

**WOODFOLD VILLA,
LAND ADJACENT TO WOODFOLD PARK
SHORROCK GREEN, MELLOR**

ADVICE

Introduction

1. I am instructed by Shaw and Jagger architects to provide advice to one of its clients on a potential planning application for a proposed new dwelling referred to as Woodfold Villa on land adjacent to Woodford Park, Shorrock Green, Mellor (“the Site”).
2. In particular, I am asked to provide advice in relation to the proper meaning of policy contained in paragraph 80 of the National Planning Policy Framework (“the Framework”) issued on 20 July 2021, in light of a pre-application response to the proposal for the site from an officer of Ribble Valley Borough Council (“the Council”) dated 25th January 2022 (“the Pre-Application Response”).

Factual Background

The Design and Access Statement

3. I have been provided with various documents that have been produced in anticipation of a planning application for the proposed new villa on the Site. These include a Design and Access Statement dated May 2022 (“the DAS”). The DAS includes sections on: (1) site analysis; (2) site history; (3) the client and the brief; (4) planning policy context; (5) a character study; (6) design principles; (7) the design process; and (8) the design proposal.
4. I therefore base my understanding of the factual background for the purposes of this advice on what is set out in the DAS. I would be happy to advise further in light of any update or amendments to the contents of the DAS as necessary.
5. It is unnecessary to seek to set out all of the factual background that is set out in the DAS in this advice. I therefore only summarise some of the key facts identified in that document by way of background here.

The Location of the Site

6. The Site lies in the Council's area in the county of Lancashire. It is located approximately 1.6km west of Mellor and 3.9km northwest of Blackburn.
7. The principal part of the Site comprises an area of undeveloped land of approximately 4.1 acres in the countryside on the edge of Woodfold Park which contains Woodfold Hall (to the south). Woodfold Park is a Grade II registered park and garden. Woodfold Hall is a Grade II listed house originally built in 1798 for Henry Sudell.
8. The DAS provides a detailed and comprehensive historical appraisal of Woodfold Park and Hall that lies adjacent to the Site which I will not attempt to summarise here. This in turn draws on a character study of the area which assesses the setting of the parkland and Woodfold Hall produced by the expert architect, Ian Dieffenthaller. This has informed the design approach to the proposed Villa in this location.
9. The Site is also adjacent to Woodfold Park Farm, originally built as stabling for Woodfold Hall but which has now been converted to residential dwellings, and Huntsmans Cottages. The client also has an option to purchase the neighbouring 11 acres of land which include a livery stable and menage.
10. The Site is currently variously bounded by a mix of mature and semi-mature trees, hedgerows and post and rail fence. There are two trees within the Site which are the subject of a Tree Preservation Order ("TPO") along with trees on the eastern boundary.
11. The Site has been used as a paddock for some years and includes a stable block
12. The Site lies within the Lancashire Valleys Nation Character Area 35, just within the boundary of Character Type 5. I have been provided with a Landscape and Visual Appraisal ("LVA") produced by DRaWs which analysis the landscape character in more detail.
13. The Site is located within an area which is a very a low risk of flooding, namely Flood Zone 1. An ecological walkover survey produced by Conservation Contracts Northwest Ltd as part of a preliminary ecological appraisal identifies that the Site is

largely composed of neutral grassland of poor to moderate condition and the constituent parts of the grassland were insignificant from a botanical and conservation perspective.

14. The Site is located in an area designated as Green Belt.

The Policy Framework

15. The development plan for the area for the purposes of section 38(6) of the Planning and Compulsory Purchase Act 2004 and the section 70(2) of the Town and Country Planning Act 1990 comprises the Council's Core Strategy 2008-2028 which was adopted in 2014 ("the Local Plan").

16. The Local Plan contains various policies of potential relevance to the application, including those identified by the officer in the Pre-Application Response. These include:

- a. Core Strategy Policy EN1 – Green Belt (dealing with the protection of the Green Belt)
- b. Core Strategy Policy DS1 - Development Strategy (dealing with the strategy for the approach to new housing)
- c. Core Strategy Policy EN5 – Heritage Assets (dealing with the conservation and enhancement of the significance of heritage assets and their settings)
- d. Core Strategy Policy DME4 – Protecting Heritage Assets
- e. Core Strategy Policy DMG1 – General considerations on design.

