



Neutral Citation Number: [2025] EWHC 2742 (Admin)

Case No: AC-2025-LON-001100

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
PLANNING COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 24 October 2025

**SAVE GREATER MANCHESTER
GREEN BELT LIMITED**

Claimant

- and -

**(1) SECRETARY OF STATE FOR HOUSING,
COMMUNITIES AND LOCAL GOVERNMENT**

Defendants

(2) GREATER MANCHESTER

COMBINED AUTHORITY

(3) BOLTON COUNCIL

(4) BURY COUNCIL

(5) MANCHESTER CITY COUNCIL

(6) OLDHAM COUNCIL

(7) SALFORD CITY COUNCIL

(8) ROCHDALE BOROUGH COUNCIL

(9) TAMESIDE METROPOLITAN

BOROUGH COUNCIL

(10) TRAFFORD COUNCIL

(11) WIGAN COUNCIL

(1) WAIN ESTATES (CARRINGTON) LIMITED

Interested Parties

(2) WAIN ESTATES (LAND) LIMITED

(3) PEEL L&P INVESTMENTS

(NORTH) LIMITED

(4) RLUKREF NOMINEES (UK) ONE LIMITED

(5) RLUKREF NOMINEES (UK) TWO LIMITED

PRESS SUMMARY

NOTE: This summary is provided to help in understanding the Court's decision. It does not form part of the judgment. The full judgment of the Court is the only authoritative document. Judgments are public documents and are available at: www.judiciary.uk, <https://caselaw.nationalarchives.gov.uk> and www.bailii.org

1. The Claimant applied for statutory review, under section 113 of the Planning and Compulsory Purchase Act 2004 (“PCPA 2004”), of the adoption, on 21 March 2024, by the 3rd to 11th Defendants (“the Councils”) of a joint development plan document (“DPD”) called ‘Places for Everyone 2022 – 2039’ (“the Plan”), under section 23(1) PCPA 2004.
2. The Claimant represents citizens and greenspace groups across Greater Manchester who oppose the development of housing on Green Belt land. The Second Defendant (“the GMCA”) is made up of the ten Greater Manchester Councils and the Mayor of Greater Manchester. The GMCA submitted the Plan to the First Defendant (“the Secretary of State”) for examination on behalf of nine of the ten Councils. The Secretary of State appointed three Inspectors to examine the Plan, who recommended that the Plan be adopted, subject to main modifications (“MMs”), in their report (“IR”) dated 14 February 2024. The First to Fifth Interested Parties (IP1 – IP5) are landowners affected by the Green Belt proposals.
3. Under the Plan, some 2,430 hectares of land is to be released from the Green Belt across Greater Manchester. GMCA’s original proposal was to add 675 hectares of land to the Green Belt, to offset harm and justify the releases. 49 additional Green Belt sites were proposed in the version of the Plan submitted to the Inspectors by GMCA and the Councils. However, at hearing sessions in March 2023, the GMCA announced it had revised its approach and assessed that 32 of the 49 additions were not justified and so it only supported 17 additions. On examination, the Inspectors decided that two further additions – GBA02 (Horwich Golf Course/Knowles Farm Bolton) and GBA29 (Cowbury Green, Long Row, Carbrook, Stalybridge) – should be added, amounting to 19 additions in total. They rejected 30 of the additions originally proposed (but no longer supported) by GMCA.

4. The ground of challenge was that the Inspectors erred in law by narrowing the scope of “exceptional circumstances” said to be legally capable of justifying additions to the Green Belt, in response to submissions from the GMCA.

The Examination

5. The draft Plan was submitted for examination on 14 February 2022. It included the proposed designation of 49 sites to be added to the Green Belt. The examination ran between 1 November 2022 and 5 July 2023, with hearings on the principle of Green Belt additions on 9 March 2023 and 28 March 2023¹.
6. In response to PQ33 of the Inspectors’ Preliminary Questions, in May 2022, the GMCA answered as follows²:

“What are the exceptional circumstances for altering the established boundaries to justify adding 675 hectares of land to the Green Belt in 49 locations?”

