



Northumberland

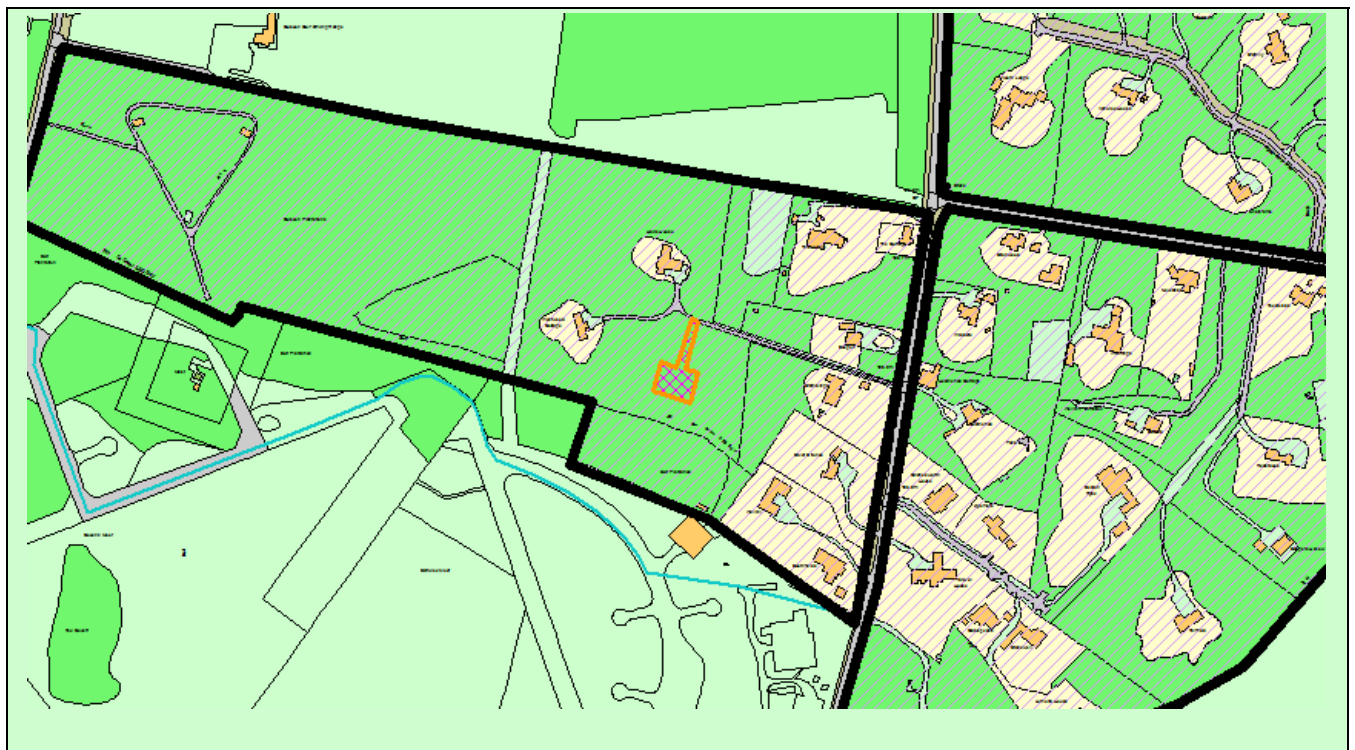
County Council

Castle Morpeth Local Area Planning Committee

8th April 2019

Application No:	14/01898/OUT		
Proposal:	Outline application for construction of single detached dwelling house		
Site Address	Land West Of Bramblings, Tranwell Woods, Morpeth, Northumberland		
Applicant:	Mrs Susan Leffers- Smith Laurel Cottage, Hammonds Lane, Ropley, Hampshire S024 0DZ	Agent:	Mrs Woodcock York House, Netherwitton, Morpeth, Northumberland NE614NU
Ward	Longhorsley	Parish	Mitford
Valid Date:	23 September 2014	Expiry Date:	18 November 2014
Case Officer Details:	Name:	Mrs Judith Murphy	
	Job Title:	Principal Planning Officer	
	Tel No:	01670 622640	
	Email:	judith.murphy@northumberland.gov.uk	

