Neutral Citation Number: [2018] EWCA Civ 610

Case No: C1/2017/3292

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

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 28 March 2018

Before:

Lord Justice McCombe
and
Lord Justice Lindblom

- -

Between:

Braintree District Council **Appellant**

- and -

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

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

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Hearing date: 14 March 2018

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

Lord Justice Lindblom:

Introduction

1. Did an inspector determining a planning appeal misinterpret and misapply government policy in paragraph 55 of the National Planning Policy Framework ("the NPPF") that local planning authorities "should avoid new isolated homes in the countryside unless there are special circumstances …"? That is the central question in this appeal. It involves no controversial issue of law.

2. With permission granted by Lewison L.J. on 8 January 2018, the appellant, Braintree District Council, appeals against the order of Lang J., dated 15 November 2017, dismissing its application under section 288 of the Town and Country Planning Act 1990 challenging the decision of an inspector appointed by the first respondent, the Secretary of State for Communities and Local Government, allowing appeals by the second and third respondents, Greyread Ltd. and Granville Developments, respectively under section 174 and section 78 of the 1990 Act. Granville's section 78 appeal was against the council's refusal, on 13 April 2016, of an application for planning permission for the erection of two detached single-storey dwellings on the sites of two agricultural buildings with landscaping on land to the east of Lower Green Road, Blackmore End, Wethersfield in Essex.

3. The site is in the village of Blackmore End, but was outside the settlement boundary defined in the emerging development plan. It lies between Wright's Farmhouse to the north and Lealands Farmhouse to the south. Two pre-fabricated agricultural buildings that had once stood on the site were demolished in 2015. Greyread's section 174 appeal was against an enforcement notice issued by the council on 25 April 2016 against an alleged breach of planning control on the same site, involving, on one part of the site, the demolition of a cattle shed and the partial erection of a single-storey building, the laying of footings and a concrete base, and on the other, the demolition of a cattle shed and the laying of footings and a concrete base.

4. The two appeals were dealt with together, on the parties' written representations. The inspector undertook a site visit on 17 January 2017. His decision letter allowing the appeals, and granting planning permission for the development, is dated 3 February 2017.

The issue in the appeal

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

Paragraph 55 of the NPPF

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

> "55. To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:
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> - the essential need for a rural worker to live permanently at or near their place of work in the countryside; or
> - where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or
> - where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or
> - the exceptional quality or innovative nature of the design of the dwelling. Such a design should:
>
> – be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;
> – reflect the highest standards in architecture;
> – significantly enhance its immediate setting; and
> – be sensitive to the defining characteristics of the local area."

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

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

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

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

> "1. … Guidance on new development within rural areas is also set out in [the NPPF]. … Para.55 states that in order to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. …
>
> The site is located in the countryside beyond any defined settlement boundaries and in a location where there are limited facilities, amenities, public transport links and employment opportunities. … The proposal would introduce new housing development beyond the defined settlement limits and would be contrary to the objectives of securing sustainable patterns of development and the protection of the character of the countryside. Development at this location would undoubtedly place reliance on travel by car. … ."

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

> "As highlighted by the appellant [the NPPF] also requires the intrinsic character and beauty of the countryside to be recognised, seeks to support the transition to a low carbon future in a changing climate, conserving and enhancing the natural environment and reducing pollution. This is in addition to actively managing patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.
>
> Quite clearly, as with many planning decisions, there is a need to balance all material considerations and it is highly likely that future occupants of the two dwellings proposed would be heavily reliant upon the private motor car to access everyday services, community facilities and sources of employment.
>
> … ."

The inspector's decision letter

10. The inspector identified four main issues in the section 78 appeal: first, "[the] effect of the development on the character and appearance of the area"; second, "[the] effect on the setting of neighbouring listed buildings"; third, "[accessibility] to services and facilities"; and fourth, "[the] overall balance and whether the appeal proposal constitutes sustainable development in the countryside" (paragraph 2).

