

## **DUCHY OF CORNWALL – RESPONDENT 222**

### **REPRESENTATIONS ON PLACEMAKING PLAN**

#### **Matter 2 – Overall Approach**

#### **Issue 2 – whether the overall requirements of the adopted CS would be achieved through the Placemaking Plan**

#### **Q2. Is the strategy for determining Housing Development Boundaries positively prepared, justified and consistent with national policy?**

1. In short no. It is not positively prepared nor justified and not consistent with national policy.

2. National policy is silent on Housing Development Boundaries but is clear on the position for 'limited infilling in villages' in the Green Belt. This is important. National policy makes clear that limited infilling in villages in the Green Belt is acceptable. The PMP makes such infilling very difficult by applying strict criteria to the determination of HBDs that have little bearing to what is taking place on the ground or how a site relates to the existing village. This has the effect of stifling sustainable development. The Council's approach to reviewing HBDs (see CD/PMP/DM20 pages 2 and 3) is inappropriately restrictive, is not justified nor positively prepared. NPPF (paragraph 89) purposely does not define infilling and in doing so provides flexibility in the development of sustainable development in rural areas in the Green Belt.

3. The Placemaking Plan Part 1 (CD/PMP/G1/1) confirms Newton St Loe as a village washed over by Green Belt (Table 2 and paragraph 59, page 30). PMP Policy GB2 (page 125) says that,

"Development in villages in the Green Belt will not be permitted unless it is limited to infilling and in the case of residential development the proposal is within the defined Housing Development Boundary."

4. The PMP (CD/PMP/G1/1, paragraph 302, page 125) refers to the Core Strategy Glossary definition of 'infilling' as,

"The filling of small gaps within existing development e.g. the building of one or two houses on a small vacant plot in an otherwise extensively built up frontage. The plot generally be surrounded on at least three sides by developed sites or roads."

5. So, the PMP recognises that infilling in villages in the GB is permitted but will not allow it if the proposal is not within the defined HBD. The Court of Appeal (see below) has made clear that the determination of what constitutes limited infilling in villages in the Green Belt is a matter of planning judgment. So, it should not be determined by the application of strict criteria or "HBD Guiding Principles" (see CD/PMP/DM20 pages 2 and 3).

6. The Court of Appeal Judgement handed down on 9<sup>th</sup> February 2015 [see Annex 1 for full transcript] which allowed an appeal against the High Court judgment in *Wood v Secretary of State for Communities and Local Government* [2014] EWHC 683 (Admin) provides important clarity on national policy as it relates to villages in the Green Belt. The Appellant had appealed against the decision of Gravesham Borough Council to refuse planning permission for a single dwelling in a site which lay in the Green Belt but was surrounded by existing built development. The principal issue for the Court was the proper interpretation of NPPF paragraph 89.

7. Paragraphs 8 to 12 are pertinent.

“8. Paragraphs 79 to 92 of the NPPF deal with "Protecting green belt land". Inappropriate development in the green belt should not be approved except in "very special circumstances" which will not exist unless the potential harm to the green belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations (see paragraphs 87 and 88).

9. Paragraph 89 is the key paragraph of the NPPF for the purposes of this appeal. So far as relevant, that paragraph provides that:

"A local planning authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this are:

- limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan ..."

10. Before the judge it was submitted on behalf of the second respondent that the words "under policies set out in the Local Plan" governed both limited affordable housing for local community needs and limited infilling in villages.

11. In his oral submissions before us Mr Lopez did not pursue that submission, which had been foreshadowed in his written skeleton argument on behalf of the second respondent. In my view, he was right not to do so. The position of the comma in the description of the exception is important. The words at the end of the exception are part of and govern the second limb of the exception -- limited affordable housing for local community needs. It is readily understandable why that should be so. It may not be possible to accommodate such housing within a village that is in the green belt, so any expansion of the village to accommodate such housing must be dealt with by policies in the Local Plan. The same considerations do not apply to limited infilling in villages.

12. Before this court it was common ground that whether or not a proposed development constituted limited infilling in a village for the purpose of paragraph 89 was a question of planning judgment for the inspector and the inspector's answer to that question would depend upon his assessment of the position on the ground. It was also common ground that while a village boundary as defined in a Local Plan would be a relevant consideration, it would not necessarily be determinative, particularly in circumstances where the boundary as defined did not accord with the inspector's assessment of the extent of the village on the ground. Against that agreed background, I turn to the inspector's decision."

8. It is clear that limited infilling in villages in the Green Belt should be directed by planning judgment not by policies in the Local Plan. While the glossary in the Core Strategy is not policy the PMP (CD/PMP/G1/1) gives it additional weight by bringing it into the main part of the Plan at paragraph 302, page 125. The Court of Appeal held that a village boundary [or HBD] as defined in a Local Plan is a relevant consideration but is not determinative but it is clearly helpful to extend a HBD to include infill sites to provide certainty for the delivery of sustainable development in rural areas.

9. Therefore, consideration needs to be taken of what is happening on the ground instead of applying strict criteria that have the effect of stifling sustainable development and not enabling appropriate infilling in villages within the green belt. In doing so, careful planning judgment should be given to the appropriateness of extending the HBD at Newton St Loe taking into consideration the evidence provided in the Duchy's representations prepared by Aaron Evans Architects in January

2016. By contrast the Council has applied blanket rejection of the Duchy's evidence as the sites do not meet the 'HBD guiding principle'.

10. I would invite the Inspector to carefully consider the evidence set out in the "Placemaking Representations, Housing Development Boundary Review for Newton St Loe," prepared by Aaron Evans Architects, January 2016 as it applies in the local context on the ground with a view to extending the HBD to include the sites and, if appropriate, allocating them as Site Allocations in accordance with the representations submitted by the Duchy of Cornwall on the Submission Draft PMP.

ANNEX 1 FOLLOWS – COURT OF APPEAL JUDGMENT 9<sup>TH</sup> FEBRUARY 2015