Recommendation: That this application be REFUSED permission



1. Introduction

1.1 This application is to be determined by the Castle Morpeth Local Area Council following the quashing by judicial review of three previous decisions issued by the Local Planning Authority, to grant permission on 11th November 2014, 2 December 2015 and 6 July 2016.

1.2 There is a long-running history to this site. Applications for planning permission for the erection of a dwellinghouse were refused in 1989 and, twice, in 1999. An appeal against one of the refusals of planning permission in 1999 was dismissed by an inspector in 2000. Another application was refused in 2008, and that refusal was the subject of an appeal decision in January 2009. This appeal decision is a material consideration in the determination of this application before Members now and will be addressed later in the report.

1.3 A further application for the same development was received by the Council in 2013 and was refused. The final submission was in 2014 which has, to date, been granted planning permission, in total, 3 times. All permissions have been challenged by the same third party through judicial review at the High Court. Each challenge has been successful and the decision has been quashed. For clarity, when a decision is quashed through judicial review, the application falls to be reconsidered and determined.

1.4 The final decision of the High Court to quash the decision was challenged by the Council, and was dismissed by the Court of Appeal. This will be addressed during this report.

1.5 The application at the present time remains undetermined.

2. Background

Previous applications

2.1 Members will be aware that this application was initially granted planning permission on 11th November 2014 by the North Area Planning Committee. It was concluded that the principle of development was acceptable in that it constituted limited infilling in a village and would, therefore, not be considered as inappropriate development in the Green Belt. It was further concluded that the proposal would not give rise to any material harm to the character and appearance of this part of the Green Belt.

2.3 The application was considered against the NPPF (2012 as was at the time of the application) and the relevant local plan policies. The NPPF did not define a "village", nor is this defined in the (now Made) Morpeth Neighbourhood Plan. The same is true when defining 'infill development'. Therefore, the interpretation of a village and infill development is very much a matter of judgement.

2.4 As a steer on defining a village, and whilst not providing for any planning-specific classification, the 2011 Rural Urban Classification (RUC) issued by the Department

for Environment Food & Rural Affairs was considered as part of the overall assessment of the application. This document seeks to explain how a “village” may be characterised. In part, the RUC defines villages as a cluster of dwellings. Further to this, within the characterised hierarchy, the RUC regards a cluster of three to eight farmsteads as a hamlet. Villages, by contrast, disclose a core and are defined on the basis of a distinctive density profile (the different categories of settlement are thus identified on the basis of form, not on the basis of population).

2.5 A cluster of farms that may qualify as a hamlet may equally form part of a group of dwellings that is sufficiently substantial to satisfy density profile guidance as to be regarded as a village. Some small clusters of properties may however neither be classified as a hamlet or a village. These may include traditional rural settlement forms such as isolated farmsteads, with or without additional dwellings, other isolated dwellings and small groups of dwellings such as single terraces that are associated with former mining or rural industrial activity.

2.6 On balance, it was considered at that time that the proposal represented limited infill in a village within the green belt. (It should be noted that a revised NPPF was issued in February 2019. Whilst minor changes have been made, the policies and objectives around green belt and open countryside remain unchanged).

2.7 The first judicial review then followed and was considered by the High Court with the decision issued on the 3rd March 2015. The outcome of the High Court was that the decision-maker (LPA) had ‘erred in failing to correctly apply the relevant green belt policy within the planning officer’s report’. Having considered the findings of the High Court, the LPA conceded that the decision should not be allowed and the decision was quashed (by mutual consent).