The exceptional circumstances are that the sites proposed to be added to the Green Belt meet at least one of the five purposes of Green Belt set out in NPPF 138 and meet all five criteria to establish new Green Belt in NPPF 139. The Green Belt Topic Paper and Case for Exceptional Circumstances to amend the Green Belt Boundary (07.01.25) provides further details. Paragraph 6.30 and 6.31 on page 35 of the topic paper outline that the ‘Contribution Assessment of Proposed 2020 GMSF Green Belt Additions’ found that all 49 sites meet at least one purpose of Green Belt and Appendix 3 of the topic paper justifies how each site meets all five criteria to establish new Green Belt.”

7. In a document entitled “IN11: Matters, Issues and Questions relating to Green Belt additions”, dated 21 July 2022, the Inspectors set out detailed site-specific questions probing the exceptional circumstances said to justify making the Green Belt additions. These included seeking more information as to “what are the major changes in circumstances since the existing Green Belt boundary was defined in this location that

¹ The Claimant has provided transcripts of the hearings on 9 March 2023 and 28 March 2023, which were recorded on YouTube, and made accessible to the public via the GMCA website.

² Supplementary bundle/347

make the adoption of this exceptional measure necessary”, applying paragraph 139b of the National Planning Policy Framework (“NPPF”). Documents were submitted by the GMCA providing detailed information answering these questions (see, for example, the document relating to Matter 25, dealing with the addition of sites in Bolton³).

8. However, at the hearing on 9 March 2023, the GMCA changed its position on the approach to exceptional circumstances for the Green Belt additions. This was summarised in its Note⁴ and explained by GMCA’s Counsel in both the hearing sessions on 9 March 2023 and 28 March 2023.⁵ The proposed new approach was that exceptional circumstances could only be shown if it could be demonstrated that there was an “existing boundary anomaly” (based on paragraph 143f of the NPPF) or there had been “a fundamental change in circumstances since the time when the extent of the Green Belt was established previously and the land in question was not included in the Green Belt”. This was described as “an exacting legal test”. It was supported in written representations by IP3⁶.
9. Applying its revised test, GMCA explained that it would only support 17 additions to the Green Belt, out of the originally proposed 49 sites. It suggested that it was open to others to make submissions in favour of addition of the other sites that the GMCA was no longer supporting. Some objectors were able to do so. However, objectors were placed at a disadvantage as there was little time for them to take legal advice or to dispute the newly proposed approach in time for the two hearing sessions. The objectors ought not to be criticised by the Defendants and IPs for failing to challenge the GMCA’s new approach at the time. It is unfortunate that GMCA only identified the case law that it wished to rely upon at such a late stage, despite having access to legal advice. The

³ Supplementary bundle/486-491

⁴ Supplementary bundle/431-433

⁵ See transcripts at Supplementary bundle/454-485

⁶ Supplementary bundle/209-223

fact that there was subsequently a consultation on the proposed MMs including the deletion of proposed Green Belt deletions mitigates the prejudice to some extent, but not entirely, since by that stage the Inspectors had already formed a view.

10. On 28 March 2023, the Inspectors at an early part of the session sought further clarity and stated that their starting point was the five criteria for establishing new Green Belt in NPPF paragraph 139. This included the “major change of circumstances” test which GMCA had previously relied on in their evidence base and in written answers to the Inspectors’ questions. GMCA’s Counsel stated that many of the 49 sites met the “major change” test but he then drew a clear distinction between that “major change” policy test and the new and different legal test that he claimed had been formulated by the Courts:

“the major changes test, albeit set out in the framework, and albeit set out for new Green Belts, is not the test that’s been formulated by the courts for adding land to the Green Belt. And that’s, it’s the legal point which is the subject of our paper, which I very largely drafted which is GMCA79, a note re the Green Belt additions.”⁷

11. GMCA’s Counsel indicated that it was the difference between policy and what was said to be the “legal test” developed by the Courts which led GMCA to drop their case for all but 17 of the 49 sites:

“So one has an exceptional circumstances test and one wonders what that means, and were it not for the intervention of the courts, then I mean it may have, very would have been the case that we would have stuck to our guns and said 49 meet the exceptional circumstances test you know free of any case law telling you what that test means for Green Belt additions. But that’s not the position we’re in.”