11. Before dealing with those four issues, the inspector considered relevant planning policy in the development plan and in the NPPF. He said that Policy CS5 of the Braintree District Council Local Development Framework Core Strategy (adopted in September 2011) "strictly controls development outside town development boundaries and village envelopes to uses appropriate to the countryside", and that Policy RLP2 of the Braintree District Local Plan Review (adopted in July 2005) "has a similar effect" (paragraph 3). He referred to the policies in paragraphs 49 and 14 of the NPPF (paragraph 4), noted that the council "now acknowledges that it cannot demonstrate a five-year supply of deliverable housing sites"

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

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

> "8. Blackmore End is a recognisable village and is characterised by linear development extending along several roads. There is a dispersed pattern of development along Lower Green Road. The Council refers to the change to village character and to the suburbanising effect it considers would result from the development. However, the site has previously been occupied by two agricultural buildings and the two dwellings would reflect the footprint of those buildings. The proposed dwellings would be single storey and would be of a simple form. The site is well screened in views from the road by hedging, although the provision of visibility splays would reduce that to some extent. Much of the appeal site would remain undeveloped and further planting could be required by condition. A condition could also control extensions and further buildings, so that the site could retain much of its open character. The fenestration and doors shown on the submitted drawing would give the dwellings an inappropriate suburban character. However, there is scope to require revised details of those matters, allowing a more appropriate design to be achieved. Details of materials could also be controlled by condition to reflect local character.
>
> 9. I conclude that subject to appropriate conditions the development would not result in material harm to the character and appearance of the surrounding area. The site is not within a settlement boundary and the development would therefore conflict with policies CS5 and RLP2. It would not accord with the development plan's approach of concentrating development in towns and in village envelopes. On the other hand there are a number of dwellings nearby and the development would not result in the new isolated homes in the countryside to which Framework paragraph 55 refers."

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

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

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

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

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

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

16. The relevant legal principles are clear and uncontentious. They need not be set out at length. The interpretation of planning policy, whether in the development plan or in statements of national policy, is ultimately a matter for the court. When the meaning and effect of a planning policy are contested, the court must avoid the mistake of treating the policy in question as if it had the force or linguistic precision of a statute – which it does not – and must bear in mind that broad statements of policy do not lend themselves to elaborate exegesis. The court's task is to discern the objective meaning of the policy as it is written, having regard to the context in which the policy sits (see the judgment of Lord Reed in *Tesco Stores Ltd. v Dundee City Council* [2012] UKSC 13, at paragraphs 19 to 22, Sullivan L.J.'s judgment in *Redhill Aerodrome Ltd. v Secretary of State for Communities and Local Government* [2015] P.T.S.R. 274, at paragraph 18, and the judgment of Lord Carnwath in *Suffolk Coastal District Council v Hopkins Homes Ltd.* [2017] UKSC 37, at paragraph 24, and the judgment of Lord Gill at paragraphs 72 to 74). The application of policy, however, is for the decision-maker, on a true understanding of what the policy means, but with freedom to exercise planning judgment as the policy allows or requires – subject to review by the court on *Wednesbury* principles alone (see my judgment in *Mansell v Tonbridge and Malling Borough Council* [2017] EWCA Civ 1314, at paragraphs 41 and 42).

17. The court will not lightly accept an argument that an inspector has proceeded on a false interpretation of national planning policy or guidance (see Lord Carnwath's judgment in *Suffolk Coastal District Council*, at paragraph 25). Nor will it engage in – or encourage – the dissection of an inspector's planning assessment in the quest for such errors of law (see my judgment in *St Modwen Developments Ltd. v Secretary of State for Communities and Local Government* [2017] EWCA Civ 1643, at paragraph 7). Excessive legalism in the planning system is always to be deprecated (see my judgment in *Barwood Strategic Land II LLP v East Staffordshire Borough Council* [2017] EWCA Civ 893, at paragraphs 22 and 50).

18. The policy with which we are concerned – the policy in paragraph 55 of the NPPF – has already received some attention in this court – though only slight. In *Dartford Borough Council v Secretary of State for Communities and Local Government* [2017] EWCA Civ 141, Lewison L.J., in paragraph 15 of his judgment, said the relevant definition of previously developed land took as its starting point that the proposed development would be within the curtilage of an existing permanent structure, and it followed, therefore, that "a new dwelling within that curtilage will not be an 'isolated' home" for the purposes of the policy in paragraph 55.