2.8 The application was duly reconsidered and the green belt policies were addressed more specifically in the officer’s report. In doing this, the officer arrived at the same conclusion, as follows:

It is not considered the proposals would be an encroachment into the open countryside, since the site lies within an established settlement, thus in conformity with the fundamental aim of the Green Belt, which is to prevent urban sprawl. Further, it is not considered that this part of the Green Belt would be harmed as a result of the proposed development. The proposal would not involve any merging of neighbouring towns, nor would it encroach into the open.

The proposal would introduce a new dwelling next to existing dwellings and that could have implications for the existing character and appearance. It would inevitably introduce a higher degree of residential paraphernalia within the combined sites. However, when the site is viewed from both near and distant viewpoints it is not considered that there would be any significant changes which would lead to harm being caused to the character and appearance of this part of the Green Belt.

It is considered that these proposals would provide a low impact development and maintain the integrity of the rural feel of the intervening land.

Overall, it is considered that the proposal would constitute limited infilling within the existing village, no harm would be caused and there would be no material change in the character and appearance of this part of the Green Belt. Therefore, in this case,

the proposals are not considered to be inappropriate development in the Green Belt in line with the advice set out in paragraph 89 of the NPPF.

2.9 The application was granted planning permission in line with officer recommendation at the Strategic Planning Committee on 2nd December 2015.

2.10 This decision was subject to a second challenge by judicial review and subsequently quashed by the High Court of Justice on 4 April 2016, ruling that the decision-maker (LPA) had failed to apply Policy H7 of the Castle Morpeth District Local Plan. As such, the application was to again be re-determined with specific regard given to Policy H7, to which the High Court referred. In taking account the High Court's ruling, a further officer's report was prepared, which documented this policy, as shown below:

For the purposes of the statutory development plan, specific policy guidance on executive dwellings development within Tranwell Woods is set out in Policies H6 and H7 of the Local Plan. As already set out above, it is considered that very little, if any, weight attaches to Policy H7 following adoption of the Morpeth Neighbourhood Plan where this aged Local Plan policy is effectively superseded by Policy Set 1.

Notwithstanding this, and in recognition that some, albeit very little weight, may attach to Local Plan Policy H7, this advises that development proposed within certain plantations, including Gubeon Wood where the proposed development is located, will not be permitted. In other parts, proposals for new housing will be required to comply with criteria (i) to (iii), that: (i) there will be no significant adverse impact upon the landscape and the general environment, including sites of acknowledged conservation importance and the existing infrastructure; (ii) that the quality of design and use of materials will make a significant contribution to the local building tradition, and (iii) development will be required to respect the character of existing development and of the woodlands, and shall include a scheme for the management of the woodlands within the plot.

Given that the proposed development would fall within the Gubeon West plantation area, the development would mean a conflict with the prohibition as expressed under Policy H7. This is because Policy H7 provides for an absolute prohibition on development within this location. No other conflict arises with Policy H7 generally or with criteria (i) - (iii). Fundamentally however, the Policy H7 prohibition is notably aged and out-of-date, in light of the guiding principle of sustainability and the very important aim of delivering a wide choice of homes, provided for under the NPPF. Moreover, the policy is superseded by Policy Set 1 of the Morpeth Neighbourhood Plan against which the proposed development would comply for the reasons set out above. It is therefore considered that negligible weight only should be given to the Policy H7 conflict that arises. Whilst there does arise a conflict with this policy, upon the assessment of material considerations, it is considered in overall terms that this conflict is insignificant.

2.11 Given that policy H7 was detailed and considered, Members agreed with the recommendation to approve the application. However, a further challenge (third) by Judicial Review of the decision of the Local Planning Authority was raised. The grounds of challenge were that the LPA had:

- i) misinterpreted the meaning of "village" and "limited infilling" in the context of

policy,

- ii) that the decision is irrational on the facts,.
- iii) that the decision is inconsistent with other decision and other parts of the Officer's report (the "OR") which was prepared for the planning committee, and further is inconsistent with the recently adopted Neighbourhood Plan
- iv) that the decision is inadequately reasoned.

