



Neutral Citation Number: [2012] EWHC 791 (Admin)

Case No: CO/3027/2011

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 30th March 2012

Before :

Stuart Catchpole QC
(Sitting as a Deputy High Court Judge)

Between :

BHAGAT SINGH HUNDAL

Claimant

- and -

SOUTH BUCKS DISTRICT COUNCIL

First
Defendant

- and -

THE SECRETARY OF STATE FOR
COMMUNITIES AND LOCAL GOVERNMENT

Second
Defendant

Michael Bedford (instructed by **Pitmans LLP**) for the **Claimant**
Ian Albutt (instructed by **South Bucks District Council**) for the **First Defendant**
The Second Defendant did not appear and was not represented

Hearing date: 15th March 2012

Approved Judgment

Stuart Catchpole QC :

INTRODUCTION

1. In November 1998, the Claimant purchased a house and land known as Fourells, Richings Park, Iver, Buckinghamshire (“Fourells”). Fourells comprises a dwelling house with gardens to the front and rear. It also comprises a reasonably substantial paddock which adjoins the boundary of the rear garden.
2. The First Defendant is the local planning authority for the area in which Fourells and the surrounding land at Richings Park are situated. Amongst other things, the First Defendant was under a duty to produce Development Plan Documents (“DPDs”) for its area pursuant to Part 2 of the Planning and Compulsory Purchase Act 2004. The First Defendant prepared and adopted a DPD known as the South Bucks Core Strategy (“the Core Strategy”). The First Defendant adopted the Core Strategy on 22 February 2011. As required by the relevant legislation, the Core strategy had been subject to independent examination by an inspector appointed by the Second Defendant. That report was dated 31 January 2011. The Second Defendant has played no part in the present appeal.
3. In simple terms, the Claimant wishes to change the designation of the rear garden at Fourells and the Paddock as part of the Green Belt. He also wished to have the Paddock identified as land appropriate for housing development. Neither the Inspector nor the First Defendant accepted his submissions. As such, the Core Strategy has maintained both the rear garden at Fourells and the Paddock as part of the Green Belt. The only matter which is challenged in the present appeal is the continued designation of the rear garden as part of the Green Belt.
4. As is set out in more detail below, the rear garden of Fourells was included in the Green Belt in the Local Plan adopted in 1999. Underlying all of the arguments advanced by the Claimant is the submission that the Green Belt was not lawfully extended to include the rear garden of Fourells in 1999. This is because, according to the Claimant, the Green Belt can only be extended if there are exceptional circumstances and none were demonstrated or relied on at the time that the decision to include the rear garden of Fourells in the Green Belt was made. Indeed, on the Claimant’s case, the Inspector who conducted the relevant inquiry in 1997 positively concluded that there were no exceptional circumstances.

THE GROUNDS OF CHALLENGE

5. The challenge is made on two grounds.
6. Under the first ground, the Claimant contends that the Inspector appointed by the Second Defendant erred in law in carrying out her independent examination of the Core Strategy. Pursuant to Regulation 31 of the Local Development (England) Regulations 2004 (“the 2004 Regulations”), the Inspector was required to consider, amongst other things, whether the Core Strategy proposed by the First Defendant was “sound”.
7. The Claimant contends that the Inspector’s conclusion that it was sound was in error because she needed to determine whether the Core Strategy was consistent with

national policy including national policy as set out in PPG2. The Claimant contends that the Inspector did not have regard to the full history of the Green Belt boundary at the Claimant's property (and, in particular, the alleged error of law in extending the Green Belt to include the rear garden of Fourells) because of a mistaken belief that she could not change the Green Belt boundary by reason of events which took place before the adoption of the 1999 Local Plan.

8. The second ground alleges that, because of those errors, the First Defendant should not have adopted the Core Strategy (in relation to the rear garden land) and the recommendations from the Inspector because they were made on a flawed basis.
9. As a result the Claimant says that he has been prejudiced.

THE RELIEF SOUGHT

10. The relief sought is an order quashing the core strategy and its associated Proposals Map to the extent that they seek to include the rear garden at Fourells land within the Green Belt. As I have already noted, there was no challenge in the present proceedings to the continued designation of the Paddock as part of the Green Belt.

THE RELEVANT STATUTORY PROVISIONS, GUIDANCE AND AUTHORITIES

The obligation on the First Defendant to prepare and maintain a local develop scheme

11. Section 15 of the Planning and Compulsory Purchase Act 2004 ("the PCPA 2004") as amended sets out the statutory obligation on the First Defendant to prepare a local development scheme:

15. ***Local Development Scheme***

- (1) *The local planning authority must prepare and maintain a scheme to be known as their local development scheme.*

- (2) *The scheme must specify –*

- ...

- (aa) *the local development documents which are to be development plan documents;*

- (b) *the subject matter and geographical area to which each [development plan document] is to relate;*

12. Pursuant to Section 15(8) of the PCPA 2004, the local planning authority must revise their scheme at such time as they consider appropriate or when directed to do so by the Secretary of State. That ties in with the obligation on the local authority under section 13 of the PCPA 2004:

13. ***Survey of Area***

- (1) *The local planning authority must keep under review the matters which may be expected to affect the development of their area or the planning of its development.*

- (2) *These matters include –*

- (a) *the principal physical, economic and environmental characteristics of the area of the authority;*
 - (b) *the principal purposes for which land is used in the area;*
 - (c) *the size, composition and distribution of the population of the area;*
 - (d) *the communications, transport system and traffic of the area;*
 - (e) *any other considerations which may be expected to affect those matters;*
 - (f) *such other matters as may be prescribed or as the Secretary of State (in a particular case) may direct.*
- (3) *The matters also include –*
- (a) *any changes which the authority think may occur to any other matter;*
 - (b) *the effect such changes are likely to have on the development of the authority's area or the planning of such development.*
- (4) *The local authority may also keep under review and examine the matters mentioned in subsections (2) and (3) in relation to any neighbouring area to the extent that those matters may be expected to affect the area of the authority.*

Local Development Plan Documents

13. Section 17 of the PCPA 2004 (as amended) provides:

17. ***Local development documents***

...

- (3) *The local planning authority's local development documents must (taken as a whole) set out the authority's policies (however expressed) relating to the development and use of the land in their area.*

...

