Case Name: *Save Greater Manchester Green Belt Ltd v Secretary of State for Housing, Communities and Local Government & Ors* [2025] EWHC 2742 (Admin) (24 October 2025)

Full case: Read Here

Commentary: This case involved a statutory challenge in the High Court under section 113 of the Planning and Compulsory Purchase Act 2004 against the adoption by nine of the councils that make up the Greater Manchester Combined Authority (**"the GMCA"**) of the joint spatial plan called "Places for Everyone 2022 – 2039" (**"the Plan"**).

2,430 hectares of land were set to be released from the Green Belt for housing and employment development under the Plan. To rationalise the release of that land, the GMCA's original plan included the addition of 675 hectares of land to the Green Belt. This would be done through the addition of 49 new sites.

The Claimant, Save Greater Manchester Green Belt Limited is the incorporated manifestation of the umbrella group of citizens from more than 40 greenspace groups across Greater Manchester who seek to prevent development in the Green Belt. Together with 15 other groups, the Claimant submitted representations to the Councils and the GMCA. It launched its challenge on five grounds. Only the fifth ground, namely 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 pursuant to national policy, was afforded permission to apply for statutory review.

The GMCA had established two criteria to determine whether the exceptional circumstances test was met in the context of the Plan. The Inspectors had adopted these and added a further criterion.

Dismissing the challenge, Lang J held that it was lawful for decision-makers to produce and rely upon their own criteria to assist the exercise of determining whether exceptional circumstances exist. While the GMCA's first criterion of a fundamental change of circumstance was derived from *Copas,* neither the GMCA nor the Inspectors relied upon the restrictive falsification doctrine in *Copas*, which has been criticised by the courts. The Inspectors had not been unlawfully constrained in the exercise of their planning judgment by the application of the GMCA's criteria as they had adopted a third broad category of their own and in their analysis of selected sites had clearly relied upon considerations which went beyond the first and second criteria. They had also disagreed with the GMCA in respect of two of the sites.

Lang J also confirmed that irrespective of whether land was being added to or removed from the Green Belt, the same legal test applies even though different factors may be relevant.

Discussion

"Exceptional circumstances" are required to justify changes to the Green Belt under section 13 of the NPPF. There is no definition in policy of the concept of exceptional circumstances; it is left deliberately broad in order to recognise the necessity of planning judgment in determining changes to Green Belt boundaries. There is much jurisprudence attempting to determine what is capable of constituting exceptional circumstances as a matter of law. , However, whether a factor amounts to an exceptional circumstances in a particular case is accepted to be a matter of planning judgment. Under challenge, the courts may only question that decision through the scope of irrationality because this would require scrutiny of the merits. .

The GMCA adopted a set of criteria to determine whether the exceptional circumstances test was met in the context of the Plan. This was held to be lawful following the case of ***Keep Bourne End Green v Buckinghamshire Council*** [2020] EWHC 1984 (Admin). The adopted criteria required that **(1)** there had been a fundamental change in circumstances since the Green Belt boundaries were drawn, and/or **(2)** there was an existing Green Belt boundary anomaly. Under this approach to the test, the GMCA concluded that only 17 of the initial 49 additions to the Green Belt were justified, meaning that the land that would be added to mitigate the loss to the Green Belt would be greatly reduced.

Three Inspectors were appointed to conduct the examination of the Plan. They adopted an additional third criterion, namely that **(3)** there were general circumstances that needed addressing. They determined that there should be a further two additions to the Green Belt, amounting to 19 justified additions. The Inspectors concluded that the Plan would be both sound and legally compliant with the accepted schedule of proposed main modifications.

Were the Inspectors unlawfully constrained by adopting the "unduly restrictive" criteria used by the GMCA?

There was considerable discussion of the putative "falsification doctrine" fashioned by ***Copas v RB Windsor and Maidenhead*** [2002] 1 P & CR, which appeared to be the basis upon which the first criteria relied upon by the GMCA was formed. In ***Copas,*** Simon Brown LJ noted:

> "… where the revision proposed is to *increase* the Green Belt—cannot be adjudged to arise unless some fundamental assumption which caused the land initially to be excluded from the green belt is thereafter clearly and permanently falsified by a later event." [40] (Court's emphasis)

The courts have scrutinised the approach of Hickinbottom J in the High Court in ***Gallagher Homes Limited v Solihull MBC*** [2014] EWHC 1283 [2014] EWCA Civ 1610 (Admin) who elevated the falsification principle into a doctrine. In ***IM Properties Ltd v Lichfield DC***

[2014] PTSR 1484 [2015] PTSR 1536, Cranston J supported the decision of Patterson J to reject the elevation of the falsification principle into a binding legal doctrine which an Inspector is required to apply, considering those comments made by Simon Brown LJ in ***Copas*** *obiter dicta.* Moreover, Lang J noted that Laws LJ in the Court of Appeal in ***Gallagher*** did not affirm the elevation of falsification into a doctrine, and instead only concluded that the unsuitability of a site for housing could not in itself amount to an exceptional circumstance.

Lang J, having surveyed the case law, was persuaded that there was no "doctrine" created by Simon Brown LJ in ***Copas,*** and that contrary to the Claimant's submission, those comments were *obiter dicta*. In any event, neither the GMCA nor the Inspectors relied upon ***Copas,*** and were, therefore, permitted to adopt "fundamental change in circumstances" as a criterion to determine whether exceptional circumstances exist.

In relation to the second criterion, namely the existence of a Green Belt boundary anomaly, this was derived from paragraph 143(f) of the 2021 NPPF and it was agreed that this was a relevant consideration and an appropriate criterion.

The third criterion, which broadly required that "there were circumstances … that need addressing", was a category of the Inspectors' own creation. They recommended the addition of two further sites to the Green Belt, not agreeing entirely with the GMCA's proposal.

This demonstrated that the Inspectors were not "unlawfully constrained in the exercise of their planning judgment by the application of these [two] criteria" as they took into account other considerations which went beyond the two criteria used by the GMCA.

Accordingly, Lang J dismissed the claim for statutory review on the fifth ground.

Summary prepared by Adam Choudhury