons for refusal were that the appeal site lay within an area of countryside beyond any defined settlement boundaries, and the development failed to accord with policies in the Council's Core Strategy and Local Plan Review and planning principles in the National Planning Policy Framework ("NPPF") at 49, 55 and 111. Policy RLP2 of the **Braintree** District Local Plan Review stated that new development was to be confined to areas within town development boundaries and village envelopes. Outside of those areas, countryside policies applied. Policy CS5 of the Council's Core Strategy stated that development outside town development boundaries and village envelopes was to be strictly controlled to uses appropriate to the countryside, in order to protect and enhance landscape character and biodiversity, geodiversity and amenity of the countryside. Policy CS7 of the Core Strategy stated that future development was to be in accessible locations to reduce the need to travel.
4. The Inspector (Mr K. Williams BA MA MRTPI) held a site visit and determined the appeal by way of written representations. He found that, on the most favourable analysis, deliverable housing sites fell well below the 5 year supply required by NPPF 47, and so the provisions of NPPF 49 were engaged. Policies CS5 and RLP2 were to be treated as out-of-date when applying NPPF 14. He concluded that permission should be granted in accordance with the Framework's presumption in favour of sustainable development. His key finding, for the purposes of this application, was in paragraph 9 of the Appeal Decision ("AD"):

"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."

5. Collins J. granted permission on the papers on 15 May 2017.

Ground of challenge

6. The sole ground of challenge was that the Inspector misunderstood and therefore misapplied NPPF 55 by not appreciating that, when considering the policy against granting planning permission for "new isolated homes in the countryside unless there are special circumstances", the meaning which should be given to the term "isolated homes" was "homes which were remote from services and facilities".
7. The Defendants submitted that, when applying NPPF 55, the word "isolated" should be given its ordinary objective meaning of "far away from other places, buildings or people; remote". They submitted that the Inspector correctly understood and applied the term "isolated homes" in his decision.

Legal and policy framework

(i) Applications under section 288 TCPA 1990

8. Under section 288 TCPA 1990, a person aggrieved may apply to quash a decision on the grounds that (a) it is not within the powers of the Act; or (b) any of the relevant requirements have not been

complied with, and in consequence, the interests of the applicant have been substantially prejudiced.

9. The general principles of judicial review are applicable to a challenge under section 288 TCPA 1990. Thus, the Claimant must establish that the Secretary of State misdirected himself in law or acted irrationally or failed to have regard to relevant considerations or that there was some procedural impropriety.
10. The exercise of planning judgment and the weighing of the various issues are matters for the decision-maker and not for the Court: *Seddon Properties Ltd v Secretary of State for the Environment* (1981) 42 P & CR 26. As Sullivan J. said in *Newsmith v Secretary of State for the Environment, Transport and the Regions* [\[2001\] EWHC Admin 74](#), at [6]:

"An application under section 288 is not an opportunity for a review of the planning merits....."

11. The Court should respect the expertise of Inspectors, and at least start from the presumption that they will have understood the policy framework correctly. Their position is in some ways analogous to that of expert tribunals, in respect of which the courts have cautioned against undue intervention by the courts in policy judgments within their areas of specialist competence: *Suffolk Coastal DC v Hopkins Homes Ltd* [\[2017\] UKSC 37](#), per Lord Carnwath at [25].
12. A decision letter must be read (1) fairly and in good faith, and as a whole; (2) in a straightforward down-to-earth manner, without excessive legalism or criticism; (3) as if by a well-informed reader who understands the principal controversial issues in the case: see Lord Bridge in *South Lakeland v Secretary of State for the Environment* [1992] 2 AC 141, at 148G-H; Sir Thomas Bingham MR in *Clarke Homes v Secretary of State for the Environment* (1993) 66 P & CR 263, at 271; *Seddon Properties Ltd v Secretary of State for the Environment* (1981) 42 P & CR 26, at 28; and *South Somerset District Council v Secretary of State for the Environment* (1993) 66 P & CR 83.