- (6) *The authority must keep under review their local development documents having regard to the results of any review carried out under section 13...*
- (7) *Regulations under this section may prescribe –*
- (a) *which descriptions of local development documents are development plan documents;*
 - (b) *the form and content of the local development documents;*
 - (c) *the time at which any step in the preparation of such document must be taken.*
- (8) *A document is a local development document only in so far as it or any part of it –*

- (a) *is adopted by resolution of the local planning authority as a local development document;*
- (b) *is approved by the Secretary of State...*

14. Regulation 6 of the Local Development (England) Regulations 2004 (SI 2004/2204) as substituted by the Local Development (England) (Amendment) Regulations 2008 (SI 2008/1371) (“the 2004 Regulations”) provides:

6. ***Local development documents***

(1) *The descriptions of document prescribed for the purposes of section 17(7)(za) which are LDDs are –*

(a) *any document containing statements of -*

- (i) *the development and use of land which the local planning authority wish to encourage during any specified period;*
- (ii) *objectives relating to design and access which the local planning authority wish to encourage during any specified period;*
- (iii) *any environmental, social and economic objectives which are relevant to the attainment of the development and use of land mentioned in paragraph (i);*
- (iv) *the authority’s general policies in respect of the matters referred to in paragraphs (i) to (iii).*

...

(3) *A document of the description in paragraph (1)(a) is referred to in the following provisions of these Regulations as a core strategy.*

15. As its name implies, the Core Strategy was a local development plan document for the purposes of Sections 15 and 17 of the PCPA and Regulation 6 of the 2004 Regulations. Pursuant to Section 20 of the PCPA 2004, the local planning authority was required to submit every development plan document to the Second Defendant for independent examination:

20. ***Independent Examination***

(1) *The local planning authority must submit every development plan document to the Secretary of State for independent examination.*

(2) *But the authority must not submit such a document unless—*

- (a) *they have complied with any relevant requirements contained in regulations under this Part, and*
- (b) *they think the document is ready for independent examination.*

- (3) *The authority must also send to the Secretary of State (in addition to the development plan document) such other documents (or copies of documents) and such information as is prescribed.*
- (4) *The examination must be carried out by a person appointed by the Secretary of State.*
- (5) *The purpose of an independent examination is to determine in respect of the development plan document—*
 - (a) *whether it satisfies the requirements of sections 19 and 24(1), regulations under section 17(7) and any regulations under section 36 relating to the preparation of development plan documents;*
 - (b) *whether it is sound.*
- (6) *Any person who makes representations seeking to change a development plan document must (if he so requests) be given the opportunity to appear before and be heard by the person carrying out the examination.*
- (7) *The person appointed to carry out the examination must—*
 - (a) *make recommendations;*
 - (b) *give reasons for the recommendations.*
- (8) *The local planning authority must publish the recommendations and the reasons.*

The obligation to have regard to guidance issued by the Second Defendant

16. Pursuant to Section 34 of the PCPA 2004, the local planning authority was required to have regard to any guidance issued by the Secretary of State in the exercise of any function conferred on it under or by virtue of Part 2 of the PCPA 2004. That requirement applies equally to Inspectors conducting the independent review: see Barratt Developments plc v The City of Wakefield Metropolitan District Council [2010] EWCA Civ 897.
17. It is important to note that the requirement in Section 34 of the PCPA 2004 to have regard to any guidance issued by the Secretary of State does not mean that the guidance is binding on the local planning authority or the Inspector. As Carnwath LJ stated in the Barratt Developments case at paragraph 11:

"I would emphasise that this guidance, useful though it may be, is advisory only. Generally it appears to indicate the Department's view of what is required to make the strategy "sound", as required by the statute. Authorities and inspectors must have regard to it, but it is not prescriptive. Ultimately it is they, not the Department who are the judges of "soundness". Provided they reach a conclusion which is not "irrational" (meaning "perverse"), their decision cannot be questioned in the courts. The mere fact that they may not have followed the

policy guidance in every respect does not make the conclusion unlawful."

The obligation to consider representations and the nature of the independent examination

18. Regulations 28 and 31 of the 2004 Regulations provide:

28. *Representations relating to a development plan document*

(1) Any person may make representations about a DPD which a local planning authority propose to submit to the Secretary of State.

...

31. *Consideration of representations by appointed person*

Before the person appointed to carry out the examination complies with section 20(7) he must consider any representations made in accordance with regulation 28(2).

19. The independent examination of the Core Strategy by the Inspector is not a formal planning inquiry. As recorded by Carnwath LJ in the Barratt Developments case at paragraphs 5 and 7:

5. *The Planning and Compulsory Purchase Act 2004, supplemented by the Town and Country Planning (Local Development)(England) Regulations 2004, provides the statutory framework for the preparation of the Local Development Framework ("LDF"), of which the Core Strategy forms part. These documents form part of the "development plan" for the area, in accordance with which development applications must be decided unless material considerations indicate otherwise (s 38(3)(6)).*

...

7. *It is to be noted that the procedure [for the adoption of the Core Strategy] does not include a formal planning inquiry in the traditional sense. Collins J described what I understand to be the ordinary format for such an open hearing:*

"...this is not a traditional planning enquiry. It is, as its title suggests, an examination. Inspectors are encouraged to make it relatively informal, and it can be, and frequently is, I understand, carried out by means of a discussion. Although formal evidence can no doubt be given and tested if the Inspector decides that that is essential for the purpose of reaching the necessary result, that would be rare, and generally speaking it is dealt with on the basis of written documents being presented, and then discussion

between the interested parties and the Inspector based upon those written documents.”

20. The Planning Inspectorate has issued its own guidance on the conduct of the independent examination. This is set out in ‘Development Plan Document Examination Procedural Advisory Notes (August 2009)’. In so far as is material, it provides as follows:

Introduction

It is very important for Local Planning Authorities (LPAs) to appreciate the implications of the fact that the examination process is concerned with the legal compliance and soundness of the document as a whole. Consequently the focus at the examination is no longer on individual objections as used to be the case at local plan/UDP inquiries. This fundamentally important difference means that local planning authorities no longer need to respond to each and every individual representation. What authorities are required to do is to assess the representations made at publication stage and to provide the Inspectorate with a summary of the main issues at submission.

It is also important to appreciate the significance of the frontloaded process which should flush out opposing views and options before the LPA prepares its final document for publication.

...

5. The Hearing

Hearing sessions

5.1 The emphasis at the hearing sessions will be on informality with the Inspector inquiring into and leading a debate on the issues identified in advance. ...

5.2 The old-style local plan or UDP sessions where individuals presented their cases one by one and the local authority responds is not appropriate to the examination format. The emphasis is on the soundness of the DPD not specifically on the representations made on it. The formal presentation of the evidence followed by cross-examination and re-examination will not be allowed other than in very exceptional instances where the Inspector is convinced that a formal approach is essential to adequately test the evidence. If you wish the Inspector to consider having a formal session you must be prepared to make a strong case for this...

...

21. Further, in the Planning Inspectorate’s ‘Local Development Frameworks: Examining Development Plan Documents: Procedure Guidance August 2009 (Second Edition)’ it suggested as follows:

Section 6: Report Writing

Key principles for Reporting

....