2.12 In her judgment dated 30th March 2017, Her Honour Judge Belcher said that since the NPPF, or any other relevant planning policies or documentation did not define a village it was impossible for her to adopt a list of characteristics that indicated one without straying into a subjective judgement. H.H.J. Belcher stated:

"30. I am driven to the conclusion that it is ultimately a matter of planning judgement whether Tranwell Woods is a village for the purposes of the Green Belt policy. Whilst others may not agree with the OR and the planning committee that Tranwell Woods is a village, the decision is a planning decision for the planning committee and, in my judgment, there are no grounds on which I could properly find the conclusion that Tranwell Woods is a village is irrational, or outside the bounds of a decision that a reasonable decision maker could hold."

2.13 The decision was quashed on the basis of the Strategic Planning Committee failing to provide reasons for its conclusion that the development amounted to 'limited infilling', particularly in light of the earlier Planning Inspector's decision (Appeal Reference APP/T2920/A/08/2077934), dated 9th January 2009 to an earlier application on the same site which found to the contrary. The test the Inspector applied to whether the site was infill was that the intended development did not represent a gap in an otherwise developed frontage along the C151 through Tranwell Woods. The inspector concluded that "to allow the appeal would add an intrusive element to this sensitive area of the countryside" and "while the dwelling would have limited visibility from public viewpoints that cannot establish a convincing justification for the proposal".

2.14 A decision was taken that Northumberland County Council would challenge the decision of the Court of Appeal. The grounds for the challenge were that the Council felt that the application site could be justifiably classed as "limited infilling".

2.15 On 29th June 2018, the Court of Appeal dismissed the County Council's appeal. Lord Justice (L.J.) Lindblom and L.J. Peter Jackson, agreed that the County Council had erred in law in making its decision as it should have given reasons why the approach and conclusion it adopted to a development on the site being "limited infilling" in July 2016, was at odds with the planning inspector's decision in January 2009, when a similar development was found not to be "infill" development. In giving his judgment LJ Lindblom made the following statement, referring to the 2009 appeal decision:

"40. There was no attempt to distinguish the previous decision on its facts, and I cannot see how that would have been possible. The situation on the

ground - the site and its surroundings - had not materially changed since the inspector's decision. And the proposal was, effectively, the same."

2.16 In defining infill development, it is mutually agreed that this is a matter of judgement given the lack of definition in any national or local plan documents. However, in making that judgement, the High Court's decision makes reference to the planning inspector's decision of 2009 in which the inspector favoured a reasonable test of infill to be defined by whether a proposed development would occupy "a gap in an otherwise [developed] frontage...". This is the test the Inspector adopted. When he applied that test, he found that the proposal before him was not infill development. He went on to say that a reasonable conclusion was that made by the inspector.

2.17 The Court of Appeal's view that the Council did not evidence their findings in concluding this is an infill site adequately and robustly is accepted. The report clearly defines the site as infill but, on reflection, fails to identify how that conclusion has been reached, or any tests that have been considered to reach that conclusion. It is also accepted that the officer report fails to distinguish between the previous refusal and the current approval on the facts and material considerations, of which previous decisions form part of, to reasonably lead to a different recommendation.

Recommendation

2.18 In considering the full history of this site, and having considered the full merits in their entirety, the LPA is of the view that the approach taken by the Planning Inspector is appropriate and reasonable and adds a degree of robustness to an otherwise arbitrary view or opinion. Given that this was considered reasonable at the Court of Appeal, the local planning authority has not been presented with an alternative reasonable approach to form a different view. Notwithstanding the justification in the officer's report as to why the previous refusal reasons given in 2008 were no longer felt to be relevant in the subsequent planning applications, it cannot be argued that the infill point was not debated.

