



# PINS NOTE 12/2017r1

To: All Inspectors, England

Relevancy: Planning appeals and Secretary of State casework; and local plans examinations

Date of Issue: 17 November 2017

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Last Updated 12 April 2018: Note updated and new paragraphs added following the recent Court of Appeal Judgment.

## ISOLATED DWELLINGS IN THE COUNTRYSIDE AND PARAGRAPH 55 NPPF: BRAINTREE DISTRICT COUNCIL v SSCLG & ORS [2017] EWHC 2743 (ADMIN) AND SUBSEQUENT COURT OF APPEAL JUDGMENT<sup>1</sup>

### Action

1. Inspectors should be aware of the judgment in [Braintree District Council v Secretary of State for Communities and Local Government & Ors \[2017\] EWHC 2743 \(Admin\)](#) (15 November 2017) and subsequent [Court of Appeal judgment](#) (28 March 2018), concerning the meaning of "isolated homes" within paragraph 55 NPPF, which deals with sustainable development within the countryside.
2. In her judgment (which The Court of Appeal has held is sound and her understanding of the policy in the NPPF correct) Mrs Justice Lang found:

*"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)<sup>2</sup>.*

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<sup>1</sup> [Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd \[2017\] EWHC 2743 \(Admin\); \[2018\] EWCA Civ 610](#)

<sup>2</sup> Paragraph 24 of the judgment

*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 spatial002Fphysical."*<sup>3</sup>

3. In the [Court of Appeal judgment](#), Lord Justice Lindblom, has held that:

*"31. ... 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."*

4. Where such matters are a consideration in the appeal before them, including where a decision has been sent for despatch prior to the judgment, but had not been issued at the point of its publication, Inspectors should consider whether it is appropriate for the parties to be given an opportunity to provide comments on the bearing of the judgment, applying the usual natural justice approach to seeking such further comments.
5. Where it is necessary to write to the parties to invite comment, this should be arranged through the Case Officer. A standard form of wording is available at [Annexe A](#).
6. In all cases, Inspectors must ensure that their decisions, where not yet despatched, are consistent with the findings of the Court.

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<sup>3</sup> Paragraph 25 of the judgment

7. The Rural Issues chapter of the Inspector Training Manual (ITM) will be updated shortly.

## Background

8. The undisputed evidence before the Inspector was that Blackmore End was a village, which had linear development extending along several roads. Lower Green Road, a road leading out of the village with a dispersed pattern of development, was the location of appeal site. There were dwellings immediately to the south and north of the appeal site and on the other side of the road, to the west, another dwelling.<sup>4</sup> It was also 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 ...<sup>5</sup>
9. The sole ground of challenge was that the Inspector, in granting planning permission for the erection of two detached single-storey dwellings within an area of countryside beyond any defined settlement boundaries, had misapplied paragraph 55 NPPF 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 of isolated homes was "homes which were remote from services and facilities." Whilst the appeal site was agreed to be within a village, this was without an adopted 'village envelope', and therefore the site was within the countryside as a consequence.
10. However, the Court found that paragraph 55 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."*<sup>6</sup>

and that the policy in favour of locating housing where it will "enhance or maintain the vitality or rural communities" contained with paragraph 55 NPPF 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*

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<sup>4</sup> Paragraph 33 of the judgment.

<sup>5</sup> Paragraph 34 of the judgment.

<sup>6</sup> Paragraph 28 of the judgment

*support to a rural home that could contribute to social sustainability because of its proximity to other homes.”<sup>7</sup>*

11. The Inspector was found to have correctly applied paragraph 55 NPPF in concluding that, since the proposed new homes would be located on a road in a village where there were a number of dwellings nearby, the proposed development would not result in “new isolated homes in the countryside.”
12. Please contact the [REDACTED] if you have any queries on this note.

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<sup>7</sup> Paragraph 27 of the judgment

## **Annexe A**

### **Suggested wording for consulting the appeal parties**

**Braintree District Council v Secretary of State for Communities and Local Government, Greyread Limited & Granville Developments Limited [2017] EWHC 2743 (Admin); [2018] EWCA Civ 610**

I refer to the judgments of 15 November 2017 and 28 March 2018, concerning the interpretation of the term “isolated homes in the countryside” within paragraph 55 of the NPPF (“the Framework”).

The Inspector appointed to determine this appeal has asked me to write to you to ask whether, in light of these judgments, <you wish><your Council wishes> to make any comments as to whether these judgments have any bearing on the appeal.

I would be grateful for your written response within 7 days of the date of this letter. A similar letter has been sent to <the appellant><the Council>, and <the appellant><the Council> should be copied into your response.