He then stated that the Courts had held that the exceptional circumstances needed to justify additions to the Green Belt:

“cannot be adjudged to arise unless some fundamental assumption which causes the land initially to be excluded from the Green Belt is thereafter clearly and permanently falsified by a later event.

⁷ Supplementary bundle/470

I have distilled this into the principle of fundamental change...”⁸

The Inspectors’ Report

12. The legal route by which the Inspectors were required to consider whether to add land to the Green Belt was via the assessment of soundness, as interpreted through the NPPF, namely whether it is “consistent with national policy”. The relevant part of national policy was contained in section 13 of the NPPF, at paragraphs 140 to 141. Any alterations to the Green Belt (removals or additions) are required to be justified by “exceptional circumstances” but there is no policy in the NPPF or elsewhere as to what those exceptional circumstances are required to comprise.
13. As Ouseley J. held in *Compton PC & Ors v Guildford BC & Ors* [2019] EWHC 3242 (Admin), the expression “exceptional circumstances” is deliberately broad. The matter is left to the judgment of the decision-maker in all the circumstances of the case.
14. Paragraph 139 of the NPPF sets out criteria for the establishment of new Green Belts in exceptional circumstances, which were legitimately used by the GMCA as a proxy for the identification of exceptional circumstances in the version of the Plan initially submitted for examination, and this assessment was available to the Inspectors.
15. The Inspectors correctly directed themselves, in Issue 52, that the issue was whether exceptional circumstances have been fully evidenced and justified for adding a total of 675 hectares on 49 sites to the Green Belt. It is plain from the numerous references to exceptional circumstances that they had the policy test well in mind. It is safe to assume that the Inspectors had expertise in determining Green Belt policy issues arising under the NPPF.

⁸ Supplementary bundle/470

16. The Inspectors went on to find as follows:

“869. National policy advises that, once established, Green Belt boundaries should only be altered where exceptional circumstances are fully evidenced and justified through the preparation or updating of plans. The sites were added as they were considered to serve at least one Green Belt purpose set out in NPPF 138 and to meet all five criteria to establish new Green Belt in NPPF 139.

870. However, during the examination GMCA outlined a revised approach to considering whether each of the Green Belt additions made in the Plan is justified based on a Court of Appeal judgment. This approach involves considering whether there are exceptional circumstances for each Green Belt addition, based on whether there has been a fundamental change in circumstances since the extent of the Green Belt was established previously and/or whether a change is needed to correct an anomaly where the existing Green Belt boundary does not follow a readily recognisable physical feature.

871. GMCA applied the revised approach to each of the 49 Green Belt additions in the Plan and the findings are set out in a table in GMCA79. In summary, GMCA concluded that 17 of the additions meet the fundamental change test and/or would resolve an anomalous boundary, whereas the remaining 32 proposed additions did not meet either test.

872. We agree with the GMCA’s revised approach based on case law, and therefore most of the additions are not justified or consistent with national policy. However, we set out below the specific sites where we consider the addition to be justified based on the GMCA analysis, where we disagree with the GMCA assessment, or because there are circumstances relating to a site that need addressing.

873. We, therefore, recommend that the Plan be modified to delete the following Green Belt additions as exceptional circumstances have not been fully evidenced and justified: GBA01, GBA03, GBA04, GBA06 to GBA11, GBA13, GBA15 to GBA18, GBA20 to GBA24, GBA27, GBA30, GBA33, GBA36, GBA38, GBA42, and GBA45 to GBA49 [MMApxB.1 to MMApxB.4].....”

17. The Inspectors accepted the 17 additions proposed by the GMCA and added a further two additions, making 19 in total.

18. The Inspectors, at IR 872, approached their task of deciding whether the addition of various parcels of land to the Green Belt was justified by exceptional circumstances by considering three distinct ways in which this might be so, namely:

- i) First, whether there had been a fundamental change in circumstances from when the issue of the extent of the Green Belt had last been considered. Although the

concept of a fundamental change in circumstances derived from *Copas v RB Windsor and Maidenhead* [2002] 1 P & CR 16, the GMCA did not include the *Copas* concept of falsification in its proposed test, nor did the Inspectors apply the concept of falsification.