6.2 *The Inspector will start on the premise that the report should be as short as possible, whilst ensuring that it is clearly reasoned to justify the conclusions. It is important to remember that the Inspector will not seek to 'improve' the plan. In many instances representations are made about matters that do not go to the heart of the soundness of the plan. The Inspector will not make recommendations about these matters even if the Inspector feels that the representation is well founded. The approach is that it is the LPA's document and the Inspector will only make changes that go to the issue of soundness. In relation to each recommendation, Inspectors are required to ask themselves where the plan would be unsound if the recommendation was not made. If the answer to that question is in the negative, the recommendation should not be set out.*

6.3 *Noting that we are not dealing with 'inquiries into objections', reports will not summarise the cases of individual parties, should avoid as far as possible direct references to specific representations and should not describe discussions at hearing sessions. The report will explain why the Inspector, based on a consideration of all the evidence and his/her professional expertise and judgment, has reached a particular view on legal compliance and soundness.*

22. As Carnwath LJ stated in the Barratt Developments case, at paragraph 32:

"The only other potentially relevant statutory requirements are that the Strategy should be "sound", taking account of the relevant policy guidance and that the inspector's recommendations should be adequately reasoned. As I have said, "soundness" was a matter to be judged by the Inspector and the Council, and raises no issue of law, unless their decision is shown to have been "irrational", or they are shown to have ignored the relevant guidance or other considerations which were necessarily material in law. Reasons are adequate if they are "intelligible" and enable the reader to understand "why the matter was decided as it was and what conclusions were reached on the "principal controversial issues" (see South Bucks DC v Porter (No 2) [2004] UKL 33 para 36, per Lord Brown). If the only failure is one of reasoning (a procedural requirement), the applicant must show also that he was substantially prejudiced by the failure."

Green Belt Policy

23. As noted above, in the exercise of their functions, the First Defendant and the Inspector were required to have regard to guidance issued by the Second Defendant

and national policy. In relation to Green Belts the relevant guidance and policy for present purposes was contained in 'Planning Policy Guidance 2: Green Belts' ("PPG2"). This was in force both at the time the 1999 Local Plan was adopted and at the time that the Core Strategy was adopted. This provides, amongst other things as follows:

Intentions of policy

1.4 The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the most important attribute of Green Belts is their openness. Green Belts can shape patterns of urban development at sub-regional and regional scale, and help to ensure that development occurs in locations allocated in development plans. They help protect the countryside, be it in agricultural, forestry or other use. They can assist in moving towards more sustainable patterns of urban development (see paragraph 2.10).

Purposes of including land in Green Belts

1.5 There are five purposes of including land in Green Belts:

- to check the unrestricted sprawl of large built-up areas;*
- to prevent neighbouring towns from merging into one another;*
- to assist in safeguarding the countryside from encroachment;*
- to preserve the setting and special character of historic towns; and*
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.*

...

2. Designation of Green Belts

2.1 The essential characteristic of Green Belts is their permanence. Their protection must be maintained as far as can be seen ahead.

Regional guidance and development plans

...

2.2 Green Belts are established through development plans. Structure plans provide the strategic policy context for planning at local level. The general extent of Green Belts has been fixed through the approval of structure plans.

2.4 Many detailed Green Belt boundaries have been set in local plans and in old development plans, but in some areas detailed boundaries have not yet been defined. Up-to-date approved boundaries are essential, to provide certainty as to where Green Belt policies do and do not apply and to enable the proper consideration of future development options. The mandatory requirement for district-wide plans, introduced by the Planning and Compensation Act 1991, will ensure that the definition of detailed boundaries is completed.

...

Defining boundaries

2.6 Once the general extent of a Green Belt has been approved it should be altered only in exceptional circumstances. If such alteration is proposed the Secretary of State will wish to be satisfied that the authority has considered opportunities for development within the urban areas contained by and beyond the Green Belt. Similarly, detailed Green Belt boundaries defined in adopted local plans of earlier approved development plans should be altered only exceptionally. Detailed boundaries should not be altered or development allowed merely because the land has become derelict.

2.7 Where existing local plans are being revised and updated, existing Green Belt boundaries should not be changed unless alterations to the structure plan have been approved, or other exceptional circumstances exist, which necessitate such revision.

24. The Claimant relies on paragraphs 2.6 and 2.7 of PPG2 in particular in support of his contention that the Green Belt boundary was erroneously extended to include the rear garden at Fourells in the 1999 Local Plan.
25. In Copas & Another v The Royal London Borough of Windsor and Maidenhead [2001] EWCA Civ 180, Simon Brown LJ (as he then was), with whose judgment the Master of the Rolls and Longmore LJ agreed, considered paragraph 2.7 of PPG2 and concluded as follows:

1. The Test of Necessity

20. I can deal with this argument very briefly. Certainly the test is a very stringent one. The terms of paragraph 2.7 are plain: unless there are approved alterations to the Structure Plan (and here there are not) there must be other exceptional circumstances which necessitate revision of an existing Green Belt boundary. And this, indeed, reflects what Purchas LJ said in Carpets of Worth Limited v Wire Forest DC [1991] 2 PLR 84, 94:

“As it directly prejudices land owners in the otherwise proper development of their land, an extension to the Green Belt should not be brought into effect until it can be justified directly by those purposes for which the Green Belt is designed. There must, therefore, be an inhibition in extending the Green Belt so as to avoid sterilising unnecessarily neighbouring land...just as much as reduction in the boundaries of the Green Belt, which would prejudice the purposes of the Green Belt, must also be made only in exceptional circumstances. On this basis I think that the general concept of the advice in the circulars is that once a Green Belt has been established and approved as a result of all the normal statutory processes it must require exceptional circumstances rather than the general planning concepts to justify an alteration. Whichever way the boundary is altered there must be serious prejudice one way or the other to the parties involved.”

21. *To my mind, however, there is no reason to doubt that the Inspector had these considerations well in mind in deciding the present case. Mr Village fixed principally upon the sentence in paragraph 2.43 of the Report:*

“It is necessary to go further, however, if the 1991 decision is to qualify as an exceptional circumstance which dictates that the Green Belt boundary should be revised.”

22. *That sentence, he submits, postulates that exceptional circumstances of themselves will dictate a revision so that the Inspector never came to address the separate question of necessity.*

23. *I would reject this argument. Paragraph 2.7 of the Guidance should be regarded as expressing a single composite test: circumstances are not for this purpose exceptional unless they do necessitate a revision to the boundary. That necessity is the touchstone by which to determine whether the circumstances are exceptional or not. No point would be served by adopting a two stage approach to the test...*

Challenges by a “person aggrieved”

26. As with previous planning legislation, the PCPA 2004 (as amended) sets short time limits within which any challenge to a relevant planning decision must be made and limits the grounds on which any challenge can be made.
27. In the case of a development plan document and a local development plan, section 113 PCPA 2004 (as amended) provides that a “person aggrieved” may apply within

six weeks to the High Court on the grounds that the relevant document is either “not within the appropriate power” or “*a procedural requirement has not been complied with*”, causing “*substantial prejudice*” to the interests of the Claimant. The Court’s powers are discretionary. If the Court is satisfied that the grounds are made out, it may quash the relevant document, in whole or in part, or remit it to the person or body responsible for its preparation or approval.

