

Case Name: *Sefton Metropolitan Borough Council v Secretary of State for Housing, Communities And Local Government* [2020] EWHC 2180 (Admin) (12 August 2020)

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Commentary:

Sefton Metropolitan Borough Council ('SMBC') has been granted permission by the High Court to bring a legal challenge to 3 related Inspector decisions on the grounds that the Inspector, in allowing the 3 appeals, has misinterpreted and misapplied the important policy requirement in paragraph 144 of the NPPF for decision makers to give 'substantial weight' to any harm to the green belt which, depending on the outcome of the substantive hearing, may have potential wider implications for green belt cases generally.

SMBC sought permission to appeal against the Inspector's decision of 27 April to allow 3 conjoined appeals by a Mr Doherty against (a) SMBC's refusal of planning permission for the change of use of green belt land in Liverpool from a disused pony paddock to 6 gypsy/traveller pitches and (b) the issue of 2 enforcement notices for alleged intentional unauthorised development on the land.

SMBC's legal challenge was brought on 2 grounds. Ground 1 was that the Inspector had unlawfully misinterpreted and misapplied paragraph 144 of the NPPF by not giving the required substantial weight to each and any identified harm to the Green Belt arising from the proposed development, whether that is the definitional Green Belt harm or any actual Green Belt harm, which in the present case consisted of harm to openness and harm to Green Belt purposes. Ground 2 was that the Inspector had failed to give adequate reasons for his decision. Both the Secretary of State and Mr Doherty opposed permission. With respect to Ground 1, they argued that SMBC's interpretation of the policy requirement amounted to an overly mechanical and quasi-mathematical approach to the application of green belt policy which has expressly been rejected by the courts in this context. With respect to Ground 2, they contended that the Inspector's reasoning was sufficient, adequate, and intelligible and left no genuine as opposed to forensic room for doubt about what the Inspector concluded and why on the principal controversial issues.

The High Court refused permission on Ground 2 but has granted permission on Ground 1 noting that their appeared to be an arguable point about the proper interpretation and application of paragraph 144 of the NPPF. It is envisaged that the High Court will provide some helpful guidance on this key policy requirement at the substantive hearing.