2.19 In response to this and to the judgement decisions of the High Court of Justice and Court of Appeal the Local Planning Authority is bringing the application before the Castle Morpeth Local Area Council for determination. The application has been re-assessed alongside the inspector's decision of 2009, the High Court decision, the Court of Appeal decision against planning policy and all other material considerations, and it is now brought back to Members with a recommendation of refusal. The reasons for this are documented at the end of the report.

2.20 The remainder of the report will now follow the appraisal of the application in the usual format. The report considered at the Strategic Planning Committee on 5th July 2016 is appended for ease.

3. Description of the Proposals

3.1 The application seeks Outline Planning Permission with all matters reserved (access, appearance, landscaping, layout and scale) for a single storey, five bedroomed residential dwelling with associated curtilage, parking and access on land west of Bramblings in Tranwell Woods near Morpeth.

3.2 Albeit access is proposed as a reserved matter, it is anticipated that access to the site would be from the north, off the existing access track that already serves properties at Westwood Cottage and Havis House, in Tranwell Woods. The detailed road layout within the site would be submitted at reserved matters stage.

3.3 A phase 1 ecological report, a site location plan and block plan have been submitted as part of the application together with an annotated aerial photograph that shows other sites within Tranwell Woods, including sites which have been approved for sub-division.

4. Planning History

Reference Number: 89/D/220

Description: [Outline] Erection of detached dwelling

Status: Refused 12/07/1989

Reference Number: 99/D/049

Description: Erection of detached dwelling

Status: Refused 09/04/1999

Reference Number: 99/D/307

Description: Erection of detached dwelling

Status: Refused 25/08/1999

Reference Number: APP/T2920/A/99/1030091 & 92

Description: Appeal against 99/D/307

Status: Dismissed 08/02/2000

Reference Number: CM/20070961

Description: Erection of dwelling

Status: Withdrawn 07/12/2007

Reference Number: CM/20080227

Description: Erection of dwelling and garage.

Status: Refused 16/05/2008

Reference Number: APP/T2920/A/08/2077934

Description: Appeal against CM/20080227

Status: Dismissed 09/01/2009

Reference Number: 13/03664/OUT

Description: [Outline] Erection of single detached dwelling house

Status: Refused 21/02/2014

5. Consultee Responses

Mitford Parish Council	The Parish Council was content with this application provided there is a S106 Planning Obligation and Land Management Plan referred to in the application.
------------------------	--

Morpeth Town Council	Objection on the grounds of suggested over-development within a protected area.
Highways	No objections, subject to the imposition of appropriate conditions to adequately maintain highway safety.
County Ecologist	No objections, subject to the imposition of conditions maintaining the favourable status of protected species and the requirement to provide a 10 years woodland management plan.
North Trees And Woodland Officer	No objections, subject to the imposition of appropriate conditions.
Northumbrian Water Ltd	No observations.

6. Public Responses

Neighbour Notification

Number of Neighbours Notified	16
Number of Objections	5
Number of Support	11
Number of General Comments	0

Notices

General site notice, displayed 2nd October 2014
No Press Notice Required.

Summary of Responses:

Eleven letters of support have been received from members of the public resident in Tranwell, as well as from West Sussex and Hampshire. Comments include:

- Development would improve the character of Tranwell Woods
- Development would improve local and regional economy
- Development would improve the woodland

Five letters of objection have been received from members of the public resident in Tranwell. Comments include:

- Adverse impact on ecology
- Drainage
- Poor access
- Adverse impact on trees
- Lack of need for executive type dwellings
- Inappropriate development in the Green Belt

The above is a summary of the comments. The full written text is available on our website at:

<http://publicaccess.northumberland.gov.uk/online-applications//applicationDetails.do?activeTab=summary&keyVal=N6YM7EQS0FV00>

7. Planning Policy

7.1 Development Plan Policy

Morpeth Neighbourhood Plan (May 2016) (MNP)