17. The Framework also includes various strands of national policy of relevance, including that relating to new countryside houses of exceptional quality (as dealt with in paragraph 80 considered further below), protecting the Green Belt in Chapter 12 and conserving and enhancing the historic environment in Chapter 16.

The Proposal

18. The proposal is to create a new villa on the site as a weekend home which is capable of providing the client with a permanent home on his retirement. The architects have been commissioned to produce a design that meets the requirements of paragraph 80(e) of the Framework, namely a design of exceptional quality in that it should be truly

outstanding, reflecting the highest standards in architecture which would help to raise standards of design more generally and which would significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area.

19. It is clear from all of the work produced to date and the supporting material that has been compiled that the architects have assiduously approached the design with those objectives in mind.

Paragraph 80 of The Framework

20. Paragraph 80 of the Framework is part of three paragraphs set out under the heading “Rural Housing”.

21. It is well-established that the Framework needs to be read as a whole and not as a statute, but adopting a sensible approach in seeking the true sense of the policy in question: see eg the recent Court of Appeal decision in *Gladman Developments Ltd v Secretary of State for Housing, Communities and Local Government* [2021] EWCA Civ 104, Senior President of Tribunals at [32]

22. Paragraph 80 of the Framework should therefore be read in light of the Framework generally, but including the immediately preceding paragraph. Paragraph 79 states:

“79. To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.”

23. Paragraph 80 of the Framework then continues:

“80. Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

- a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;

- b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
- c) the development would re-use redundant or disused buildings and enhance its immediate setting;
- d) the development would involve the subdivision of an existing residential building; or
- e) the design is of exceptional quality, in that it:
 - is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
 - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.”

24. Paragraph 80(e) of the Framework issued in July 2021 includes a change to the previous version of the equivalent paragraph 79 in the former version of the Framework in that the words “or innovative” have been removed from the first criterion in the first bullet point. Whereas previously the first of the two criteria of exceptional design quality could be met by a design which was either “truly outstanding or innovative”, this first criterion now only refers to a design which is “truly outstanding”. Accordingly, innovation is no longer a sufficient attribute on its own absent a truly outstanding design, albeit innovation can presumably be an element of a truly outstanding design if the latter threshold is met.

25. Paragraph 80(e) continues to represent a national policy exception to new isolated houses in the countryside, originally introduced by the minister John Gummer into a previous version of national planning policy (expressed in PPG7). This in turn was replaced by PPS7, before the NPPF then took over. The policy was intended to permit, in appropriate cases, the construction of country houses in the countryside where they were of exceptional quality. This was prompted by a desire to ensure that planning policy did not inhibit the creation of exceptional new country houses that have historically formed part of the heritage of our countryside and built environment.

26. This country house exception, now often referred to by way of shorthand to paragraph 80(e) of the NPPF, is a well-known one. It is often relied upon to seek to justify new

country houses in the countryside, in locations which would otherwise not be permitted for such housing. However, the terms of paragraph 80(e) itself, and analysis of past decisions (both in terms of refusals or grant of planning permission) demonstrate the high threshold it sets for such proposals. The exceptional quality required in the design of the dwelling is exacting. Furthermore, the policy explains that such a design should meet each of criteria identified.

27. The first criterion is that the design should be “truly outstanding”. The second is that the design should “significantly enhance its immediate setting” and “be sensitive to the defining characteristics of the local area”.
28. These criteria indicate why: (1) those instructing me have sought review of the design by independent expert architects on the Traditional Architecture Group; and (2) the importance (or relevance) of endorsement by such independent experts. In my view, the Council ought to have careful regard to such independent assessment. The latest assessment from the TAG panel that has been provided on the proposal is glowing in its endorsement of the proposal when measured against the criteria in paragraph 80(e) of the Framework. In light of that assessment, there is clearly a very powerful case to make that the criteria in the exception in paragraph 80(e) are met in this case.