19. In the court below, Lang J. recorded the council's argument, in the light of the policies in paragraphs 28 and 55 of the NPPF and the corresponding guidance in the PPG, that "in applying [paragraph 55 of the NPPF], and considering whether proposed development amounted to "new isolated homes in the countryside", it was irrelevant that the development was located proximate to other residential dwellings", and that "[the] key question was whether it was proximate to services and facilities so as to maintain or enhance the vitality of the rural community" (paragraph 22 of the judgment).

20. The judge noted that the word "isolated" in paragraph 55 is not defined in the NPPF. In her view, however, it was to be given its "ordinary objective meaning of "far away from other places, buildings or people; remote" …" (paragraph 24 of the judgment). As for the "immediate context" of the policy, she said "[this] suggests that "isolated homes in the countryside" are not in communities and settlements and so the distinction between the two is primarily spatial/physical" (paragraph 25). In its "broader context" the policy was, in her view, seeking to "promote the economic, social and environmental dimensions of sustainable development, and to strike a balance between the core planning principles [in paragraph 17 of the NPPF] of "recognising the intrinsic character and beauty of the countryside" and "supporting thriving rural communities within it" …". Thus the council's "analysis of the policy context [was] far too narrow in scope" (paragraph 26). The policy in favour of locating housing "where it will "enhance or maintain the vitality of rural communities"" was "not limited to economic benefits". The word "vitality" was "broad in scope and includes the social role of sustainable development …". The council's restriction of "isolated" homes to those that were "isolated from services and facilities" would "deny policy support to a rural home that could contribute to social sustainability because of its proximity to other homes" (paragraph 27). Paragraph 55 of the NPPF "cannot be read as a policy against development in settlements without facilities and services since it expressly recognises that development in a small village may enhance and maintain services in a neighbouring village, as people travel to use them" (paragraph 28). She concluded that the council was "seeking to add an impermissible gloss to [paragraph 55 of the NPPF] in order to give it a meaning not found in its wording and not justified by its context" (paragraph 29). She saw support for her interpretation of the policy in what Lewison L.J. had said about it in his judgment in *Dartford Borough Council* (paragraphs 30 and 31).

21. It followed, in the judge's view, that the inspector's understanding of the policy, in paragraph 9 of his decision letter, was correct (paragraph 32). She saw nothing unlawful in the remainder of his assessment of the proposal on its planning merits (paragraphs 33 to 37). She was satisfied, therefore, that the inspector had "correctly interpreted [paragraph 55 of the NPPF], and applied it properly to the facts and matters which arose in this appeal" (paragraph 38).

22. For the council, Dr Ashley Bowes submitted that the policy in paragraph 55 of the NPPF establishes a presumption against "new isolated homes in the countryside", which competes with the "presumption in favour of sustainable development" in paragraph 14. It is capable of disengaging the so-called "tilted balance" in that paragraph, because it is one of the "specific policies" in the NPPF that "[indicates] development should be restricted" (see my judgment in *Barwood v East Staffordshire Borough Council*, at paragraph 22). If a proposal offends the policy in paragraph 55, its prospects of gaining planning permission may therefore be much reduced. Dr Bowes submitted that the inspector, having failed to grasp the true meaning of the policy in paragraph 55, also failed to apply the policy for the "presumption in favour of sustainable development" in paragraph 14 of the NPPF, and that his decision was therefore unlawful.

23. Dr Bowes' main submission was that Lang J.'s construction of the policy in paragraph 55 was incorrect, that the word "isolated" in the third sentence of paragraph 55 can mean either physical or functional isolation, and that, in the application of the policy, both of these two concepts are relevant and significant. The judge's focus on physical isolation, as opposed to functional, was in error. A decision-maker must always consider two questions: first, "whether the site is physically isolated relative to settlements and other development", and secondly, of equal importance, "whether the site is functionally isolated relative to services and facilities". Only if both of those questions are answered in the negative will the proposal comply with the policy – unless "special circumstances" are demonstrated. To consider only the first question would be to ignore, and fail to give effect to, the basic purpose of the policy, which is to sustain the rural economy by supporting local services and facilities. The Government's intention here, Dr Bowes submitted, was that new housing in rural areas should be located so as to support those services and facilities, and thus maintain and enhance the vitality of rural communities. As the guidance in paragraph 50-001-20160519 of the PPG makes plain, housing has an "essential" role to play in ensuring the viability of those services and facilities. Therefore, Dr Bowes contended, under the policy in paragraph 55 of the NPPF, housing that would be "isolated" from services and facilities should be avoided unless there are "special circumstances".