28. It is settled law that the statutory grounds of challenge encompass the conventional judicial review grounds of illegality, irrationality and procedural impropriety: see, for example, Barratt Developments at paragraph 14.

PLANNING STATUS OF THE LAND AT FOURELLS

29. The detailed boundary of the Green Belt in South Buckinghamshire was first defined in the Local Plan for South Buckinghamshire, which was adopted in 1989 (“the 1989 Local Plan”). This was an “adopted local plan” for the purposes of paragraph 2.6 of PPG2.
30. The South Bucks Local Plan 1989 showed the land to the front and the rear of Fourells, but not the land immediately to the East, as being in the built up area and therefore excluded from the Green Belt. In other words, the detailed Green Belt boundary in the 1989 Local Plan was drawn so that the whole of the domestic curtilage of Fourells was excluded from the Green Belt. This meant that, although the Paddock forming part of the land at Fourells was part of the Green Belt, the rear garden was not. As a result the house and gardens surrounding Fourells were not subject to policies restricting development in the Green Belt in the 1989 Local Plan.
31. PPG 2 setting out the national policy in relation to Green Belt boundaries was published in January 1995.
32. In April 1995 (after the publication of PPG2) the First Defendant began consultation on a replacement South Bucks Local Plan, which was ultimately adopted in March 1999 (“the 1999 Local Plan”).
33. The First Defendant proposed in the April 1995 Consultation Draft Replacement version of the 1999 Local Plan that the detailed Green Belt boundary should be changed at Fourells so that the rear garden should be included within the Green Belt. The Claimant has stated in the present proceedings that he is unaware of any document being produced by the First Defendant at that time to identify, in accordance with paragraph 2.6 of PPG2, the exceptional circumstances which necessitated this change to the detailed Green Belt boundary already established by the 1989 Local Plan. No such evidence was produced in response by the First Defendant.
34. For the First Defendant, Mr Gillespie, the Principal Planner in the Planning Policy Team at the First Defendant, asserts in his witness statement at paragraph 9 that the minor change made to the Green Belt boundary at Fourells was made to ensure that the boundary was clearly defined and defensible. Mr. Gillespie states that the rear wall of the original house at Fourells was a clearly definable and is a defensible boundary. This is disputed by the Claimant, who also points to the fact that Mr. Gillespie did not join the First Defendant until 2008. It is also to be noted that the

explanation given by Mr. Gillespie is somewhat different to the explanation given by the First Defendant to Mr. Dominic Grieve QC, MP in a letter dated 17 December 2008 in which Mr. Beckford, the Head of Sustainable Development of the First Defendant, stated:

“In preparing the [1999 Local Plan] the Council gave detailed consideration to ensure that land which it considered fulfilled a Green Belt function, was indeed covered by Green Belt designation. In some cases this meant a change from the boundaries shown in the Local Plan for South Bucks. All of the land to the east, including Thorney House, was included in the Green Belt. None of it was excluded. The Council’s view was clearly that whilst the dwelling itself could not be said to fulfill a Green Belt function, the rear garden was considered to fulfill such a function, and thus should form part of the Green Belt.”

35. In June 1996 the First Defendant proposed in the Deposit Draft Replacement version of the 1999 Local Plan that the detailed Green Belt boundary should be further changed so as to include the whole of the curtilage of Fourells within the Green Belt (i.e. including all of the curtilage land to the front, rear and sides of the property). Subsequently, in October 1998 the Council considered that this further change was an error and proposed in the Further Proposed Modifications to remove it. That modification still meant that the Green Belt boundary would be extended to include the rear garden of Fourells.
36. The then owner of Fourells made no objections to the proposed amendments to the Green Belt boundary. No objections were submitted by the Government Office for the South East, the County Council or SERPLAN in relation to the amendments to the boundary of the Green Belt proposed at Fourells or anywhere else. Mr Gillespie points out at paragraph 15 of his witness statement those official bodies would normally raise objections where it was felt that a local planning authority's emerging Plan was in conflict with national planning policy guidance including PPG 2. [4/244]
37. An Inspector examined the plan proposals, produced a report in September 1997 and made no changes to the amendments.
38. Further Modifications were made to the Local Plan which was published on 30 October 1998. The Further Modification in respect of the Green Belt boundary at Fourells was taken forward without further change and accordingly the house and front garden of Fourells are not in the Green Belt but the rear garden and other land is shown in the Green Belt on the Adopted Local Plan Proposals Map.
39. The Claimant in his second witness statement at paragraph 26 says that he completed the purchase of Fourells on 27 November 1998 but was unaware of the proposals to change the Green Belt boundary. The evidence is clear that, at the time of the purchase of Fourells, the Deposit Plan would have erroneously shown the entirety of the land at Fourells as being within the Green Belt. This appears to have resulted in the Claimant bringing legal proceedings against his solicitors as he sets out in paragraph 31 and the eventual court proceedings were settled, with a cash payment being made to the Claimant by his former solicitors.

40. At no stage did the Claimant make a challenge to the Local Plan. The Claimant maintains that he could not have done so even if he was aware of the inclusion of the rear garden in the Green Belt.
41. The adopted version of the 1999 Local Plan was produced in March 1999 and it showed the Green Belt boundary to be that which had been first shown in the Consultation Draft version of the 1999 Local Plan, with the detailed Green Belt boundary drawn so as to include the rear garden of Fourells within the Green Belt. This was a change from the Green Belt boundary of the 1989 Local Plan.
42. Policy GB1 of the 1999 Local Plan provided:

“The area in which Green Belt policies will be applied is defined on the Proposals Map...”
43. The Proposals Map of the 1999 Local Plan showed the Green Belt boundary at Fourells so that the rear garden was included within the Green Belt. There was no relevant legal challenge to the adoption of the Local Plan.

Core Strategy

44. The First Defendant then developed its Core Strategy. This was ultimately adopted by a resolution of the full Council on 22 February 2011. In simple terms, the Core Strategy sets out the First Defendant’s planning policy for area for which it is responsible at a relatively high level.
45. The process of developing and adopting the Core Strategy was started by the First Defendant when it issued its Issues and Options paper which was considered for public consultation from 16 January-27 February 2006.
46. The Claimant responded in relation to the land at Fourells Paddock. He made further responses to the Preferred Options Document for public consultation in September 2006. He argued that the Council should consider releasing Green Belt land within settlements where the land is surrounded by properties. For reasons that I do not need to set out, he contended that Richings Park should be a major candidate for such further development.
47. On 25 September 2007 the Second Defendant made a direction under Schedule 8 to the PCPA 2004, saving Policy GB1 of the 1999 Local Plan (i.e. the part which set out the Green Belt boundary) as part of the development plan until it was replaced by a policy in a DPD which expressly replaced Policy GB1.
48. In June 2008 the Claimant put forward Fourells (i.e. including the rear garden) and Fourells Paddock as a future housing site even though the land was in the Green Belt and suggested its release.
49. In March 2010 the First Defendant published the Proposed Submission version of the Core Strategy. The Strategic Objectives of the Proposed Submission version stated:

“No amendments required to the Green Belt boundary in the period to 2031 (see Spatial Strategy).”

