

ROGERS

Words without meaning

As a certified pedant, Andy Rogers says let us turn once again to the topic of the meaning of words, and the many uncertainties that exist in our planning system

In the States a bedsitter is classified as an SRO (Single Room Occupancy) and at around 27 square metres can be smaller in an affordable housing (Social Services Client) scheme in New York than is otherwise legally allowed.

Then again, only 17% of the families living in NY have children. [Sometimes the words we use are transported to the USA in a form of 'linguistic cross-pollination'. Apparently some Americans now use 'queue' for 'line', 'ginger' for 'redhead', 'bits' for 'parts' and 'full stop' for 'period'. But, as one commentator over there has remarked: "There is simply no excuse for calling an 'appetizer' a 'starter'."]

Other translations that might be useful when dealing with planning matters include: breeze block = cinder block, central reservation = median strip, car park = parking lot, holidaymaker = vacationer, paddling pool = wading pool, pedestrian crossing = crosswalk, pushchair = stroller, roundabout = traffic circle, aerial = antenna, articulated lorry = tractor-trailer, terraced house = row house, puncture = flat, flat = apartment, and (most con-

fusingly) road = pavement and pavement = sidewalk.

Finally, here are some uselessly vague terms that will need specific examples: amenity, undesirable, beautiful, in keeping, dominant, and subservient - all often used by planners and effectively meaningless because they are too general without specific examples.

I will return to this topic later. Meanwhile don't forget Donald Rumsfeld's famous explanation of policy changes: "There are known knowns. These are things we know that we know. There are known unknowns. That is to say, there are things that we now know we don't know. But there are also unknown unknowns. There are things we don't know we don't know."

When is an outbuilding an extension?

By way of comment on the analysis below, to some extent this decision just represents "business as usual". It confirms that "extension of a building" in NPPF 154(c) can include outbuildings

Andy Rogers is a planning consultant and former director in architects The Manser Practice



which are normal domestic adjuncts to the building; in that respect, the differences between the NPPF and PPG2 have not affected policy. That said, it is not the obvious meaning of "extension", as the court acknowledged. It is not the meaning used in the GPDO where extensions are within Class A and detached outbuildings are within the less restrictive Class E and there are cases about sham detachment.

It is not even the meaning used consistently in other parts of the NPPF. The case is restricted to interpretation of a particular part of the NPPF. It would be a mistake to read it across into other legislation. ■

When is an outbuilding an extension?

04.OCT.2024: Roderick Morton analyses a High Court ruling on whether in order to be an extension for the purposes of the National Planning Policy Framework, a structure said to be an extension must always be physically attached to the building of which it is purportedly an extension.

In the recent case of Warwick DC v SSLUGC and others [2022] EWHC 2145 (Admin), the High Court had to consider whether a detached garden room could be an extension for the purposes of the exceptions to inappropriate development in the Green Belt (currently at NPPF 154(c)). The owners of a property in a village in Warwickshire sought permission to demolish a 10sqm existing derelict structure and replace it with a 16sqm garden room/home office. Both the existing structure and the proposed new outbuilding were detached from the main house, sitting some 20m from the house. The property was in the Green Belt. Permission was refused. Development in the Green Belt is inappropriate unless it falls within one of the exceptions set out at NPPF. Permission was refused because, while the new outbuilding was a replacement building, it was materially larger than the previous structure and therefore not within 154(d). Its status as an extension within 154(c) was not considered. It was therefore inappropriate and there were no very special circumstances to outweigh the harm. An appeal was made. At appeal, the owners argued, amongst other things, that it was an extension within 154(c). The Inspector allowed the appeal and granted permission. She agreed that the development was materially bigger, excluding 154(d). But she decided that it was an extension within 154(c) because it was a "normal domestic adjunct" to the main house, within a group of buildings relatively close to the main house and used for purposes related to the main house. The LPA appealed to the High Court.

Two points were before the High Court. First, was the interpretation of the words "the

extension of a building" within 154(c) a matter of law for the court to decide or a matter of fact and degree for the decision maker? Second, was a detached outbuilding an extension within the 154(c) exception? On the first question, the court held that the interpretation of planning policy was a question of law and was for the court. On the second, there was case law, particularly Sevenoaks DC v SSE and another [1997] EWHC 1012 (Admin), in support of extensions including detached outbuildings. That case law, the LPA said, was no longer applicable to current guidance. PPG2, in force when Sevenoaks was decided, used the words "extension of existing dwellings", rather than "extension of a building" as used in NPPF 154(c). The court agreed that it was not safe to assume a simple read across or to assume that "dwelling" was the same as "building".

However, the court found there was merit in PINS' argument that, if 154(c) were interpreted restrictively, then the NPPF would have restricted the scope for extensions in the Green Belt. The purpose of the relevant paragraphs had been to widen the possibility of extensions (ie beyond dwellings to eg commercial buildings), not to restrict it. That was a reason to favour a less restrictive interpretation. The court accepted that a "normal domestic adjunct", such as a garage or other outbuilding, could be physically separate from the main building. It noted that an extension would itself be a new "building" given the definition of "building" in the TCPA. It noted that some detached outbuildings had less impact than an attached extension; a focus on whether the extension was attached or not therefore had potential for some arbitrary results which did not further the purposes of the Green Belt. The court concluded that, in isolation, the language in NPPF 154(c) seemed to require an extension to be attached. However, in the round, there were other factors which pointed to a less restrictive definition which accorded with the content and purpose of the Green Belt treatment in the NPPF. The inspector had therefore interpreted the paragraph properly and the appeal would be dismissed.