Policy Sus 1 - Sustainable Development Principles
Policy Set 1 - Settlement Boundaries
Policy Des1 – Design Principles
Policy Tra3 – Transport Requirements for New Developments
Policy Inf1 – Flooding and Sustainable Drainage

Castle Morpeth District Local Plan (2003) (CMLP)

C1 Settlement boundaries
C11 Protected species
C15 Trees in the countryside and urban areas
H6 Special executive housing
H7 Tranwell Woods
H15 New housing developments
H16 Housing in the Countryside
RE5 Surface Water Run-Off and Flood Defences
RE8 Contaminated Land
RE9 Land Instability

Saved Policy S5 of the Northumberland County and National Park Joint Structure Plan First Alteration (February 2005).

National Planning Documents

National Planning Policy Framework (2019)
National Planning Policy Guidance (as amended)

Other Planning Policy Documents

Northumberland Local Plan (NLP) – Publication Draft Plan (Regulation 19)

STP1 – Spatial strategy
STP2 – Presumption in favour of sustainable development
STP3 – Principles of sustainable development
STP8 – Development in the Green Belt
HOU2 – Provision of new residential development
HOU8 – Residential development in the open countryside
QOP1 – Design principles
QOP2 – Good design and amenity
QOP4 – Landscaping and trees
ENV2 – Biodiversity and geodiversity
ENV3 – Landscape

Northumberland Landscape Character Assessment

8. Appraisal

Location

8.1 The application site is located within Tranwell Woods. Tranwell Woods is set within an area of open countryside, located approximately 3 kilometres from Morpeth and across the A1 trunk road. This wooded landscape includes dwellings of low density, set in extensive grounds. The site is located within the Green Belt.

8.2 The application site is enclosed by mature tree planting along three of its boundaries, with a track running to the north. Beyond, to the west, north-west, north-east, east, and south-east is existing residential development.

Green Belt

8.3 Saved Policy S5 of The Northumberland County and National Park Joint Structure Plan (2005) identified the general extent of a Green Belt extension around Morpeth. Although S5 did not define the detailed outer boundaries of the Green Belt, the policy did provide a detailed description of where the boundary should appropriately be defined. This site lies within the Green Belt boundary described by Policy S5. Therefore, there is no ambiguity that the application site falls to be in the Green Belt.

8.4 The provisions of the NPPF relating to the protection of Green Belt land apply (paragraphs 133 to 147). The NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Green Belt also assists in safeguarding the countryside from encroachment. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances (Paragraphs 143 and 144 of the NPPF). NPPF paragraph 145 states that local planning authorities should regard the construction of new buildings as inappropriate in the Green Belt, however, this is subject to exceptions. The exceptions listed in paragraph 145 include “limited infilling in villages”.

8.5 Previously planning permission has been granted for this application by the local planning authority on the basis that the development constitutes an exception and that the proposed development amounts to ‘limited infilling in villages’. As documented in the background section of this report, these decisions have been challenged for reaching the following conclusions: that Tranwell Woods is a ‘village’, and that the proposal constitutes limited infilling. This will be revisited below.

Village

8.6 A “village” is not defined under the NPPF. Nor is a “village” specifically defined by the development plan, including the Neighbourhood Plan (which identifies some villages, but does not purport to provide any exhaustive list or definition). The same applies in respect of the phrase “infill development”. Ultimately a planning judgment is required to be made as regards to what does and does not amount to (limited) infill development within a village. Again, and for the purposes of the appraisal of this application, whilst not providing for any planning-specific classification, the 2011

Rural Urban Classification (RUC) issued by the Department for Environment Food & Rural Affairs, does however seek to explain how a “village” may be characterised. In part, the RUC defines villages as a cluster of dwellings. Further to this, within the characterised hierarchy, the RUC regards a cluster of three to eight farmsteads as a hamlet. Villages, by contrast, disclose a core and are defined on the basis of a distinctive density profile (the different categories of settlement are thus identified on the basis of form, not on the basis of population).