50. The Spatial Strategy of the Proposed Submission version stated:
- “There are no proposals to amend the Green Belt boundary within South Bucks...”
51. The explanation of the Spatial Strategy as set out in the Proposed Submission version was:
- “More specifically, the Spatial Strategy aims to contribute to the achievement of the following national policy objectives:
- ...
- Maintain the broad extent of the Green Belt (PPG2: Green Belts) - with no amendments to the Green Belt boundary planned in South Bucks in the period to 2031.
- ...”
52. At the same time the First Defendant also published the Proposals Map as proposed to be changed by the Proposed Submission version of the Core Strategy. There were no changes proposed to the Green Belt boundary at Fourells. Whilst the extent of the Green Belt was also maintained elsewhere, the Proposals Map did put forward changes within the Green Belt so as to identify three Major Developed Sites in the Green Belt where development was expected to take place.
53. Under cover of a letter dated 9 May 2010 the Claimant submitted his completed Publication Stage Representation Form in which he proposed Fourells Paddock as a housing site. He did not specifically mention the rear garden in the Form. In the covering letter, however, the Claimant set out his submission, repeated in the present proceedings, that the adoption of the 1999 Local Plan was unlawful because the Green Belt boundary had been altered to include the rear garden of Fourells despite the absence of any exceptional circumstances. As such, the Claimant contended that the adoption of the Core Strategy which was premised on maintaining the same Green Belt boundary was unsound and was not compliant with the requirements of PPG2. The Claimant concluded by saying:
- I have further evidence which I will present at the oral examination stage of the Core Strategy to show that the council did not comply with PPG2 and these errors need to be corrected.*
- I kindly request the Inspector to redefine the Green Belt boundaries and remove the curtilage of the dwelling from the Green Belt.*
- The Claimant’s objections were accurately summarized by the First Defendant in the Core Representation Summary which was submitted to the Inspector.
54. The Core Strategy was submitted to an Inspector for examination on 21 July 2010. The examination hearings were held between 10 and 18 November 2010. The

Claimant attended the hearings. As requested by the Claimant, the Inspector made site visits to, amongst other properties, Fourells on 12 November 2010. At paragraph 12 of his first Witness Statement the Claimant states as follows:

The Inspector made a site visit to Fourells which took place on 12 November 2010. At the site visit (attended by Mr Motuel on behalf of the First Defendant as well as by the Inspector and me), the Inspector asked me where the Green Belt boundary was. I pointed to the location where the 1989 Green Belt boundary originally was, which had been between the rear of the southernmost outbuilding and the present wooden fence (which had been installed in 2009 and was not directly on the line of the 1989 Green Belt boundary). The Inspector then suggested that I needed to do some research at the First Defendant's offices, but I indicated I had already done so and could not find any additional information that was in the public domain.

55. The Claimant also sent specific questions to the First Defendant and the Inspector on 17 November 2010, asking what exceptional circumstances existed which justified the inclusion of the rear garden of Fourells in the Green Belt in the 1999 Local Plan "when the inspectors report had already concluded that there were no exceptional circumstances to amend the green belt" (the latter being a reference to the 1997 Inspector's report). That email was included as a Core Document. The Claimant went on to say that:

If the Council acknowledge the error, we can avoid unnecessarily further arguments at the hearing and let the inspector provide recommendations on a clearly definable boundary and include all the dwelling on the South East of Old Slade Lane and Richings Way into the settlement of Richings Park. This would bring the boundary in line with the South West [sic – it should read "East"] of Old Salde [sic] Lane and Richings Way/North Park."

In other words, the Claimant was proposing more extensive inroads in to the Green Belt than simply redrawing the boundary to exclude the rear garden of Fourells.

56. The First Defendant's response was, in effect, simply that it complied with all of the statutory steps leading to the adoption of the 1999 Local Plan and no legal challenge was made to the adopted Plan. The First Defendant went on to conclude:

The Council has already clearly demonstrated that it can meet its housing requirements without recourse to the release of land form [sic] the Green Belt. There are no exceptional circumstances warranting the consideration of Green Belt release.

57. At the hearing session itself, the following exchange took place between the relevant Officer of the First Defendant (Mr Ian Motuel), the Claimant, and the Inspector:

Mr Motuel: “Mr Hundal had not objected and did not take any legal action.”

Mr Hundal: “What were the exceptional circumstances to change the Green Belt on just my site and not others?”

Mr Motuel: “It has been some 20 years and we don’t have any document to say why.”

Inspector: “I can’t change what has happened in the past.”

58. The Claimant relies on the Inspector’s comment in that passage as evidencing the fact that she had already accepted the First Defendant’s position that there could not be a challenge to the Green Belt boundaries in the 1999 Local Plan on the basis that the boundaries in that Plan had been drawn up as a result of an error of law.
59. The Inspector’s report is dated 31 January 2011. The Non-Technical Summary at the front of the report summarises the conclusions reached:

This report concludes that the South Bucks Core Strategy Development Plan Document provides an appropriate basis for the planning of the District over the next 15 years. The Council has sufficient evidence to support the strategy and can show that it has a reasonable chance of being delivered.

A limited number of changes are needed to meet legal and statutory requirements...All of the changes recommended in this report are based on proposals put forward by the Council in response to points raised and suggestions discussed during public examination. The changes do not alter the thrust of the Council’s overall strategy.

60. In the Introduction to the Report (at paragraphs 1 and 2), the Inspector correctly identified that her role was to consider whether the Core Strategy was “*compliant in legal terms and whether it is sound...[i.e.] justified, effective and consistent with national policy*” and that her starting point for the examination was the assumption that the First Defendant had submitted what it considered to be a sound plan. At paragraph 8 of the Report, the Inspector stated:

Taking account of all the representations, written evidence and the discussions that took place at the examination hearing I have identified seven main issues upon which the soundness of the plan depends.