24. This argument seems somewhat different from that presented to the judge. The contention before her, as I understand it, was that the fact of a site's presence within a rural settlement, close to other dwellings, was irrelevant under the policy in paragraph 55, at least if the settlement lacked services and facilities of its own.

25. Lang J.'s analysis was supported by Mr Stephen Whale for the Secretary of State and Mr Paul Shadarevian Q.C. for Greyread and Granville.

26. In my view the judge's conclusions were sound, and her understanding of the policy in paragraph 55 correct.

27. Our task, as Mr Whale and Mr Shadarevian submitted, is to construe the words of the policy itself, reading them sensibly in their context. This is not a sophisticated exercise, and it need not be difficult. It is, in fact, quite straightforward. Planning policies, whether in the development plan or in the NPPF, ought never to be over-interpreted. As this case shows, over-interpretation of a policy can distort its true meaning – which is misinterpretation.

28. The first thing to be said about the policy in paragraph 55 is that it is expressed in general and unprescriptive terms. It does not dictate a particular outcome for an application for

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

29. Secondly, the policy explicitly concerns the location of new housing development. The first sentence of paragraph 55 tells authorities where housing should be "located". The location is "where it will enhance or maintain the vitality of rural communities". The concept of the "vitality" of such a community is wide, and undefined. The example given in the second sentence of paragraph 55 – "development in one village" that "may support services in a village nearby" – does not limit the notion of "vitality" to a consideration of "services" alone. But it does show that the policy sees a possible benefit of developing housing in a rural settlement with no, or relatively few, services of its own. The third sentence of the paragraph enjoins authorities to avoid "new isolated homes in the countryside". This is a distinction between places. The contrast is explicitly and simply a geographical one. Taken in the context of the preceding two sentences, it simply differentiates between the development of housing within a settlement – or "village" – and new dwellings that would be "isolated" in the sense of being separate or remote from a settlement. Under the policy, as a general principle, the aim of promoting "sustainable development in rural areas" will be achieved by locating new dwellings within settlements and by avoiding "new isolated homes in the countryside". The examples of "special circumstances" given in the policy illustrate particular circumstances in which granting planning permission for an isolated dwelling in the countryside may be desirable or acceptable. But what is perfectly plain is that, under this policy, the concept of concentrating additional housing within settlements is seen as generally more likely to be consistent with the promotion of "sustainable development in rural areas" than building isolated dwellings elsewhere in the countryside. In short, settlements are the preferred location for new housing development in rural areas. That, in effect, is what the policy says.

30. Thirdly, the adjective "isolated", which was the focus of argument before us, is itself generally used to describe a location. It is not an unfamiliar word. It is commonly used in everyday English. Derived originally from the Latin word "insula", meaning an "island", it carries the ordinary sense of something that is "… [placed] or standing apart or alone; detached or separate from other things or persons; unconnected with anything else; solitary" (The Oxford English Dictionary, second edition). This was the meaning favoured by the judge (in paragraph 24 of her judgment), and there is no dispute that in this respect she was right.

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

32. What constitutes a settlement for these purposes is also left undefined in the NPPF. The NPPF contains no definitions of a "community", a "settlement", or a "village". There is no specified minimum number of dwellings, or population. It is not said that a settlement or development boundary must have been fixed in an adopted or emerging local plan, or that only the land and buildings within that settlement or development boundary will constitute the settlement. In my view a settlement would not necessarily exclude a hamlet or a cluster of dwellings, without, for example, a shop or post office of its own, or a school or community hall or a public house nearby, or public transport within easy reach. Whether, in a particular case, a group of dwellings constitutes a settlement, or a "village", for the purposes of the policy will again be a matter of fact and planning judgment for the decision-maker. In the second sentence of paragraph 55 the policy acknowledges that development in one village may "support services" in another. It does not stipulate that, to be a "village", a settlement must have any "services" of its own, let alone "services" of any specified kind.

