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MARCH 2014 *Planning, Environment & Property Law Newsletter*

Welcome to the March edition of the newsletter. As ever, this edition covers a broad range of topics and will, hopefully, prove essential reading for anyone with even a passing interest in planning, environmental and property law.

Leading the way, Gordon Nardell QC and Justine Thornton co-author an article shedding further light on the recent judgment in the Barnwell case. Richard Harwood OBE QC appears twice in this month's edition, both times with one eye on future developments. Richard's first article considers the planning court and its likely impact, whilst his second summarises the historic environment changes being brought in on 6th April. Between Richard's contributions, Simon Edwards asks "Is Shelfer Dead?" in his article on a recent case in which the Supreme Court rewrote the rules on the circumstances in which a court will award damages rather than grant an injunction in cases of nuisance[1]. Finally, I summarise some of the recent changes to the CIL regime.

In other news, a number of members of Thirty Nine Essex Street have recently been recognised in the Planning Magazine's annual rankings. Peter Village QC's formidable reputation was enhanced by his retention of a top ten position whilst Richard Harwood QC's entry into the top ten recognises his undoubted contribution to the field. James Strachan QC cemented his top twenty ranking, whilst Stephen Tromans QC, John Steel QC, Tom Hill QC (twice!), Gordon Nardell and Paul Stinchcombe complete the list of top rated silks practising from chambers. Members also appeared in the list of top rated juniors. Notably, James Burton and Richard Wald were recognised for the respective expertise, whilst Andrew Tabachnik, Justine Thornton, John Pugh-Smith, Ned Helme, Martin Edwards and Christiaan Zwart also featured prominently. Ned also appeared in the top rated juniors under-35 category, whilst Rose Grogan, Philippa Jackson, Jonathan Darby and James Potts revealed the increasing depth of chambers' planning, environmental and property practice group.

Jonathan Darby

[1] Full versions of Richard's article on the planning court and Simon's article are available online via links accessible at: www.39essex.com
http://www.39essex.com/resources/article_listing.php?catid=5&id=814
http://www.39essex.com/resources/article_listing.php?catid=5&id=815

Turbines, heritage assets and merits: a change in the wind

Gordon Nardell QC
Justine Thornton

In the February *Newsletter* we outlined the Court of Appeal's judgment in *Barnwell Manor Wind Energy Ltd v. East Northants DC and others* [2014] EWCA Civ 137. The court upheld Lang J's quashing of an inspector's decision granting planning permission for a 4-turbine wind farm on grounds relating to impact on the setting of several high-value heritage assets. This article focuses on the part of the judgment likely to have the farthest-reaching consequences, not least for onshore wind development: when will the courts intervene on the ground of failure by the decision-maker to comply with the duty under Listed Buildings Act 1990 s. 66(1) to have "special regard to the desirability of preserving [a listed] building or its setting…"?

The *Barnwell* inspector's decision contained several references to s. 66(1). Applying (then) PPS5 policies HE.9 and HE.10 – now replaced by similar NPPF provisions – he found some, but "less than substantial" harm to setting. Striking the balance, he held the harm outweighed by the renewable energy benefits of the proposal, which – in accordance with advice then in PPS22 – attracted "significant" weight.

Central to any decision to which s. 66(1) applies is a series of judgments: does the scheme cause harm to the setting of heritage assets? If so, how much? And do its benefits outweigh that harm? As all involved in development challenges well know, perversity aside, those questions are off-limits to the courts: "if there is one principle of planning law more firmly settled than any other, it is that matters of planning judgment are within the exclusive province of the local planning authority or the Secretary of State" (Lord Hoffmann in *Tesco Stores v. SSE* [1995] 1 WLR 759). How, then, can that be reconciled that with a statutory duty that mandates some sort of "special" treatment for a particular factor?

Lang J examined the authorities on s. 66(1) and its predecessors, all decisions of some age and pre-dating *Tesco*: *Bath Society* [1991] 1 WLR 1303, *South Lakeland* [1992] 2 AC 141 and *Heatherington* 69 P&CR 374. She concluded that s. 66(1) required the decision-maker to "accord considerable importance and weight" to the desirability of preserving setting when weighing that factor in the balance. It was therefore "necessary to qualify" Lord Hoffmann's *Tesco* statement. The inspector had failed to accord "considerable importance" to the statutory objective. Rather, he "treated the harm to the setting and the wider benefit of the… proposal as if those two factors were of equal importance."