(ii) Decision-making

13. The determination of an application for planning permission is to be made in accordance with the development plan, unless material considerations indicate otherwise. Section 70(2) TCPA 1990 provides that the decision-maker shall have regard to the provisions of the development plan, so far as material to the application. Section 38(6) of the Planning and Compulsory Purchase Act 2004 ("PCPA 2004") provides:

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise."
14. The NPPF is a material consideration for these purposes, but it is policy not statute, and does not displace the statutory presumption in favour of the development plan: see NPPF 11 to 13. It must be exercised consistently with the statutory scheme giving primacy to the development plan, and not displace or distort it: *Suffolk Coastal DC v Hopkins Homes Ltd* [\[2017\] UKSC 37](#), per Lord Carnwath at [21].
15. In *Tesco Stores Limited v Dundee City Council* [\[2012\] UKSC 13](#), Lord Reed (with whose judgment Lord Brown, Lord Hope, Lord Kerr and Lord Dyson agreed), rejected the proposition that each planning authority was entitled to determine the meaning of development plans from time to time as it pleased, within the limits of rationality. He said:

"18. ... 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. As in other areas of administrative law, the policies which it sets out are designed to secure consistency and direction in the exercise of discretionary powers, while allowing a measure of flexibility to be retained. Those considerations point away from the view that the meaning of the

plan is in principle a matter which each planning authority is entitled to determine from time to time as it pleases, within the limits of rationality. On the contrary, these considerations suggest that, in principle, in this area of public administration as in others (as discussed, for example, in *R (Raissi) v Secretary of State for the Home Department* [2008] QB 836), policy statements should be interpreted objectively in accordance with the language used, read as always in its proper context. They are intended to guide the decisions of planning authorities, who should only depart from them for good reason.

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 (*Tesco Stores Ltd v Secretary of State for the Environment* [1995] 1 WLR 659, 780 per Lord Hoffmann). 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."

16. In *Suffolk Coastal DC v Hopkins Homes Ltd* [2017] UKSC 37, the Supreme Court accepted that these principles also applied to the interpretation and application of national policy in the NPPF (per Lord Carnwath at [23]; per Lord Gill at [72] – [74]).

(iii) National Policy

17. NPPF 6 explains that the purpose of the planning system is to contribute to the achievement of sustainable development. NPPF 7 summarises the three dimensions to sustainable development: economic, social and environmental.
18. NPPF 17 sets out the core land-use planning principles which should underpin decision-taking. They include the principle that planning should:
- "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;"
19. NPPF 28 sets out the policies to support economic growth in rural areas, including promoting the retention and development of local services and community facilities in villages.
20. NPPF 55 provides:
- "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."

21. The Planning Practice Guidance ("PPG") states:

"How should local authorities support sustainable rural communities?

.....

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]"

Conclusions

22. The Claimant submitted that NPPF 55 had to be interpreted in the context of national policy on rural development which enjoined decision takers to support the rural economy by supporting local services and facilities within it: see NPPF 28 and 55, and the PPG. According to the PPG, housing had an "essential" role to play in ensuring the vitality of those facilities and services. Housing should therefore be located where it would "enhance or maintain" them. Housing which did not enhance or maintain those facilities or services by reason of being "isolated" from them should be avoided unless there are "special circumstances". Thus, in applying NPPF 55, 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. The key question was whether it was proximate to services and facilities so as to maintain or enhance the vitality of the rural community.
23. In my judgment, the Claimant's submission was incorrect. The sentence in NPPF 55 guiding local authorities to avoid granting planning permission for "new isolated homes in the countryside unless there are special circumstances" should be "interpreted objectively in accordance with the language used, read ... in its proper context" (per Lord Reed in *Tesco Homes* at [18]).
24. The word "isolated" is not defined in the NPPF. I agree with the Defendants' submission that "isolated" should be given its ordinary objective meaning of "far away from other places, buildings or people; remote" (Oxford Concise English Dictionary).