The Court of Appeal decision in *Braintree*

29. The Court of Appeal considered the meaning of a similarly worded exception related to isolated housing in the countryside in what was paragraph 55 of an even earlier version of the Framework in *Braintree District Council v Secretary of State for Communities and Local Government and others* [2018] EWCA Civ 610. The question that arose in that case was whether a planning inspector had misinterpreted the wording in paragraph 55 of the then Framework that local planning authorities “should avoid new isolated homes in the countryside unless there are exceptional circumstances ...”.
30. There, the planning inspector had allowed an appeal against a refusal of planning permission by a local planning authority for the erection of two detached single-storey dwellings on the sites of two agricultural buildings on land in Essex. The site was at a village known as Blackmore End, but lay outside the defined settlement boundary for that village as set out in the emerging development plan. The crucial issue that arose

was the meaning of the word “isolated” in the expression “new isolated homes in the countryside” in paragraph 55 of the former Framework. Paragraph 55 of the former Framework was written in a way which represented a form of combined version of what is now contained in paragraphs 78 and 79 of the Framework, namely:

- "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."

31. The Court of Appeal referred to corresponding guidance in the national Planning Practice Guidance dealing with the policy support for sustainable rural communities.

32. The planning inspector concluded that the settlement of Blackmore End had a very limited range of services and facilities, for example having no local shop with the nearest about 2 miles away, and it was not identified as a service village in the emerging Local Plan.

33. He concluded it was very likely that those occupying the dwellings would rely heavily on the private car to access everyday services, community facilities and employment. Whilst he concluded that this weighed against the development, he noted that it was consistent with the Framework that sustainable transport opportunities would be likely to be more limited in rural areas.

34. The local planning authority contended that the planning inspector had erred in his interpretation of paragraph 55 of the Framework by relying on the development's proximity to other residential dwellings. It argued that the key question was whether the development was proximate to services and facilities so as to maintain or enhance the vitality of the rural community. It further argued that the word "isolated" can mean either physical or functional isolation and both concepts were relevant and significant.

35. The Court of Appeal rejected the local planning authority's interpretation. It concluded that

- a. The policy was expressed in general and un-prescriptive terms without dictating a particular outcome for an application for planning permission, identifying broad principles and a broad approach, with the use of the word "should" and "avoid" rather than any hard-edged presumption.
- b. The policy concerned the location of new housing development, telling authorities where new housing should be "located", namely where it will enhance or maintain the vitality of rural communities. The concept of vitality is wide and undefined and not limited to a consideration of "services" alone, but there was recognition of the possible benefit of developing housing in a rural settlement with no, or relatively few, services of its own.
- c. The concept of avoiding new isolated homes in the countryside was a distinction between places where the contrast was explicitly and simply a geographical one; it differentiates between the development of housing within a settlement 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".
- d. 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 it considered that 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, it concluded that settlements are the preferred location for new housing development in rural areas.

- e. The adjective "isolated" is itself generally used to describe a location. 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 below (in paragraph 24 of her judgment), and there was no dispute that in this respect she was right.
- f. 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.
- g. What constitutes a settlement for these purposes is also left undefined in the Framework. The Framework contains no definitions of a "community", a "settlement", or a "village". There is no specified minimum number of dwellings, or population. A settlement or development boundary does not have to 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. 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. 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.

- h. A policy directed to enhancing and maintaining the "vitality" of rural communities is a policy that embraces the "social" dimension of sustainable development. 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.
- i. Accordingly, one is not obliged to ask whether the proposed development would be "functionally" isolated as well as "physically". One is only required to ask whether it would be physically isolated, in the sense of being isolated from a settlement.

36. Although the Court of Appeal's decision concerned paragraph 55 of the former version of the Framework, and there are some textual changes in what then appeared in paragraphs 78-79 of the next version of the Framework and now to that which appears in paragraph 80 of the Framework in its current form, in my opinion those textual changes do not alter the substance of the policy, or its meaning as set out by the Court of Appeal.