That last statement is obviously problematic. Any decision to grant permission in a s. 66(1) case necessarily involves the decision-maker finding the "wider benefit" to be of at least equal importance or weight as the detriment to setting. On appeal, it was argued that this reflected a more fundamental error in the judge's reasoning: in treating s. 66(1) as qualifying *Tesco*, she had wrongly strayed into second-guessing the inspector's exercise of judgment. As elsewhere in administrative law, the important point is to ask the right question: following a careful assessment, does the benefit sufficiently outweigh the harm to justify the grant of permission? For the court to go further and ask itself whether, relatively speaking, enough weight was given to detriment – or put another way, whether too much weight was given to benefit – trespasses on the forbidden turf of merits.

The Court of Appeal rejected that argument. Sullivan LJ held that the Parliamentary intention behind s. 66(1) was to require the decision-maker not simply to give "careful consideration" to the desirability of avoiding harm, but to give that factor "considerable importance and weight" in the balance. Adopting Lord Bridge's (obiter) remarks in *South Lakeland,* a finding of harm created a "strong presumption" against granting permission. So, while the inspector's assessment of the degree of harm was "a matter for his planning judgment", he was not then "free to give that harm such weight as he chose" when striking the balance. That did not conflict with *Tesco:* that case did not concern s. 66(1) but the ordinary duty under TCPA 1990 s. 70(2) to have regard to material considerations, a provision which Parliament had made "expressly subject to the s. 66(1) duty". Here, the inspector appeared to have "treated the less than substantial harm to… setting… as a less than substantial objection" to granting permission. While the inspector had referred to s. 66(1), no "particular passage in the decision letter" indicated that he had given "considerable weight" to the statutory objective; nowhere did he "expressly acknowledge the need" to do so.

Where does it leave us? The key point – as we observed in February – is that once a decision-maker finds harm to setting, there must be some express acknowledgement of the "considerable" weight to be given, in the balance, to the desirability of avoiding that harm. It is not enough to ask in a general sense whether benefits outweigh harm, but whether they do so sufficiently to rebut the strong presumption against permission. That much is clear, and all those involved in decision-making about wind turbines in the vicinity of heritage assets should take careful note. Less clear, though, are the precise boundaries of the court's role in assessing whether the s. 66(1) duty has been met.

Here, after all, the inspector made multiple references to s. 66(1) and must have given "significant" weight to its objective — otherwise why bother to record that at least an equally "significant" benefit was necessary to outweigh it? By criticising the inspector for omitting some further mantra about "considerable weight" or "strong presumption", the Court of Appeal risks reducing a question of substance to one of semantics. On the other hand, if the court's investigation is more than merely semantic – in other words, if its role is to determine whether the decision-maker in fact attached sufficient weight to the statutory objective – then it is hard to avoid the conclusion that we have entered the realm of merits review. The care Sullivan LJ took to distinguish *Tesco* rather hints at this, and the establishment of a Planning Court with a cadre of specialist judges (see Richard Harwood QC's article in this edition) could add impetus in that direction. If that is the right reading of the decision, then *Barnwell* marks a very significant change in the wind indeed.

Gordon Nardell QC and Justine Thornton appeared for the developer, Barnwell Manor Wind Energy Ltd, in the Court of Appeal.

Planning Court from 6th April

Richard Harwood OBE QC

The Planning Court will come into existence on 6th April 2014. For the most part the procedures for claims will remain those under the Civil Procedure Rules for judicial review (CPR 54), statutory applications (CPR 8) and statutory appeals (CPR 52). What is distinctive so far is the introduction of tight timetables for the consideration of important cases.

The Planning Court

Planning Court claims will form a specialist list within the Queen's Bench Division.[2] To what extent the running of the Planning Court will be separate from the Administrative Court remains to be seen.[3] Planning Court claims will be issued in the Administrative Court Office, either in the Royal Courts of Justice or one of its regional/national centres: Practice Direction 54E, paragraph 2.1. The Court is an evolution of the Planning Fast Track which was introduced into the Administrative Court in July 2013 with the aim of ensuring that important planning cases were heard quickly before specialist judges.[4]

There will be a Planning Liaison Judge in charge of the Planning Court specialist list.[5] Mr Justice Lindblom has been appointed to that role as Lead Judge of the Planning Court.