25. The immediate context is the distinction in NPPF 55 between "rural communities", "settlements" and "villages" on the one hand, and "the countryside" on the other. 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.
26. As to the broader context, in my judgment, NPPF 55 seeks to promote the economic, social and environmental dimensions of sustainable development, and to strike a balance between the core planning principles of "recognising the intrinsic character and beauty of the countryside" and "supporting thriving rural communities within it" (NPPF 17). The Claimant's analysis of the policy context is far too narrow in scope.
27. The policy in favour of locating housing where it will "enhance or maintain the vitality of rural communities" is not limited to economic benefits. The word "vitality" is broad in scope and includes the social role of sustainable development, described in NPPF 7 as "supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations". The Claimant's restriction of an "isolated home" to one that is 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.
28. NPPF 55 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. The PPG advises that "all settlements can play a role in delivering sustainable development in rural areas", cross-referencing to NPPF 55, "and so blanket policies restricting housing development in some settlements and preventing other settlements from expanding should be avoided....". Moreover, in rural areas, where public transport is limited, people may have to travel by car to a village or town to access services. NPPF 17 penultimate bullet point identifies as a core planning principle to "actively 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". But as the PPG states, NPPF 29 and 34 recognise that the general policy in favour of locating development where travel is minimised, and use of public transport is maximised, has to be sufficiently flexible to take account of the differences between urban and rural areas. The scale of the proposed development may also be a relevant factor when considering transport and accessibility. As Mr Dagg rightly pointed out, the policy in NPPF 17 in favour of focusing development in locations which are or can be made sustainable applies in particular to "significant development".
29. For these reasons, I agree with the Defendants that the Claimant was seeking to add an impermissible gloss to NPPF 55 in order to give it a meaning not found in its wording and not justified by its context.
30. The First Defendant drew my attention to *Dartford Borough Council v Secretary of State for Communities and Local Government* [\[2017\] EWCA Civ 141](#) in which Lewison LJ said, at [15], in relation to para. 55 of the NPPF:
- "... 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."
31. Although the context in that case was quite different, my conclusion is consistent with Lewison LJ's observations.
32. In AD 8 & 9, the Inspector correctly applied NPPF 55 by concluding that, since the proposed new homes would be located on a road in a village where there were a number of dwellings nearby, it would not result in "new isolated homes in the countryside".
33. The undisputed evidence before the Inspector was that Blackmore End was a village, which had linear development extending along several roads. There was a dispersed pattern of development along Lower Green Road (the location of the appeal site). Lower Green Road was a road leading out of the

village, heading north. There were dwellings immediately to the south and north of the appeal site. There was also a dwelling to the west, on the other side of the road.

34. It was common ground that the appeal site was to be treated as outside any village envelope, and therefore within the countryside. Until 2014, no settlement boundary existed for Blackmore End, in common with some other villages in this rural district. A settlement boundary was introduced in 2014 in the Site Allocations and Development Management Policies document, which was an interim measure whilst the new Local Plan was prepared, but it was never formally adopted as part of the development plan. In June 2016, a draft Local Plan was published for consultation, which included the same or very similar settlement boundary, but it only had the status of an emerging plan. In both documents, the settlement boundary (referred to as a "village envelope") was drawn around the two main clusters of housing in the centre of the village, excluding development, such as Lower Green Road, located on the edge of the village. This was a material consideration for planning purposes.
35. It was agreed that the village of Blackmore End had very limited facilities and amenities, comprising a village hall, public house and playing field. Blackmore End was within the parish of Wethersfield. Wethersfield village was about 2 miles away, and it had a post office, village store, public house, a nursery and pre-school. The village of Sible Hedingham, identified as one of five "Key Service Villages" in the draft Local Plan was about 4 miles away. In assessing accessibility, the Inspector concluded, at AD 14:

"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."

36. Under the sub-heading "The Overall Balance and Sustainable Development", the Inspector said:

"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 buildings. There would be conflict with policies CS5 and RLP2 but those policies are out-of-date and are worthy of limited weight. Applying the tests 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."

37. When the Inspector referred to "the minor economic benefit ... from developing the site and the economic activity of those occupying the dwellings", he was referring, first, to the economic benefit of providing local builders etc. with work at the appeal site, and, second, to the economic benefit of two new households who would be likely to use businesses in the surrounding area (e.g. for services to their homes and shopping etc.). This was a point expressly raised in the Appellant's case, which the Inspector was entitled to accept. In my view, it was obvious that households would be likely to use services in the surrounding area to some extent. I cannot agree with the Claimant's submission that the Inspector made no finding on this point or that there was insufficient evidence of such use to enable him to do so.
38. In conclusion, I consider that the Inspector correctly interpreted NPPF 55, and applied it properly to the facts and matters which arose in this appeal. Therefore the Claimant's application is dismissed.