61. The first Issue identified by the Inspector was “*Does the Council’s overall strategy have a firm basis?*”. It is helpful to record the Inspector’s findings in paragraphs 9, 10 and (part of) 11 of the Report in relation to that issue because, in my judgment, they evidence the fact that the Inspector was adopting the correct approach to her task, namely to assess the soundness of the First Defendant’s plan, not to adjudicate on

individual objections per se or see if there was a different plan which she preferred. The relevant paragraphs read as follows:

9. *The cascade of relationships between the five themes identified in the South Bucks Sustainable Community Strategy (2009) (CD7/01) and the Council's overall vision for the District, its strategic objectives and how they inform policy, critical success factors, related performance indicators and targets, is particularly clearly set out in the plan. The vision is thus carried through to delivery in an exemplary manner.*
10. *The overall housing strategy of the plan is to accommodate growth within existing settlements, whilst avoiding harm to townscape character and without releasing Green Belt land. There is a clear audit trail which shows how alternative strategies were developed and tested, with a variety of spatial distributions of growth including those which would involve the release of some Green Belt land. Sustainability appraisal and effective engagement with stakeholders and the community took place at all main stages of the process.*
11. *...The overall strategy is sound.*

62. The Inspector considered, under Issue 2, whether the Core Strategy made “justified and effective provision for housing in terms of the overall number of dwellings, their distribution and the provision of particular types of dwellings including affordable housing”. She concluded that it did. At paragraph 18, she concluded:

18. *The evidence base is robust, subject to the recommendations above, and no contingency sites, within or outside the Green Belt, are required to make the strategy more deliverable or more flexible.*

That included the affordable housing target which she concluded, in paragraph 29 of the Report, was “challenging” but “realistic and justified” such that “*the plan is sound in that regard*”.

63. Issue 7 was framed in the following way: “Other development sites – does CP17 accord with PPG2? Are sites put forward by representors essential to the delivery and flexibility of the CS as contingency or alternative locations for growth?”. In paragraph 45 of the Report, the Inspector answered that issue in the following way:

45. *I concluded under Issues 1 and 2 that the overall strategy of accommodating housing growth within existing settlements without removing land from the Green Belt is sound, and that there is robust evidence that at least the lower CS housing target can be delivered in the plan period. There is therefore no need for a comprehensive review of Green Belt boundaries at this time, nor any*

need to look further for other housing land in the Green Belt to ensure the flexibility or deliverability of the CS, or the protection of existing townscape. A number of sites in the Green Belt were put before the examination, the individual site-specific and other merits of which I have considered carefully. However, for the above reasons, contingency or alternative development sites are not needed to make the plan sound, and none of the benefits put forward by promoters would override that consideration.

64. Finally, in paragraph 47 of the Report, in relation to the question of whether the Core Strategy complied with all of the legal requirements, the Inspector concluded that “*the Core Strategy meets them all*”. She specifically addressed compliance with National Policy, stating that the “*Core Strategy complies with national policy except where indicated and changes are recommended.*” No change was recommended in relation to the Green Belt boundary at Fourells.
65. As noted above, the First Defendant adopted the Core Strategy incorporating the changes recommended by the Inspector, on 22 February 2011. The Core Strategy as adopted continues to state that the Green Belt boundary is to remain unchanged until 2031 and the Proposals Map continues to include the rear garden of Fourells within the Green Belt.

THE COMPETING SUBMISSIONS

The Claimant’s Submissions

66. The main ground of challenge is the first ground. Under that ground the Claimant contends that the Inspector appointed by the Second Defendant to carry out the independent examination erred in law in that to the extent that she considered, as she was required to do by Regulation 31 of the Local Development (England) Regulations 2004, the representations made by the Claimant that the Core Strategy was “unsound”, she failed to have regard to the full planning history of the Green Belt boundary at Fourells on account of her mistaken belief that she could not change the Green Belt boundary by reason of events that took place before the adoption of the 1999 Local Plan.
67. The Claimant contends that:
 - 67.1 The Inspector was obliged to “consider” the representations made by the Claimant before making her recommendations as to whether or not the Core Strategy was “sound” in accordance with Regulation 31 of the Local Development (England) Regulations 2004;
 - 67.2 Proper consideration of the Claimant’s representations required the Inspector to have regard to any material considerations referred to in those representations;
 - 67.3 To determine whether the Core Strategy was “sound” the Inspector had to consider whether it was consistent with national policy;

- 67.4 The planning history of the Claimant's land at Fourells was a material consideration;
- 67.5 The question of whether there were exceptional circumstances which necessitated a change to the Green Belt boundary was a matter of planning judgment for the Inspector, provided that in making that judgment she had regard to the relevant material considerations identified in the material before her.
68. During oral argument, with the assistance of very clear submissions by both Counsel, it became clear that the Claimant's case could be distilled into the following submissions.
69. First that the First Defendant and the Inspector were required to ensure that the Core Strategy complied with National Policy. The Claimant contends that, since the Core Strategy proceeded on the basis that the Green Belt boundary would be as set out in the 1999 Local Plan, the First Defendant and the Inspector were required to determine (at least when the issue was raised by the Claimant) whether that boundary was determined in accordance with National Policy when the Local Plan was adopted. The Claimant submits that they failed to address themselves to that question and, as such, their respective decisions should be quashed and/or the only conclusion to which they could have come was that the Green Belt boundary in the 1999 Local Plan had not been determined in accordance with national policy in so far as it was extended to include the rear garden at Fourells with the result that the Core Strategy could not be held to be "sound" and must be quashed.
70. In the alternative, the Claimant contended that the fact of the error (as he characterised it) which resulted in the improper inclusion of the rear garden of Fourells within the Green Belt boundary in the 1999 Local Plan was itself an exceptional circumstance which necessitated a change to the boundary in accordance with PPG2. As such, the Green Belt Boundary should, on the Claimant's case, have been redrawn in the Core Strategy to revert back to original Green Belt boundary defined in 1989.
71. Further, the Claimant submitted that the Inspector's Report contained no reference to the Claimant's representation and that it was impossible to see from the Report alone what the Inspector's reasoning was in relation to it. The Claimant contended that the only reasoning of the Inspector which related to changes to the Green Belt was at paragraph 45 of the Report. In that paragraph, the Claimant submitted, the Inspector did not consider or refer to the need for the Core Strategy to be consistent with national policy in PPG2 and made no reference to whether, leaving aside issues relating to housing growth requirements, there were any other factors which constituted exceptional circumstances which necessitated changing the detailed boundaries of the Green Belt. The Claimant emphasised that the Claimant's representations concerning the Green Belt boundary in so far as it related to the rear garden at Fourells (as opposed to the Fourells Paddock) had not related to any need for boundary changes to accommodate housing growth.
72. In addition, according to the Claimant, neither the First Defendant in its response nor the Inspector in her comments at the hearing session, engaged with the Claimant's representation and submissions on their merits. The Claimant submitted that the First

Defendant wrongly sought to side-step the Claimant's point that the 1999 change had not been justified in terms of PPG2 by stating that the 1999 Local Plan had not been subject to legal challenge. However, it is axiomatic that the "adopted local plan" which establishes a detailed Green Belt boundary will be a plan which has been validly adopted (otherwise it would not be an "adopted local plan"). Thus, the mere fact that the existing boundary is contained within a legally valid local plan provides no basis for contending that exceptional circumstances may not exist which necessitate it being changed. The advice in PPG2 is to be applied to valid local plan boundaries. It is then necessary for all the circumstances in relation to that boundary to be examined to see if they amount to exceptional circumstances which necessitate it being changed.