Jurisdiction

The new CPR 54.21(2) sets the jurisdiction of the Planning Court by defining a 'Planning Court claim' as:

> *"a judicial review or statutory challenge which —*
> *(a)involves any of the following matters —*
> *(i) planning permission, other development consents, the enforcement of planning control and the enforcement of other statutory schemes;*
> *(ii) applications under the Transport and Works Act 1992;*
> *(iii) wayleaves;*
> *(iv) highways and other rights of way;*
> *(v) compulsory purchase orders;*
> *(vi) village greens;*
> *(vii) European Union environmental legislation and domestic transpositions, including assessments for development consents, habitats, waste and pollution control;*
> *(viii) national, regional or other planning policy documents, statutory or otherwise; or*
> *(ix) any other matter the judge appointed under rule 54.22(2); and*
> *(b)has been issued or transferred to the Planning Court."*

As expected the Planning Court has jurisdiction over certain judicial reviews. Statutory challenges are not defined in the Civil Procedure Rules, and the expression appears to be new to the CPR.
It would include applications to the High Court to challenge the validity of various decisions, actions or orders and appeals which challenge validity, such as appeals under section 289 of the Town and Country Planning Act 1990 against enforcement notice appeal decisions. Open for debate is whether it includes civil or criminal appeals by way of case stated or a judicial review of a criminal case. The Planning Court's jurisdiction would not extend to other civil proceedings which collaterally raise matters within these topics. Planning injunctions will be outside its remit.

The Court will cover a wide range of topics, reflecting the traditional compass of the Planning Bar, including highways, compulsory purchase and village greens. The approach to environmental law is interesting. The Planning Court will deal with European Union environmental law and its domestic transpositions but does not automatically have jurisdiction over purely domestic environmental law. So a challenge to an environmental permit for a waste or Integrated Pollution Prevention and Control installation which falls in part under European law is within the remit, but a purely domestic environmental permit matter is not. Statutory nuisance proceedings are not automatically for the Planning Court.

It appears to be intended that the Planning Liaison Judge will be able to transfer other cases to the Planning Court, but sub-paragraph (ix) has been

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[2] CPR 54.22(1) inserted by the Civil Procedure (Amendment No.3) Rules 2014, rule 3.
[3] The Planning Court will at least have its own letterhead: Explanatory Memorandum to the Civil Procedure (Amendment No.3) Rules 2014 para 9.1.
[4] For a discussion of the evolution of the Planning Court proposals see The High Court's new Planning Court by Richard Harwood QC (February 2014) http://www.39essex.com/resources/article_listing.php?catid=5
[5] CPR 54.22(2).

mangled in drafting: 'any other matter the judge appointed under rule 54.22(2)' does not make any sense.

A Planning Court claim will only be one which has been issued in or transferred to the Planning Court.[6] The Practice Direction requires Planning Court claims to be issued or lodged in the Administrative Court Office and marked by the claimant as 'Planning Court', but it does not in terms say that any case within the category must be a Planning Court claim.

Significant cases and timetabling

The Planning Liaison Judge will be able to categorise Planning Court claims as 'significant': Practice Direction 54E, para 3.1. It may be that this can be done by class as well as individually. According to the Practice Direction, significant Planning Court claims include claims which:

> *"a) relate to commercial, residential, or other developments which have significant economic impact either at a local level or beyond their immediate locality;*
> *b) raise important points of law;*
> *c) generate significant public interest; or*
> *d) by virtue of the volume or nature of technical material, are best dealt with by judges with significant experience of handling such matters."*

Parties may make representations as to whether a matter should be characterised as significant on issuing the claim or lodging an acknowledgment of service. If a case is identified as significant it should come before a specialist judge and be dealt within in a tight timetable. By paragraph 3.4 of the Practice Direction target timescales for hearing significant cases are:

> *"a) applications for permission to apply for judicial review are to be determined within three weeks of the expiry of the time limit for filing of the acknowledgment of service;*
> *b) oral renewals of applications for permission to apply for judicial review are to be heard within one month of receipt of request for renewal;*
> *c) applications for permission under section 289 of the Town and Country Planning Act 1990 are to be determined within one month of issue;*
> *d) substantive statutory applications, including applications under section 288 of the Town and Country Planning Act 1990, are to be heard within six months of issue; and*
> *e) judicial reviews are to be heard within ten weeks of the expiry of the period for the submission of detailed grounds by the defendant or any other party as provided in Rule 54.14."*

The Planning Liaison Judge will be able to direct the expedition of any Planning Court claim if it is necessary to deal with the case justly.[7]

These timescales are subject to the overriding objective of the interests of justice but the parties should be prepared to meet them. Target timescales are already being used in the Planning Fast Track and are being enforced quite rigorously see Mr Justice Lindblom's comments in *London & Henley (Middle Brook Street) Ltd v Secretary of State for Communities and Local Government* [2013] EWHC 4207 (Admin).

