

Land at Maydencroft Gardens, Gosmore

Application Reference 24/01464/FP

Interpretation of Limited Infilling

Introduction

1. The purpose of this short note is to further outline the Applicants case in respect of the way in which 'infilling' should be interpreted in the context of paragraph 154(e) of the NPPF.
2. The submission follows initial discussions with the application case officer where it was highlighted that the Council has traditionally taken the definition of an infill site to be one which is a small gap in an otherwise built up frontage. However the Officer did acknowledge that there have been contrary Appeal decisions on this subject and so would kindly consider the matter further if a submission on it was made. This is the purpose of this paper.

Discussion

3. The definition that infilling should be taken to mean the development of a small site within an otherwise built up frontage is one that has been used in some areas of planning over time. It was often advanced as an exception to rural restraint policies (PPG7 and PPS7) i.e. infilling in a ribbon of development outside of and away from a defined settlement.
4. However, in terms of its application in the context of paragraph 154(e) of the current NPPF it is our experience that:
 - a. There is no such definition in the NPPF or NPPG.
 - b. Where local planning authorities wish to use a specific definition this should be adopted as part of a specific policy or associated supplementary guidance.
 - c. In areas where no such specific local plan definition has been adopted the assessment of infilling can be wider and a matter for the decision taker.
5. By way of one example the nearby authority of Uttlesford has adopted a design guide and use the following definition of infilling:

*"Infill development commonly consists of 3 types - where there are gaps between existing properties within with a street frontage, **backland sites which may be landlocked or located behind existing buildings**, and site redevelopment."*

Relevant Appeal Decisions

6. Where a local plan policy or SPD defining what will be considered infilling does not exist i.e. nothing has been through examination or a formal process of consultation, Inspectors at Appeal generally acknowledge that infilling can and often is a much wider concept than simply infilling a gap in a frontage.
7. In this context we highlight the following appeals. As will be noted some are allowed and some dismissed but in all cases the discussion around the definition of infilling has concluded that without an adopted policy in place infilling can and should be considered more widely than simply infilling a frontage gap. (Plans are included where available on Council websites).

Appendix 1 – Paynter’s House, 2 Bury Lane, Datchworth SG3 6ST (East Herts)

Appeal Ref: APP/J1915/W/19/3235824

*“5. The term ‘infilling’ is not defined in the Framework or the DP. **Whilst the proposed house would lie behind No 8, I have been referred to no policy that would preclude backland development from constituting infill.***

6. Furthermore, whilst properties elsewhere along Bury Lane tend to directly face the highway, the layout of housing by the appeal site is less regimented with No 2, No 10 and 14 Bury Lane (No 14) forming an arc of development around Paynter’s Green. The proposed house would be in the space between No 2’s and No 10’s side elevations and would fill a space in the arc of development. Given this context and the lack of any policy that suggests otherwise, I find the proposal would represent infill development.”



Appendix 2 – Hawthorn Cottage, Diggle (Oldham) August 2019

Appeal Ref: APP/W4223/W/19/3227776

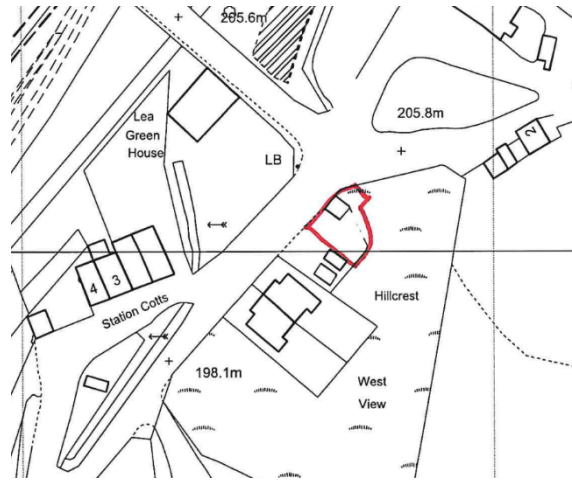
*“11. As to whether the development proposed would amount to ‘limited infilling’, **the Council consider this requirement is not met, because the proposal does not amount to the development of a small gap in an otherwise continuous built-up frontage, or***

*the small-scale redevelopment of existing properties within such a frontage. **The appellants suggest that a wider interpretation, of buildings within the confines of a group of buildings, is appropriate.***

12. There is no definition in the Framework of what constitutes 'limited infilling' and no definition that might be found in local planning policies has been suggested here.