37. Accordingly, paragraph 80 of the Framework requires the Council to reach a determination as to whether the provision of the proposed new dwelling on the Site would result in the development of an "isolated" home in the countryside, in the sense of being isolated from a settlement. The term "settlement" is not defined and it will require the exercise of a planning judgment as to whether any existing residential dwellings nearby constitute a "settlement" for these purposes, where a hamlet or cluster is capable of falling within that definition.

The Court of Appeal decision in *Bramshill*

38. The Court of Appeal has recently revisited the question of the proper meaning of the wording of the policy as contained in what was (at the time of the case) paragraph 79

of the Framework in *City and Country Bramshill Ltd v Secretary of State for Housing, Communities and Local Government* [2021] EWCA Civ 320.

39. In that case, the Inspector determining the underlying appeals applied the interpretation to “isolated homes in the countryside” that the Court of Appeal had set out in *Braintree*. That was in the context of considering proposals for the creation of a significant number of new dwellings within the grounds of a Grade I listed building and within a Grade 1 registered park and garden. One of the issues that arose is whether the approach in *Braintree* had to be interpreted subject to what the Court of Appeal had said in an earlier decision in *Dartford Borough Council v Secretary of State for Communities and Local Government* [2017] EWCA Civ 141, to the effect that a new dwelling proposed within the curtilage of an existing permanent structure could not be an “isolated” home for the purposes of the policy. The Court of Appeal rejected that interpretation of the *Dartford* case and reaffirmed the interpretation it had given in *Braintree*.

40. In so doing, the Court of Appeal confirmed that the concept of “isolated homes in the countryside” is not a concept of law, but a concept of national planning policy which is not defined in the Framework and does not lend itself to rigorous judicial analysis. It concluded that as with many other broadly framed policies in the Framework, its application will depend on the facts of the case and decision-makers will have to exercise their planning judgment in a wide variety of circumstances. In repeating the interpretation in *Braintree*, the Court of Appeal stated that adopting a concept of remoteness from other dwellings, as opposed to remoteness from a settlement as a test for “isolated homes in the countryside” would seem inconsistent with the Government’s evident intention producing the policy, explaining this inconsistency as follows (at paragraphs 33-4):

“33.... It would mean, presumably, that the policy would not apply to a development of housing in the countryside – large or small – on land next to an individual dwelling remote from the nearest settlement, because although the new homes might be “isolated” from the settlement, they would not be “isolated” from existing development. It would prevent the policy from applying to the development of additional dwellings, one or two at a time, on sites next to other sporadic rural housing, again on the basis that they would not then be “isolated”. It might even prevent the policy from applying to a proposal for two or more dwellings on a single, undeveloped site in the countryside, because none of them would itself be “isolated” from another dwelling, and the development as a whole would therefore not be “isolated”. If this were so, only

the development of a single dwelling, on its own, separate from any other dwelling already built or proposed nearby, would engage the policy. This would be hard to reconcile with the Government's aim, as policy-maker, to "promote sustainable development in rural areas".

34. The policy in paragraphs 78 and 79 of the NPPF aligns with that in paragraph 72. Their common theme is the need for the planning system to promote sustainable located housing development. Neither policy favours the unplanned and unsustainable development of housing in the countryside, away from existing settlements ..."

Application of Paragraph 80 of the Framework

Isolated Homes

41. I am instructed that one issue the Council has sought to raise is the question of the application of the exception in paragraph 80 (e) of the Framework to the Site. It appears that the Council may be seeking to suggest that the proximity of some other dwellings to the Site means that the proposed new villa on the Site would not be "isolated" within the meaning of paragraph 80 of the Framework, such that the exception in paragraph 80(e) of the Framework is not applicable at all.
42. In my view the position is straightforward and can be summarised as follows.
43. Paragraph 80 of the Framework is concerned with a general principle of national policy that sustainable development in rural areas includes, in particular, locating new housing geographically close to a settlement, as opposed to it being isolated in the countryside. The Court of Appeal identified this in *Braintree*, and has now confirmed it in *Bramshill*. The Council's suggestion that the villa might not be "isolated" for the purposes of paragraph 80 because of the proximity of Woodfold Park Farm, or Huntsmans Cottages fails to address this. It is difficult to see how the Council could legitimately conclude that those dwellings comprise a settlement and the Council does not appear to have addressed its mind to the correct test.
44. If one applies the correct approach to the concept of an "isolated" home for these purposes, one can readily see how paragraph 80(e) is engaged by the proposal. Consequently, fulfilment of the criteria in the exception set out in paragraph 80(e) would mean that the proposal was not one to avoided, but rather a specific exception to the principle of avoiding the creation of an isolated dwelling in the countryside. In