73. Further, as I have indicated above, the Claimant relied on the Inspector's remarks at the hearing session that "*I can't change what has happened in the past*" as showing that the Inspector considered that she had no power to change the outcome of the earlier actions of the First Defendant in 1999 when it altered the detailed Green Belt boundary. According to the Claimant, the Inspector's remark was intended as an explanation to the Claimant as to what the Inspector saw as the limit of her powers: i.e. she was (wrongly) accepting the First Defendant's proposition that she could not go behind the 1999 Local Plan because it had not been challenged at the time.
74. In so doing, the Claimant submitted that the Inspector erred in law in that she failed to have regard to a material consideration, namely whether the evidence provided by the Claimant as to the absence of any exceptional circumstances in 1999 was sufficient evidence to constitute exceptional circumstances necessitating a change to the 1999 Green Belt boundary to restore it to its original 1989 alignment. The full planning history of the Green Belt boundary at Fourells was a material consideration in any assessment of whether that boundary should be changed. Had the Inspector appreciated that she was entitled to consider the full planning history of the Green Belt boundary at Fourells, there is a real possibility that she may have reached a different conclusion on the Claimant's representation. Had she done so, she could not then have found that the Core Strategy was "sound" as being consistent with national policy in PPG2 without requiring the boundary at Fourells to be changed to restore it to the 1989 boundary.
75. Under the second ground, the Claimant sought to challenge the decision of the First Defendant to adopt the Core Strategy. The Claimant submitted that the First Defendant was not obliged to adopt the Core Strategy and, in particular, was not obliged to perpetuate any error of law by the Inspector in making those recommendations. The First Defendant could see, from a perusal of the Inspector's report, that the Inspector had not addressed in terms the Claimant's representation. The First Defendant was present at the examination hearing session and was aware of the approach that the Inspector had indicated that she was taking to matters taking place before the adoption of the 1999 Local Plan. In essence this was the approach that had been promoted by the First Defendant. For the reasons set out above, the approach of disregarding the full planning history of Fourells, and excluding matters before the adoption of the 1999 Local Plan, when considering whether there were exceptional circumstances which necessitated a change to the Green Belt boundary was erroneous in law and the First Defendant should not have accepted recommendations from the Inspector made on a flawed basis.

76. Finally, the Claimant contended that he had been substantially prejudiced by the errors of the Inspector and of the First Defendant. Had his objection been properly considered on its merits there is a real possibility that the Inspector would have accepted that the boundary in the 1999 Local Plan could not be justified by reference to the advice in PPG2 and that she would have considered that the Core Strategy's failure to address this deficiency was an issue which meant that the Core Strategy was not consistent with national policy and so was not sound.

The First Defendant's Submissions

77. The First Defendant contended that the failure to exclude the rear garden at Fourells from the Green Belt somehow rendered the Core Strategy unsound.
78. The First Defendant argued that the Claimant was asking the wrong forensic question. Contrary to the submissions of the Claimant, it was not a question of what happened in the past as being an exceptional circumstance to remove the land from the Green Belt. The First Defendant contended that, even if (which it disputed) there were no proper grounds justifying the extension of the Green Belt boundary to include the rear garden of Fourells at the time of the 1999 Local Plan, that could not give rise to a challenge to the Core Strategy. The 1999 Local Plan had not been challenged at the time and as such, Policy GB1 of the 1999 Local Plan remained a valid, saved policy. Any error on the adoption of that Plan of the type alleged by the Claimant was not relevant to the development of the Core Strategy or the Inspector's review of that document. It was not their function to consider whether there had been historic errors of law in the formulation of the policies and adopted plans on which the Core Strategy was based. This was because the Core Strategy was, in simple terms, a forward looking document, planning for the future based on the position as it currently existed.
79. In the alternative, the First Defendant contended that the mere existence of an historic error of law or arguable error of law in the adoption of the 1999 Local Plan could not of itself require a change in the Green Belt. This is because, in accordance with paragraph 2.7 of PPG2, in order to qualify as "exceptional circumstances" justifying a change to the Green Belt boundary, the circumstances had to "necessitate" the change. The First Defendant submitted both that in principle the alleged error of law relied on by the Claimant did not, of itself, necessitate a change to the Green Belt boundary and that the Claimant had not at any stage contended that it would. (The latter point was answered by the Claimant in oral argument by submitting that the error of law of itself necessitated the redefinition of the boundary in order to bring it back into line with National Policy as set out in PPG2.)
80. The First Defendant accepted that *if* there were grounds which required a change to the Green Belt boundary (e.g. in order to provide sufficient housing to meet the projected needs of the District), then the existence of a historic error leading to the erroneous adoption of an extended Green Belt boundary may be a relevant consideration in determining where boundary should now be changed in order to accommodate the particular problem. It would, however, be unlikely to be a conclusive factor.
81. In any event, the First Defendant submitted that there were good grounds for the inclusion of the rear garden of Fourells in the 1999 Local Plan. Although this appears to be an assessment made many years after the event, the First Defendant pointed to

82. The First Defendant submitted that, as evidenced by (amongst other things) paragraph 45 of the Report, the Inspector had addressed herself to the correct question and had considered, globally, whether there is any need to review the Green Belt boundaries in order to provide further development sites to ensure the deliverability of the Core Strategy. In doing so, she confirmed that she had carefully considered the merits of specific sites put before her which must necessarily involve the Claimant's submission.
83. In relation to the second ground, the First Defendant contended that the Inspector's report properly addresses the Claimant's representation and the Claimant had failed to demonstrate any substantial prejudice. Further the Claimant had failed to show any irrationality on the part of the First Defendant in adopting the Core Strategy. Accordingly, the second ground must also fail.