- ii) Second, whether there was an existing boundary anomaly where the existing Green Belt boundary does not follow a readily recognisable feature. This was proposed by the GMCA and was derived from paragraph 143f of the NPPF.
- iii) Third, whether “there were circumstances relating to a site that need addressing” (i.e. not one of the approaches set out in the GMCA Note).

- 19. It was common ground that whether or not there were exceptional circumstances was a planning judgment for the decision-maker to make. In order to exercise its planning judgment, the decision-maker had to identify the material considerations. The Judge accepted the Secretary of State’s submission that, in undertaking this exercise, it was lawful for the decision-maker to set up criteria to establish whether the exceptional circumstances test was met: see *Keep Bourne End Green v Buckinghamshire Council* [2020] EWHC 1984 (Admin), per Holgate J., at [156] – [157].
- 20. The first criterion relied upon by the GMCA, and accepted by the Inspectors, was a fundamental change in circumstances since the extent of the Green Belt boundary was previously established. There was no dispute that this was a relevant consideration. It was at least permissible, though not mandatory, for the decision-makers to rely upon it as a criterion, in the light of *Copas* and *Gallagher Homes Limited v Solihull MBC* [2014] EWCA Civ 1610. Importantly, neither the GMCA nor the Inspectors relied upon the restrictive falsification doctrine in *Copas*, which has been criticised by the courts.
- 21. The second criterion relied upon by the GMCA, and accepted by the Inspectors, was whether the existing Green Belt boundary was anomalous. It was derived from

paragraph 143f of the NPPF which provides that Green Belt boundaries should be defined “....clearly, using physical features that are readily recognisable and likely to be permanent”. There was no dispute that this was a relevant consideration and an appropriate criterion.

22. The Claimant’s concern that the Inspectors were unlawfully constrained in the exercise of their planning judgment by the application of these criteria, because they were presented to them by the GMCA and IP3 as a binding legal test, is not justified. It is apparent from IR 872 that, in addition to the application of the two criteria relied on by the GMCA, the Inspectors adopted a third category of their own, which they broadly labelled sites where “there were circumstances that need addressing”. In their analysis of selected sites, at IR 874 to 932, the Inspectors clearly relied upon considerations which went beyond the first and second criteria (often by reference to Green Belt policy considerations): see sites GBA: 19, 26, 27, 28, 29, 34, 37, 40, 41, 43. Furthermore, the Inspectors disagreed with the GMCA’s proposed deletion of sites GBA02 and GBA34 and concluded that they should be added to the Green Belt.
23. Although there was no freestanding reasons challenge in this claim, the Claimant submitted that the absence of detailed reasons for some of the sites meant that it was not possible to judge whether their planning judgment had been unlawfully constrained.
24. The Inspectors gave detailed reasons for their decisions in 21 sites, where they judged that there was a need to do so, because they were proposing additions to the Green Belt, or disagreeing with the GMCA’s proposals, or there were circumstances that needed to be addressed. In regard to the rest, the Inspectors stated:

“872 We agree with the GMCA’s revised approach based on case law, and therefore most of the additions are not justified or consistent with national policy.”

The Inspectors had detailed information available to them in respect of all 49 sites (see the evidence referred to at paragraphs 6 and 7 above). The Judge was satisfied that the Inspectors took the same approach to all 49 sites i.e. considered the GMCA criteria and any other factors that they considered relevant, having regard to Green Belt policy considerations. They were entitled to conclude that detailed reasons were not required, because the position in regard to the other sites were straightforward and did not involve any change to the existing Green Belt boundary.

25. For these reasons the Judge concluded that the Inspectors did not err in law by adopting an unduly restrictive legal test in determining whether exceptional circumstances for designating additional Green Belt sites had been established, as alleged by the Claimant.
26. Accordingly, the claim for statutory review was dismissed.