addition, fulfilment of the criteria in paragraph 80(e) would be highly relevant to other policy considerations, such as Green Belt policy (as considered below).

45. If, however, the Council were still to adhere to the view that the new villa is not “isolated” within the meaning of paragraph 80 of the Framework, this would necessarily have to be on the basis that the villa is not in fact isolated from an existing settlement. This would mean that the proposal would then enjoy the fundamental policy support expressed in the Framework for sustainable rural housing in any event.
46. In such circumstances, there would be no need for the proposal to fulfil the criteria in the exception under paragraph 80(e) of the Framework, because it would be the type of rural housing which is supported by the Framework. This would then be a different, but also a weighty material consideration in favour of permission.
47. Moreover, if the villa were deemed to be not “isolated”, fulfilment of the other criteria in paragraph 80(e) of the Framework would still continue to be highly relevant to the benefits of the proposal for other weighty reasons. These include the following:
 - a. First, it would be highly relevant to the commonsense interpretation and application of the Framework, read as a whole, in relation to sustainable development. The latest version of the Framework places an even greater emphasis on high quality design as a key principle of sustainable development (see for example Chapter 12 on ‘Achieving well-designed places’, including paragraph 126 which refers to the creation of high quality, beautiful and sustainable buildings as being fundamental to what the planning and development process should achieve). As a specific exception to what is stated in paragraph 80, Paragraph 80(e) is a recognition that a design of exceptional quality (fulfilling the criteria specified) can be a reason in itself for permitting rural housing in what would otherwise be an unsustainable location because of isolation. That principle logically, and as a matter of commonsense, would apply to a site which was not considered to in an “isolated” location. If a proposal is both of exceptional quality and it also not “isolated”, that would also be a compelling reason in favour of granting permission.

- b. Second, paragraph 134 of the Framework itself emphasises the importance of design in planning decisions. It explains that, by way of a converse position to the approach that development which is not well-designed should be refused, significant weight should be attached to “outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.” This therefore makes it clear that an outstanding design of the type that is being put forward here, which has been designed to raise standards in the area and to fit in with the overall form and layout of the surroundings, is supported by policy and significant weight should be attached to this under paragraph 134 of the Framework anyway.
- c. Third, in cases where (as here) there are other relevant policies engaged, such as the Green Belt, the fulfilment of the criteria in paragraph 80(e) is clearly capable of constituting “very special circumstances” under Green Belt policy, if it is necessary to demonstrate such circumstances in a particular case. I turn to address this question separately below. But by the very nature of the criteria in paragraph 80(e) (referring to the delivery of an “exceptional” design), satisfaction of paragraph 80(e) is clearly capable of constituting “very special circumstances” to outweigh any harm to the Green Belt and any other harm. In my view, the same is also necessarily true of an outstanding design for the purposes of paragraph 134 of the Framework. This would also be capable of constituting very special circumstances for the purposes of the Green Belt.

48. For the reasons set out above, therefore:

- a. The suggestion by the Council that the villa might not be “isolated” for the purposes of paragraph 80 of the Framework appears to have been made on the basis of an erroneous understanding of the term, as now clarified by the Court of Appeal in *Braintree* and *Bramshill*. The Council appears to have failed to address the concept in terms of isolation from a settlement. On the basis of the facts that I have seen, it is very likely that paragraph 80(e) of the Framework is engaged in light of the villa’s proposed location, when paragraph 80 is properly interpreted.

