

Case Name: *Bond, R (on the application of) v Vale of White Horse District Council* [2019] EWHC 3080 (Admin) (19 November 2019)

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Commentary: The High Court dismissed Mr Bond's claim, upholding the Vale of White Horse District Council's decision of 13 February 2019 to alter a map (the Adopted Policies Map) accompanying the Council's Local Plan 2031 Part 1 (the Local Plan) adopted in December 2016, so as to show land (the Land) owned by Mr Bond and his wife to the rear of their home in the North Hinksey area as being within Oxford's Green Belt, instead of outside it.

Before the Local Plan was adopted, the Inspector at its examination had reviewed whether the Land, which was within the Green Belt, should be released from the Green Belt. The Inspector found that there were not the necessary exceptional circumstances under the NPPF to justify release. The Council consequently gave effect to this finding in the Local Plan's CP 13, which excluded the Land from a list of areas released from the Green Belt. However, when the Local Plan was adopted, the Adopted Policies Plan, due to an administrative error, showed the Land as being outside the Green Belt. The Council's Cabinet, by a resolution of 13 February 2019, decided to alter the Adopted Policies Plan to show the Land as being inside the Green Belt. Mr Bond considered this disadvantageous to him, and challenged the Council's decision on two grounds.

The first ground was that the Council had no power to alter the Adopted Policies Plan by means of Cabinet resolution, but was required pursuant to the Planning and Compulsory Purchase Act 2004 (the 2004 Act), and the Town and Country Planning (Local Planning) (England) Regulations 2012, to follow certain statutory procedures (involving public participation and independent scrutiny) to modify the Adopted Policies Plan. However, the High Court held that those statutory procedures applied to "development plan documents" (DPDs) which in the circumstances did not include the Adopted Policies Plan as a "local development document" (LDD). Accordingly, the Council had lawfully corrected the Adopted Policies Plan as an LDD by Cabinet resolution under general powers in the 2004 Act, in order to ensure that the Adopted Policies Plan fulfils its purpose of illustrating geographically the policies of the Local Plan.

The second ground was that the Council, by making representations dated 3 July 2018, gave rise to a legitimate expectation on the part of Mr Bond that it would not correct the Adopted Policies Plan as it did. The High Court held that the representations did give rise to such a legitimate expectation, which the Council had breached. However, the Court held that the breach was justified in the public interest – if the Council had failed to correct the Adopted Policies Plan, this would not illustrate in the public interest the relevant Local Plan policy; the Council's correction was proportionate when balanced against any unfairness to Mr Bond.

The Judge therefore concluded that "Although [Mr Bond] has expended time and effort in resisting the Council's efforts to correct the ... Map, this has turned out to be misguided", and dismissed his claim.

Case summary prepared by George Morton Jack