DECISION

84. In my judgment, the present appeal must fail.
85. The 1999 Local Plan was adopted without any challenge to its validity. In the absence of any successful challenge to its validity, it is and was valid and lawful. The First Defendant is and was entitled to proceed on that basis. That is also consistent with it being a common feature of legislation governing planning that challenges to any relevant planning decision must be made swiftly (as in the case of the six week time limit allowed within which an appeal must ordinarily be brought). That is an essential feature of the regulatory scheme so that, within reason, there is as much certainty as possible in relation to the limits on land use and development that apply to different areas.
86. The purpose of the development of the Core Strategy is not to consider or rectify historic errors of law. The purpose of the Core Strategy, in simple terms, is to enable the First Defendant to set out its policy for the development and use of the land within its area over a given period. In other words, it is a prospective document, setting out the overall strategy to be adopted in relation to the future development and use of land and the future policies that will be pursued by the First Defendant, consistent with its obligations to review matters which might be expected to affect the development of its area and to develop a local development scheme. That is evident from, amongst other things, Sections 13, 15 and 17 of the PCPA 2004 (as amended) and Regulation 6 of the 2004 Regulations as set out above.
87. Similarly, it is not the function of the Inspector to substitute his or her decision as to the policy that ought to be adopted for that of the Local Planning Authority or to correct historic errors of law in adopted plans. As is clear from Section 20 of the PCPA, and as is accurately recorded in the Introduction to the Planning Inspectorate's Development Plan Document Examination Procedural Advisory Notes (August 2009), the function of the Inspector is to examine the legal compliance of the Local Planning Authority's policy *as a whole*. In other words, if the *prospective* policy set out in the relevant Development Plan Document meets the statutory criteria under

section 20 of the PCPA 2004, that is the end of the matter. It is not the function of the Inspector to adjudicate on individual objections. The Inspector has to take account of such objections, but only in so far as they are relevant to the questions posed by Section 20 of the PCPA 2004. As I have set out below, in my judgment, the Inspector in the present case approached her task in a proper and lawful manner.

88. It follows from the above, that I reject the Claimant's first submission that the Core Strategy should not have been approved by the Inspector or the First Defendant because it was premised on the 1999 Local Plan which, in turn, had included the rear garden of Fourells in the Green Belt as a result of what the Claimant contended had been the erroneous application of PPG2. In the absence of any successful challenge to the adoption of the 1999 Local Plan, everyone, including the First Defendant, was entitled to proceed on the basis that the 1999 Local Plan had been lawfully adopted. PPG2 was then relevant only to the extent that questions arose as to whether or not there should be changes to the Green Belt boundary as established in the 1999 Local Plan. Any such question would have to be answered having proper regard to, amongst other things, the policy set out in paragraphs 2.6 and 2.7 of PPG2.
89. Further, as set out in paragraph 23 of the Judgment of Simon Brown LJ in Copas, circumstances are only exceptional for the purposes of paragraph 2.7 of PPG2 if they *necessitate* a revision to the boundary – "*that necessity is the touchstone by which to determine whether the circumstances are exceptional or not*". I do not accept that an historic error of law in the making of one of the underlying documents constitutes such an exceptional circumstance. The error (if it existed) could have been corrected (subject to the discretion of the Court) in a legal challenge at the time that the relevant decision was made. In the absence of a challenge, the Plan is lawful and there is no need *per se* to change it.
90. Further, I do not accept the Claimant's submission that the mere presence of an error which resulted from the failure in the past to follow national policy "necessitates" a change to the Green Belt boundary for the purposes of paragraph 2.7 of PPG2. That paragraph is contemplating a relevant planning consideration for a change. The overriding policy of PPG2 is that the Green Belt boundaries should remain fixed once they have been validly determined. It is only if a relevant circumstance occurs that requires a change in the future for planning purposes that the circumstance will be an exceptional circumstance. An obvious example would be if, in the present case, the First Defendant had determined that it could not meet the projected housing requirements for its area up to 2031 without using Green Belt land. In that case, for the purposes of the Core Strategy, the exceptional circumstance may have been made out (assuming no other practical alternatives). At that point, a subsidiary question may arise as to which land that was currently within the Green Belt should now be freed for development. In making that latter decision, I accept that the fact that land had recently and erroneously been included within the Green Belt when the local plan was developed *might* be a relevant consideration in deciding where the boundary had changed but it would be highly unlikely to be the only or the dominant factor.
91. It follows that, in my judgment, the Claimant fails on his alternative case that the existence of an alleged historic error meant that there was, at the time of the Inspector's Report and the adoption of the Core Strategy by the First Defendant, an exceptional circumstance which necessitated a change in the boundary of the Green Belt to exclude the rear garden at Fourells.

92. It also follows that there is no basis on which to challenge either the Inspector's Report or the decision of the First Defendant to adopt the Core Strategy. In my judgment the Inspector properly directed herself to the relevant issues and there is no discernible error of law in her approach.
93. The correct position is as follows. The First Defendant properly applied PPG2 in developing its proposed Core Strategy. It developed a policy which sought to avoid changing any of the boundaries of the Green Belt as established in the 1999 Local Plan. It succeeded in doing so. That complied with the requirements of paragraph 2.7 of PPG2.
94. The Inspector addressed the correct question, namely whether the Core Strategy proposed by the First Defendant met the requirements of Section 20 of the PCPA 2004. As part of that process she concluded (as she was entitled to do) that the First Defendant was correct that its policy and objectives as set out in the Core Strategy could be met without releasing land from the Green Belt. That policy was compliant with the relevant legal requirements and complied with national policy including PPG2. Those conclusions were largely addressed under Issues 1 and 2 of the Report.
95. Given the conclusions that she had reached, it was inevitable that she would conclude that there was no need for a comprehensive review of Green Belt boundaries or to look for other housing land in the Green Belt. It also follows given my conclusions above that, in my judgment, the Inspector was correct to conclude that the Core Strategy complies with the relevant national policy for present purposes (i.e. PPG2).
96. I also do not accept the Claimant's submission either that the Inspector closed her mind to the Claimant's representations or failed properly to address the same in her Report. The fact of the site visit and the inclusion of the Claimant's representations in the documents before the Inspector show that they were being actively considered by the Inspector. Indeed, her comments to the Claimant on the need to do further research as to the line of the old boundary of the Green Belt show that she was actively considering the Claimant's representations. Further, I do not accept that the Inspector's comment at the hearing that "*I can't change what has happened in the past*" meant that the Inspector had dismissed the Claimant's representations without proper consideration. In the relatively informal setting of the examination, it seems to me that the Inspector was saying no more than she had no role or power to open up the 1999 Local Plan and revise it. That was correct.
97. Further, as set out in Barratt Developments, the Inspector did not have to address every representation that had been made to her. She only had to identify which representations were relevant to the task of examining the Core Strategy for compliance with the Section 20 criteria. In my judgment the Inspector approached that task in an entirely proper manner. She identified the key issues and addressed them. The report was relatively short but contains sufficient detail for her reasoning on the key issues to be understood with clarity.
98. Finally, it also follows from the above that there is no ground on which the decision of the First Defendant to adopt the Core Strategy can be challenged.
99. For all those reasons I dismiss this appeal.

100. I indicated at the close of the oral submissions that I would be prepared to deal with any submissions on costs or other matters on paper if the parties agree to that approach. Obviously if either party does not agree to those matters being dealt with on paper, the matter will be listed for a further, short, oral hearing.