- b. If, contrary to the above, the Council remain of the view that the villa is not isolated, then this would lend different support to the proposal. That is because it would be in a sustainable location and the proposal would not actually need to fulfil paragraph 80(e) of the Framework. However, that would not be a reason to ignore the fulfilment of the criteria in paragraph 80(e) of the Framework. Where the proposal also fulfils the criteria expressed in paragraph 80(e) of the Framework, it will not only enjoy the policy support for the location new rural housing expressed in the Framework (ie part of a settlement), but fulfilment of the criteria in paragraph 80(e) will continue to be highly relevant to the overall merits of what is proposed, including in relation to addressing Green Belt policy. This point is reinforced, but separately also provided for, by virtue of paragraph 134 of the Framework as set out above.

Green Belt Policy

- 49. Chapter 13 of the latest version of the Framework sets out national Green Belt policy. This is more up-to-date than the Council's Core Strategy policy on Green Belt. If and to the extent that the Council's Green Belt policy were to be interpreted as applying a different or stricter approach, then the more up-to-date national Green Belt policy would of course be a material consideration to which one would expect significant weight to be attached.
- 50. Great importance is attached to the Green Belt and its fundamental aim of preventing urban sprawl by keeping land permanently open. Paragraph 147 identifies that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 identifies that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 51. Paragraph 149 of the Framework identifies that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt, subject to specific exceptions. These include:

“a) buildings for agriculture and forestry;

...

e) limited infilling in villages;

...

g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

- not have a greater impact on the openness of the Green Belt than the existing development; or
- not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.”

52. I note here that if the Council remains of the view that the Site is in fact not isolated from an existing settlement, then what is proposed is potentially appropriate development within the meaning of paragraph 149 e), namely limited infilling in a village.

53. In addition, to the extent that the Site includes the replacement of existing buildings (such as the livery buildings) and use of previously developed land such as the manege, then the exception in paragraph 149 g) is likely to be engaged.

54. The approach to Green Belt policy was recently considered by the Supreme Court in *R(Samuel Smith Old Brewery (Tadcaster) v North Yorkshire County Council* [2020] UKSC 3 which deals with the correct interpretation of the term “openness”, where visual impact does not have to be a necessary aspect of that concept.

55. In light of that decision, and the application of Green Belt policy in many other cases, it is evident that the use of previously developed land and the removal of other buildings would be material in addressing any limited impact on openness from the proposal and whether it comprises “inappropriate development”.

56. However, even if the development is treated as “inappropriate development” for the purposes of Green Belt policy, it is very clear that the provision of a building that meets the exceptional standards for the criteria in paragraph 80(e) of the Framework is plainly capable of amounting to “very special circumstances” to outweigh any consequential harm to the openness of the Green Belt and any other harm for the purposes of paragraph 147-8 of the Framework.
57. This has been accepted in a number of cases by Inspectors where the countryside house exception to policy is engaged and where the proposal is located in the Green Belt. An example of this is the Inspector’s decision which relates to Mapperley which I have previously provided to those instructing me.
58. Moreover, as set out above, I have already expressed the view that outstanding design within the meaning of paragraph 134 of the Framework is not only something to which significant weight should attach in accordance with that paragraph, but is also capable of constituting very special circumstances, regardless of paragraph 80(e) of the Framework (although there is obvious overlap in the two paragraphs).
59. From the Pre-Application Response, these points do not appear to be recognised by the Council. In my opinion, that is an error of approach. Where a proposal meets the exception in paragraph 80(e) because of its exceptional design quality, in that it is truly outstanding reflecting the highest standards in architecture and raises the standards of design more generally in rural areas, and it would significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area, there is likely to be a very powerful case to make that “very special circumstances” exist to outweigh the inappropriateness of the development in terms of Green Belt. The nature of the exception in paragraph 80(e) of the Framework, with its high bar, is strongly indicative of “very special circumstances”. The same is true for outstanding design for the purposes of paragraph 134 of the Framework, given the importance that is attached to such design in the Framework.