33. Does this reading of the policy in paragraph 55 fit the broader context of the policies for sustainable development in the NPPF and guidance in the PPG? I think it does.

34. Paragraph 7 of the NPPF refers to the "three dimensions to sustainable development: economic, social and environmental", in which the "social role" involves "supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being …". Of the 12 "core land-use planning principles" in paragraph 17, the fifth is to "take account of the different roles and character of different areas … recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it". The eleventh is "actively [to] manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable". And the twelfth is to "take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs". Paragraph 28 states that local and neighbourhood plans should "promote the retention and development of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship". The policy in paragraph 29 recognizes that "different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas". And the policy in paragraph 34 says that "[plans] and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised", but that "this needs to take account of policies set out elsewhere in this Framework, particularly in rural areas".

35. None of those policies suggests a different understanding of the policy in paragraph 55 from mine. Indeed, if anything, I think they tend to confirm it.

36. In my opinion the language of paragraph 55 is entirely unambiguous, and there is therefore no need to resort to other statements of policy, either in the NPPF itself or elsewhere, that might shed light on its meaning. Mr Whale suggested that the use of the PPG to assist in construing policies in the NPPF would be inappropriate in principle. This is not something we have to decide, because the meaning of the policy we are dealing with here is plain on its

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

37. In any event, the interpretation of the policy that I consider to be right seems entirely consistent with the guidance on plan-making in paragraph 50-001-20160519 of the PPG, including the proposition that "settlements can play a role in delivering sustainable development in rural areas – and so blanket policies restricting housing development in some settlements and preventing other settlements from expanding should be avoided unless their use can be supported by robust evidence".

38. This all seems at one with Lewison L.J.'s observation about the policy – brief as it was – in paragraph 15 of his judgment in *Dartford Borough Council*.

39. I do not accept Dr Bowes' argument that the word "isolated" in paragraph 55 must be understood as meaning either (a) "physically isolated" or (b) "functionally isolated" or "isolated from services and facilities"; that the decision-maker must therefore address two questions – first, whether the proposed new dwelling would be physically separate or remote from any other dwelling, and secondly, whether it would be isolated from services and facilities; and that if the proposed development would be either separate or remote from other dwellings or separate or remote from services and facilities, it offends the policy. This would be a strained and unnatural reading of the policy. In my view it is neither necessary nor appropriate to gloss the word "isolated" by reading an additional phrase into paragraph 55 whose effect would be to make the policy more onerous than the plain meaning of the words it actually contains. No such restriction is apparent in the policy, or, in my view, implicit in it.

40. On the interpretation suggested by Dr Bowes, the question of whether a proposed new dwelling on a site within a rural settlement would be an "isolated" new home under the policy would depend, or at least potentially depend, on the presence or absence of services in that particular settlement, rather than, say, in a neighbouring village. This could have the surprising consequence that a proposed dwelling on a site within a settlement, perhaps with several existing dwellings either side of it or surrounding it, would have to be regarded as a "new isolated [home] in the countryside", simply because that settlement did not have any "services" of its own, whereas a similarly located dwelling in a smaller settlement that happened to have "services" of some kind within it – perhaps a shop or a public house – would not be "isolated". Dr Bowes did not seek to deny this. And it would also follow that each and all of the existing dwellings in a settlement without "services" of its own would then have to be regarded as "isolated" too. It seems to me that this would be not merely an artificial construction of the policy, but also wholly unrealistic. I cannot accept that the Government intended the policy to have such an effect, or, if it did, that it would have failed to spell this out in paragraph 55.