The appeal site is surrounded by buildings, albeit in a very loose arrangement, and, as described by the previous Council report.....

13. Whereas 'infilling' suggests the development of land that is surrounded by existing development on at least 2 sides within reasonable proximity, the requirement for such infilling to be 'limited' requires consideration of both the development site and the scale and form of the proposed development. The proposed development would extend the house by a little more than 5m to its north eastern side, largely below ground level. On this issue I conclude that, although there is some distance across the field to the frontage of the next dwelling, 2 Diglea, to the north east, the spacious nature of this part of Diggle with its loose arrangement of buildings, combined with the small scale and the form of the development proposed, would amount to limited infilling within a village for the purposes of the Framework.



Appendix 3 – Mexborough, Doncaster (May 2018)

Appeal Ref: APP/F4410/W/18/3194280

*“5.Policy ENV9 has now been replaced with policy CS3 of the Doncaster Council Core Strategy (CS) which was adopted in 2012. This later policy requires that development in Green Belt will have regard to national policy. The Framework states in paragraph 89 that the construction of new buildings is inappropriate development in the Green Belt, other than a number of stated exceptions which include limited infilling in villages. **The Framework does not define "limited infilling in villages"**. The now deleted policy ENV9 of the UDP does contain guidance as to what infill development may comprise. The supporting text defines infilling as 1 or 2 houses within a substantial built frontage, which should have a least 3 houses either side of the gap. The site would fail to meet the requirements of policy ENV9 as there is a large gap in the frontage to the west of Rowenda.*

6. However, policy ENV9 has not been saved. Therefore, although I note the proposal would not fall within the definition within the now defunct policy, I see no convincing reason why the development site, which comprises infilling of 2 houses, within an existing settlement, would not reasonably be considered to comprise limited infilling within a village.”

Appendix 4 – Chadderton, Oldham (January 2023)

Appeal Ref: APP/W4223/W/22/3299298

*“9. what constitutes a ‘village’ is not defined in the Framework. Additionally, nor are the terms ‘infill’ and ‘limited’. Furthermore, **I have not been provided with any evidence that these terms are defined in the area’s development plan. In respect of all these concepts, a judgement must be made.**”*

*20. **In the absence of any definition or criteria pertaining to infill development in the area’s development plan, I acknowledge that the concept of infill development referred to in paragraph 145 e) of the Framework may be wider than simply development occupying a gap in an otherwise built-up frontage;**”*

Summary

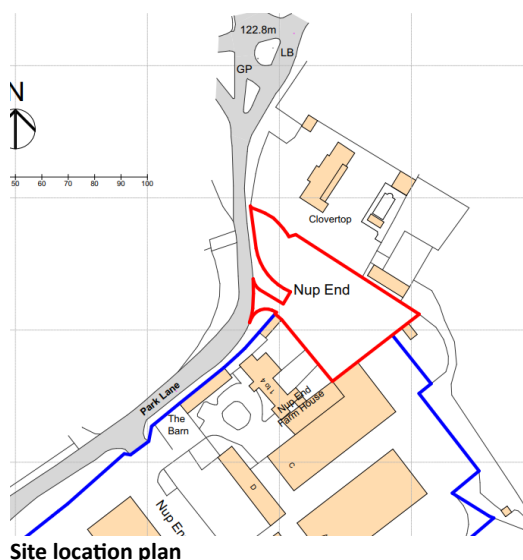
8. In basic summary Inspectors generally take the position that if there is no policy specifically setting out that ‘infilling’ in that particular area will be taken to mean the narrow definition of ‘a small gap within an otherwise built up frontage’, that definition should not be applied.
9. Rather a wider judgement is required in terms of the sites relationship with its surroundings.

North Herts Appeals

Appendix 5 – Nup End Farm House, Old Knebworth (March 2022)

APP/X1925/W/21/3274409

10. In this appeal, the case officer agreed that construction of 3 dwellings on this site could be considered as infilling. However the application was refused on the basis that the site was not considered to lie within a village. The site and approved dwelling layout are shown below.