Heritage, Landscape and Other Matters

60. As noted above, the combined effect of section 70(2) of the Town and Country Planning Act 1990 (“the 1990 Act”) and section 38(6) of the Planning and Compulsory Purchase

Act 2004 (“the 2004 Act”) is that planning applications are to be determined in accordance with the statutory development plan applicable to a site, unless material considerations indicate otherwise. The Framework sets out the Government’s national planning policy. It is generally accepted to be a material consideration of relevance to the determination of planning applications.

61. I have identified the Local Plan and relevant policies to which the officer has referred in the Pre-Application Response. I have already dealt with the question of paragraph 80(e) of the Framework and Green Belt policy in the analysis above.
62. The Local Plan is somewhat out-of-date. As a matter of national planning policy, the weight to be attached to policies within the Local Plan will depend upon their general conformity with national policy as expressed in the Framework.
63. Both the Local Plan and the Framework deal with the approach to the conservation and enhancement of the significance of heritage assets, including designated heritage assets.
64. The assessment of the villa against the Local Plan and Framework policies in relation to heritage assets, given the location of the villa adjacent to Woodfold Park and near Woodfold Hall, will clearly be important. Great weight under national policy is given to the effect on the significance of such heritage assets.
65. That, however, is obviously a matter that those instructing me have already given detailed consideration. The application is accompanied by a detailed and comprehensive analysis of the heritage context and, more fundamentally, the design of the proposal and its basic rationale is intended to enhance the heritage assets of Woodfold Park and Woodfold Hall (along with the listed structures in its setting) in the various ways identified in the accompanying material.
66. In addition, it is relevant to note that paragraph 206 of the Framework specifically requires local planning authorities to look for opportunities for new development within the setting of heritage assets to enhance or better reveal their significance. It identifies that proposals that preserve those elements of the setting that make a positive contribution to the asset, or which better reveal their significance, should be treated favourably.

67. It is clear from the material that has been provided in support of the villa design, its location and the accompanying landscape, that its design intention is indeed one of seeking to better reveal the significance of the surrounding heritage assets. This includes Woodfold Park and its historic design aspirations, as analysed by others. It also seeks to address those parts of the existing built form which may current detract from that setting.
68. This is a matter which is also the subject of independent assessment by the TAG Panel (as identified below). Paragraph 206 of the Framework makes it clear that success in this respect would be a matter which should be viewed favourably, given that conservation is not simply looking to preserve assets, but also seeking opportunities to enhance them. Again, this is an important material consideration in assessing the scheme's compliance with development plan and national policy on heritage assets.
69. The assessment of the proposal in relation to heritage is a matter for those experts that have produced reports. It is clear from their conclusions that there is a strong case to make as to the way in which the proposal will not just conserve, but enhance the heritage assets in the vicinity. Such a result would be a matter which the Council should be expected to attach great weight to in the overall assessment of the proposal against relevant policy.
70. I have already dealt with design matters generally in light of paragraph 80(e) and paragraph 134 of the Framework which are relevant to any assessment of the proposal against the Local Plan policies that relate to design. Linked to this is the question of the effect of the proposal on the character and appearance of the area, including the landscape.
71. As already noted, this is the subject of detailed consideration in the supporting information, but again it is also relevant to note the views that have been reached by the independent Traditional Architecture Group panel. They have assessed the scheme and they way it has evolved, and the way that the application has responded to their views.
72. Thus, in the Panel report following its review in May 2022, the Panel commented as follows:

“Furthermore, extending the site west to include Cook’s Farm will enable the creation of a suitable sized landscape setting for the proposed house and allow a seamless flow between the surrounding context and the new house. Extending its terrain would also have the added effect of completing and securing the estate’s historic northern edge onto Further Lane in an appropriate manner. The Panel felt, therefore, that the acquisition of Cook’s Farm is key to the success of the project.

73. The Panel were therefore supportive of the scheme in making provision for the further area of land they had identified as being relevant to the success of the project. The Panel continued as follows:

The siting of the house, using existing mature woodland as a backdrop, is a masterstroke on many levels, not least giving the illusion that the site continues far into and beyond the woodland situated behind the proposed house.