41. Reading the policy as I would read it, as we were urged to do by the Secretary of State through Mr Whale, and as I think the Government plainly did intend, reflects common sense – as well as being the literal and natural construction. As the judge acknowledged (in paragraph 27 of her judgment), a policy directed to enhancing and maintaining the "vitality" of rural communities is a policy that embraces the "social" dimension of sustainable development. And as she said, to restrict the concept of an "isolated home" to one that is

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

42. I therefore reject Dr Bowes' submission that the inspector took too narrow a view of the expression "new isolated homes in the countryside". To give effect to the policy in paragraph 55, the inspector was not obliged to ask himself whether the proposed development would be "functionally" isolated as well as "physically". He was required only to consider whether it would be physically isolated, in the sense of being isolated from a settlement. And he did that.

43. None of the descriptive parts of paragraphs 8 and 9 of the decision letter is said to be wrong in fact. There is no dispute that the inspector was right to describe Blackmore End as he did in paragraph 8 of his decision letter: "a recognisable village". As he said in paragraph 9, there were "a number of dwellings nearby". It is also undisputed that Blackmore End is not a settlement without any services and facilities. The inspector found, in paragraph 14 of the decision letter, that the settlement "has a very limited range of services and facilities". That Blackmore End is indeed a settlement, and that there are dwellings a short distance to the north of the appeal site, others a short distance to the south, and another on the other side of the road, to the west, is obvious when one looks at a map. And it is not contested, or contestable, that if the word "isolated" in paragraph 55 of the NPPF means physically isolated in the sense of being isolated from a settlement, the inspector was entitled – as a matter of fact and planning judgment, if not simply as a matter of fact – to conclude at the end of paragraph 9 that "the development would not result in the new isolated homes in the countryside to which Framework paragraph 55 refers".

44. In the circumstances, there was no need for "special circumstances" to be identified to justify a development of "new isolated homes in the countryside". This was not such a development.

45. In my view therefore, the inspector did not misinterpret or misapply the policy in paragraph 55 of the NPPF. His understanding of the policy was accurate, and his application of it impeccable.

46. Nor did he fail to apply the policy for the "presumption in favour of sustainable development" in paragraph 14, given the agreed absence of a five-year supply of housing land (see paragraph 22(2) of my judgment in *Barwood v East Staffordshire Borough Council*). Even if one were to assume that the policy in paragraph 55 fell within the ambit of the exception in paragraph 14 for "specific policies" in the NPPF that "indicate development should be restricted" – which may or may not be so – the inspector, having understood the policy correctly and applied it lawfully, concluded in paragraph 9 of his decision letter that the proposal did not offend it. And he went on, in paragraph 16, to conclude not only that there were no "adverse impacts of granting permission which would significantly and demonstrably outweigh the benefits, when assessed against Framework policies as a whole" – the first exception, or the first limb of the exception, in paragraph 14 – but also, expressly, that there were no "specific policies in the Framework which indicate that the development should be restricted" – the second exception, or the second limb. He was satisfied that the proposal amounted to "sustainable development". And he was also satisfied that it earned the

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

47. As Mr Shadarevian pointed out, when one reads the decision letter fairly as a whole, it is clear that in assessing the proposal on its planning merits the inspector considered all three dimensions of "sustainable development": the "economic" role, the "social", and the "environmental". He did not neglect the fact that Blackmore End "has a very limited range of services and facilities". He found it was "likely that those occupying the dwellings would rely heavily on the private car to access everyday services, community facilities and employment". He acknowledged that "this weighs against the development". But he also recognized that it was "consistent with the Framework that sustainable transport opportunities are likely to be more limited in rural areas" (paragraph 14 of the decision letter). And in drawing together his conclusions on the main issues when he came to consider "The Overall Balance and Sustainable Development", he took into account his finding that "[accessibility] to services, facilities and employment from the site other than by car would be poor" (paragraph 16). Those conclusions did not, however, lead him to the view that any policy of the NPPF was breached. This was a matter of planning judgment for him. I do not think his approach can be faulted. His conclusions are not vitiated by any misinterpretation or misapplication of NPPF policy. They are unassailable in a legal challenge.

48. In my view therefore, the inspector made no error of law, and the judge was right to uphold his decision.

Conclusion

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

Lord Justice McCombe

50. I agree.