8.7 A cluster of farms that may qualify as a hamlet may equally form part of a group of dwellings that is sufficiently substantial to satisfy density profile guidance as to be regarded as a village. Some small clusters of properties may however neither be classified as a hamlet or a village. These may include traditional rural settlement forms such as isolated farmsteads, with or without additional dwellings, other isolated dwellings and small groups of dwellings such as single terraces that are associated with former mining or rural industrial activity.

8.8 Tranwell has in the region of 27 residential units. Contrastingly, Tranwell Woods has approximately 45 residential units.

8.9 Having regard to the above factors and to all relevant site and geographical location-specific factors, it is adjudged that Tranwell Woods constitutes a “village” for the purposes of applying the paragraph 145 NPPF ‘exception’ of ‘limited infilling in villages’. The courts have not disagreed with this above approach or the same approach taken in the previous officer’s report. The High Court judgement by H.H.J. Belcher stated:

“30. I am driven to the conclusion that it is ultimately a matter of planning judgement whether Tranwell Woods is a village for the purposes of the Green Belt policy. Whilst others may not agree with the OR and the planning committee that Tranwell Woods is a village, the decision is a planning decision for the planning committee and, in my judgment, there are no grounds on which I could properly find the conclusion that Tranwell Woods is a village is irrational, or outside the bounds of a decision that a reasonable decision maker could hold.”

8.10 Whether the proposed development amounts to ‘limited infilling’ for the purposes of paragraph 145 will be considered below.

Limited Infill

8.11 As detailed earlier, consideration should be given to the appeal decision of Planning Inspector Peter Davies on this site dated 9 January 2009 (reference APP/T2920/A/08/2077934) particularly paragraph 10 of his decision letter (appended). The test he applied to whether the site was infill was that the intended development did not represent a gap in an otherwise developed frontage along the C151 through Tranwell Woods. The inspector concluded that “to allow the appeal would add an intrusive element to this sensitive area of the countryside” and “while the dwelling would have limited visibility from public viewpoints that cannot establish a convincing justification for the proposal”.

8.12 In the judgement of the third judicial review to this application (30 March 2017), H.H.J. Belcher stated that whilst the decision maker was not bound by a previous

decision by an inspector on this site that the development did not amount to infill development; it was a material planning consideration central to the grant of planning permission. Therefore reasons (even if they were limited) should have been given by the decision maker to support the conclusion reached that the development amounted to infill especially when an inspector has reached a decision to the contrary. The court of appeal judgement by L.J. Lindblom and L.J. Peter Jackson (29 June 2018) supports the conclusion reached by H.H.J. Belcher. L.J. Lindblom states the inspector applied one test and when he applied that test he found the development was not infilling in a village. In adopting a different test, the decision maker was disagreeing with a critical aspect of the decision in a previous case, and therefore explanation should have been given of what the new test/approach was which led to reaching a different conclusion that development on the site was infill.

8.13 In this current application, the boundaries of the site do not extend as far as the site subject to the referenced appeal. The eastern and western boundaries of the current application do not extend as far to the neighbouring gardens of the properties to the east and west and the southern boundary does not extend as far south as the belt of plantation woodland. The northern boundary of the current application site has been tapered in and only in part abuts the track to the north. The site is therefore almost entirely enclosed by woodland.

8.14 Applying the above assessment and the test of inspector Davies in 2009, the current application site cannot be considered infill because it does not fill a vacant gap between two existing buildings in a developed frontage, [nor does the site front the highway along the C151 road (or any other street or highway) through Tranwell Woods. Indeed, the Castle Morpeth Local Plan equally defines infill as 'Infilling of small gaps within an otherwise continuously built up frontage'. On both definitions, there are no reasons to support that the development proposed is infill. Therefore, the 'limited infill in villages' exception does not apply in this case and, as such, the development constitutes inappropriate development in the green belt, which is by definition harmful to the green belt.

