

Case Name: *Sefton Metropolitan Borough Council v Secretary of State for Housing, Communities, and Local Government* [2021] EWHC 1082 (Admin) (07 May 2021)

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Commentary:

The High Court upheld a Planning Inspector's decision to grant planning permission for the development of Green Belt land (the Site) in Melling, Merseyside, for a family of Travellers to change the use of the Site from a pony paddock to six Gipsy/Traveller pitches (the Development).

In December 2018, Sefton Metropolitan Borough Council (the Claimant) had refused planning permission for the Development on the basis that – in consideration of National Planning Policy Framework ("NPPF") paragraphs 143 and 144 – the Development was inappropriate and harmful to the Green Belt, and there were no very special circumstances clearly outweighing that harm such as to make the Development acceptable.

In April 2020, in an appeal against the Claimant's refusal of planning permission, the Inspector had made his decision to grant planning permission on the basis that although the Development was inappropriate and harmful to the Green Belt, the factors in favour of the Development clearly outweighed the harm resulting from the Development such as to constitute very special circumstances. Those factors in favour of the Development included the best interests of the children of the family of Travellers; the wider family's personal circumstances; the Site being sustainably located in compliance with the local plan; the lack of alternative suitable sites which would meet the particular needs of this family; and the very high likelihood that any other suitable sites would also be in the Green Belt.

The Claimant challenged the Inspector's decision on two grounds: first, that the Inspector had failed properly to interpret and apply NPPF paragraphs 143 and 144; and second, that the Inspector had failed to give adequate reasons for his decision. The critical ground was the first – the Claimant argued that the Inspector should have taken a more forensic or mathematical approach to weighing the harm resulting from the Development, in order to distinguish different kinds of harm to the Green Belt, thereby to aggregate different specified weights for each kind of harm, and then to balance the aggregate weight of the harms against factors in favour of development.

However, the Court found that the Claimant's argument on NPPF paragraphs 143 and 144 was "excessively forensic" and "fails to take proper account of the nature and purpose of the NPPF and of paragraph 144 in particular ... by taking metaphorical language unduly literally". The Judge (His Honour Judge Eyre QC) held that NPPF paragraphs 143 and 144 "do not ... require a particular mathematical exercise nor do they require substantial weight to be allocated to each element of harm as a mathematical exercise with each tranche of substantial weight then to be added to a balance", rather they require "a single exercise of judgement to assess whether there are very special circumstances which justify the grant of permission notwithstanding the particular importance of the Green Belt".

The Judge concluded that the Inspector had conducted “a classic exercise of planning judgement [which] did not display any error of law”, and therefore that the Claimant’s challenge failed.

Case summary prepared by George Morton Jack