11. The Inspector allowed the appeal noting:

*“12. Whilst noting the concerns raised by CPRE Hertfordshire, I consider that having regard to the position and nature of the site, the proposed development can be considered to be physically and visually related to Old Knebworth, **to comprise limited infilling in a village**. Therefore, the construction of the proposed development in this location should not be considered to constitute inappropriate development in the Green Belt as it would comply with the exception at paragraph 149 e) of the Framework. Consequently, I conclude that the proposed development complies with the Green Belt aims of saved DLP Policy 2, emerging LP Policy SP5 and the requirements of the Framework.”*

Appendix 6 – 1 Mill Ground, Maiden Street, Weston, Hitchin (February 2021)

Appeal Ref: APP/X1925/W/20/3261445

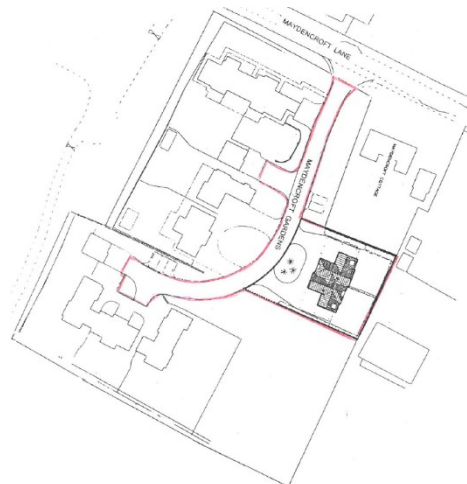
12. In this case permission was refused as it was determined that the site did not meet any policy or NPPF exceptions to inappropriate development in the Green Belt and no very special circumstances were demonstrated. In allowing the Appeal the Inspector held that the site should be seen as limited infilling.

*“4. The appeal site is a small parcel of land well contained within the built up area of Weston. There seems little doubt therefore that the appeal site is within the village. Moreover, as a proposal for a single dwelling **amongst and surrounded by other such buildings**, I would be content in defining the appeal scheme as being **infill development that is limited**.”*



Conclusion – Limited Infilling

13. It is respectfully our submission that the term limited infilling can and should be taken to be wider than simply the development of a gap in a frontage. Appeal decisions clearly confirm this.
14. Adopting a wider definition the current application site should be accepted as infilling within a village and so appropriate as a matter of planning policy principle.



Application site

Emerging Planning Policy (NPPF 2024)

15. In addition to the above, as the Council is aware, a new draft NPPF has been published which sets the direction for planning policy under the new government.

16. Whilst it is only a consultation draft the government has made it clear that it expects that the final version will be in place before the end of the year i.e. in the next 3 months or so.
17. Emerging policy of this nature is a material consideration albeit we appreciate the weight to be afforded to it at this stage is a matter for the decision taker.
18. The draft document seeks a significant step change in housing delivery, re-introducing the standard methodology as the starting point, re-emphasising the importance of retaining a five year land supply and making clear that these requirement will apply to authorities with large areas of Green Belt unless very exceptional circumstances can be demonstrated.
19. Key changes in the text of the NPPF relevant to this proposal are:
 1. The softening of paragraph 154 (g) which allows the redevelopment of previously developed land. It will no longer be a requirement to demonstrate that the new development does not have a greater impact upon the openness of the Green Belt than that which it replaces and rather the test will be whether the proposal would result in “Substantial harm” to the openness of the Green Belt.
 2. The very sensible and logical acknowledgment that not all parts of the Green Belt should be considered to be of the same value / sensitivity to development. Some areas will fall within the definition of ‘Grey Belt’. I believe that this site. The definition of Grey Belt is:

Grey belt: *For the purposes of plan-making and decision-making, ‘grey belt’ is defined as land in the green belt comprising Previously Developed Land and any other parcels and/or areas of Green Belt land that make a limited contribution to the five Green Belt purposes (as defined in para 140 of this Framework), but excluding those areas or assets of particular importance listed in footnote 7 of this Framework (other than land designated as Green Belt).*
20. The application site comprises previously developed land. Whilst development of the site would have a greater impact upon openness than what exists on the site today, it is our submission that the development proposed would not result in “substantial harm” to the openness of the Green Belt. In simple terms on adoption of the new NPPF this would provide further clear justification for its development as proposed in addition to the limited infilling case.

21. The land would also qualify as 'grey belt'. It is previously developed and would not result in any harm to the five green belt purposes.
22. Again therefore this is a further strand of justification in addition to the current infilling case.