8.15 It should be noted that the proposal has been appraised against the policies of the Northumberland Local Plan (NLP) – Publication Draft Plan (Regulation 19), which only carries some weight at this point. Having carried out the appraisal, the outcome in terms of Green Belt, infill development and the definition of a village has not changed.

Very Special Circumstances

8.16 Paragraph 143 of the NPPF defines inappropriate development in the Green Belt, by definition, as harmful and should not be approved except in very special circumstances. Those 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.

8.17 In this case, no very special circumstances have been presented, nor does the proposal meet any of the exceptions to development within the Green Belt, as listed under paragraph 145 of the NPPF.

8.18 It is therefore considered that the proposal remains as inappropriate development, which is harmful, within the Green Belt.

Other matters

Equality Duty

9.1 The County Council has a duty to have regard to the impact of any proposal on those people with characteristics protected by the Equality Act. Officers have had due regard to Sec 149(1) (a) and (b) of the Equality Act 2010 and considered the information provided by the applicant, together with the responses from consultees and other parties, and determined that the proposal would have no material impact on individuals or identifiable groups with protected characteristics. Accordingly, no changes to the proposal were required to make it acceptable in this regard.

Crime and Disorder Act Implications

9.2 These proposals have no implications in relation to crime and disorder.

Human Rights Act Implications

9.3 The Human Rights Act requires the County Council to take into account the rights of the public under the European Convention on Human Rights and prevents the Council from acting in a manner which is incompatible with those rights. Article 8 of the Convention provides that there shall be respect for an individual's private life and home save for that interference which is in accordance with the law and necessary in a democratic society in the interests of (inter alia) public safety and the economic well-being of the country. Article 1 of protocol 1 provides that an individual's peaceful enjoyment of their property shall not be interfered with save as is necessary in the public interest.

9.4 For an interference with these rights to be justifiable the interference (and the means employed) needs to be proportionate to the aims sought to be realised. The main body of this report identifies the extent to which there is any identifiable interference with these rights. The Planning Considerations identified are also relevant in deciding whether any interference is proportionate. Case law has been decided which indicates that certain development does interfere with an individual's rights under Human Rights legislation. This application has been considered in the light of statute and case law and the interference is not considered to be disproportionate.

9.5 Officers are also aware of Article 6, the focus of which (for the purpose of this decision) is the determination of an individual's civil rights and obligations. Article 6 provides that in the determination of these rights, an individual is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal. Article 6 has been subject to a great deal of case law. It has been decided that for planning matters the decision making process as a whole, which includes the right of review by the High Court, complied with Article 6.

10. Conclusion

10.1 The main planning considerations in determining this application have been set out and considered above and assessed against the relevant Development Plan Policies and the National Planning Policy Framework (NPPF). It is considered that

the application proposes an inappropriate form of development in the Green Belt. As the site is restricted by Green Belt Policies, there should be no presumption in favour of sustainable development. In view of the above, and given that no special circumstances have been provided to support the proposal, it is considered to be inappropriate development in the green belt, which fails to meet the test for limited infill in a village.

11. Recommendation

That this application be REFUSED permission subject to the following:

Reason(s)

01. The site lies in an area of Green Belt where the siting of new dwellings is considered to be inappropriate development, which is by definition harmful to the Green Belt. The proposal would be contrary to the core planning principles within the NPPF of protecting the Green Belt, preventing urban sprawl and recognising the intrinsic character of the countryside. The proposal does not represent limited infill development within the village and no very special circumstances have been presented that would outweigh the harm and detrimental impact of the proposal upon the openness of the Green Belt. The proposal is therefore considered to be contrary to the NPPF, Joint Structure Plan Policy S5 and Castle Morpeth District Local Plan Policy C17.

Date of Report: 25.10.2018

Background Papers: Planning application file(s) 14/01898/OUT