The enhancement of planting along the southern boundary of the site and west into Cook’s Farm will improve the southern boundary and screen views to Woodfold Park Farm. The inclusion of clumps and individual trees will frame views to and from the house from Further Lane.

The house itself will be of very high quality and include finishes appropriate to the surrounding context. Therefore would complement any near or distant views towards the house and complement the setting of the adjacent Woodfold Park.

The landscape design for the site has been well considered within the Repton tradition and includes a sidelong driveway approach (which also continues past the house). This traditional device allows views of the house to burst open as one emerges through clumps of planting. As a finale, a series of floral displays in the Gardenesque style will be provided on terrace spaces next to the house with shrubbery walks continuing towards the lake.

The proposals bring the estate to the boundary with Further Lane, and consequently into the public realm. This is a strong planning benefit because it will allow the public to appreciate the park; something that is currently not possible.”

74. The success of the scheme that the Panel has independently assessed in terms of landscape, as well as in terms of design and heritage, is clearly relevant to the proper assessment of the scheme against the Local Plan and Framework requirements and provides a strong endorsement of the proposal in policy terms.

Summary

75. For the reasons set out above, I consider that:

- a. The Council’s suggestion that the site of the proposed villa is not “isolated” such that paragraph 80(e) of the Framework is not engaged is likely to be based

upon a misunderstanding of that term in the Framework; the expectation is that it would be engaged on the facts as described to me.

- b. Even if the proposed villa is not in an “isolated” location, that would mean that it would enjoy different policy support from the Framework in terms of its sustainable location; but fulfilling the criteria in paragraph 80(e) of the Framework would continue to be relevant to an overall assessment of the merits of the proposal, as would providing outstanding design in light of paragraph 134 of the Framework.
- c. The terms of paragraph 80(e) set a very high standard for exceptional design. The proposed scheme has achieved endorsement from an independent panel, as well as another independent expert, as to the way it has fulfilled the criteria. This represents powerful support for the case that paragraph 80(e) of the Framework is met, as well as the scheme representing outstanding design for the purposes of paragraph 134 of the Framework.
- d. Green Belt policy deals with inappropriate development and appropriate development in the Green Belt. If the Council remain of the view that the site is not isolated, then there may well be a good case that this is not “inappropriate development” - that it may well be limited infilling in such a settlement. In any event, where it uses previously developed land and involves replacement of existing built form it may also not comprise inappropriate development. However, even if it were inappropriate development, that can be justified by the presence of “very special circumstances”. Fulfilment of the criteria in paragraph 80(e) of the Framework is clearly capable of constituting “very special circumstances” to justify inappropriate development in the Green Belt. The same is true of providing outstanding design within the meaning of paragraph 134 of the Framework.
- e. The assessment of the effect of the development on heritage assets is important and a matter for expertise. In light of the material provided to date, there is clearly a strong case to be made that the proposal will not harm heritage assets, but in fact enhance them and their setting, and better reveal the significance of the setting of those assets.
- f. The various studies that have been produced as part of the information provided to me clearly seek to address the Council’s initial Pre-Application Response, including concerns regarding the heritage assets.

- g. The Council ought to have regard to the independent assessment of the proposal in terms of its architectural quality and effect on landscape. I have already quoted from the May 2022 report. I note that the TAG Panel's latest review has concluded that the scheme (on 17 October 2022):

“...overall is an exceptionally competent new neo-classical villa. The design stays true to the Roman and Renaissance architecture of its inspiration while accommodating the needs of modern life in what will be a visually comfortable and elegant home.

It expands the repertoire of the neo classical in the combination of elements, through a long process that achieves a whole, seemingly without effort.

It will be a great asset to the surrounding area (including the historic context) and a marker of how acceptable rural development can proceed in the future.

As previously set out, this is a design that reflects the highest standards of architecture and will fulfil the goals stated in NPPF Paragraph 80e for a project of exceptional quality.

The proposal harmonises with the topography and wider setting to produce an exemplar example of its building type and, in its context, reflects the highest standards of architecture.”

JAMES STRACHAN KC

**39 Essex Chambers
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19 October 2022**