Summary grounds of resistance

At present the procedural rules for claims within the Planning Court are not changed from those which presently operate in the Administrative Court. There are good arguments for any Planning Court innovations (such as shorter skeleton deadlines) being applied across the Administrative Court. One change is contained in the Practice Direction:[8]

> *"The Planning Court may make case management directions, including a direction to any party intending to contest the claim to file and serve a summary of his grounds for doing so."*

The ability to require summary grounds is important. At present there is no obligation upon defendants in statutory applications or appeals (such as under section 288) to disclose their case until they file their skeleton submissions.

Permission to apply under section 288

There has been debate for a long time as to whether a permission stage should be introduced in section 288 applications challenging planning appeal or call in decisions. Presently those applications go straight to a final hearing. That

[6] CPR 54.21(2)(b).

[7] Practice Direction 54E, paragraph 3.6.

[8] Practice Direction 54E, paragraph 3.5.

has the virtue of speed but does mean that some unarguable cases reach full hearings. Clause 57 of the Criminal Justice and Courts Bill proposes that permission is required to bring section 288 cases in England.

There is an unresolved question whether appeals to the Court of Appeal against the refusal of permission to apply should be allowed. Such appeals are not allowed in section 289 enforcement cases but are permitted in judicial review. This has been an important safeguard in judicial review.

Other proposed changes

A series of further changes to primary legislation on Planning Court challenges are being considered by the Ministry of Justice and the Department of Communities and Local Government. Amendments were tabled at the Public Bill Committee stage by Bob Neill MP to address the following points:[9]

(i) Extending the requirement for leave to the other means of High Court challenge under planning legislation;

(ii) At present, challenges to the award of costs in planning appeals and call-ins have to be brought by judicial review;

(iii) A set of amendments would make a series of alterations to the procedure for High Court challenges to enforcement appeal decisions:

(a) It applies a general standing test of person aggrieved;

(b) The challenge may include any grant of planning permission, consent or lawful development certificate, avoiding the need to commence section 288 and 289 proceedings to challenge the grant of planning permission or an LDC in an enforcement notice appeal and similar duplication in listed building cases;

(c) The proceedings are changed from an appeal to an application. That simplifies the procedures as section 288 claims are applications under CPR Part 8, and section 289 claims are appeals under CPR Part 52;

(d) Redundant references to case stated are removed;

(iv) Partial quashing orders would be allowed under section 288;

(v) The starting point for the six week challenge periods would be rationalised, to begin the day after the decision (as with section 288 and judicial review) rather than some including the day of the decision.

Ministers have agreed to give careful consideration to these proposals. Reform may even be able to go wider and merge sections 288 and 289 as suggested by Robert Carnwath QC in his 1989 report *Enforcing Planning Control*.

Is Shelfer Dead?

Simon Edwards

In *Coventry and Others v. Lawrence and Another* (2014) UKSC 13 (2014) 2 WLR 433, the Supreme Court rewrote the rules on the circumstances in which a court will award damages rather than grant an injunction in cases of nuisance. The case involved noise nuisance from a stock car racing circuit.

In *Shelfer v. City of London Electric Lighting Company* (1895) 1 Ch. 287, A.L. Smith LJ set out the oft cited "good working rule" as to when a court, in such circumstances, might award damages rather than grant an injunction. He stated that where the injury to the plaintiff's legal rights was small, was one which was capable of being estimated in money, was one which could be adequately compensated by a small money payment and one where it would be oppressive to the defendant to grant an injunction, then damages in substitution for an injunction might be given. He emphasised, however, that "a person by committing a wrongful act … is not thereby entitled to ask the court to sanction his doing by purchasing his neighbours rights" and in the same case, Lindley LJ made it clear that the award of damages instead of the grant of an injunction was reserved for "very exceptional circumstances".

In the *Coventry* case all judges agreed that "slavish" following of *Shelfer* was no longer appropriate. There agreement more or less ended.

Lord Neuberger at paragraph 120 held that the

[9] New Clauses 1 to 8. Discussed on 27th March 2014 http://www.publications.parliament.uk/pa/cm201314/cmpublic/criminaljustice/140327/pm/140327s01.htm

court's power to award damages in lieu of an injunction involves a classic exercise of discretion which should not, as a matter of principle, be fettered.

At paragraph 121, Lord Neuberger went on to say, however, that the prima facie position was that an injunction should be granted so that the legal burden was on the defendant to show why it should not.

So far as the *Shelfer* test is concerned, at paragraph 123 he said that the four tests should not fetter the court's discretion, that in the absence of additional relevant circumstances pointing the other way, if the four tests were satisfied it might well be right to refuse an injunction, but the converse is not necessarily true, namely that the mere fact that all four tests were not satisfied does not necessarily mean that an injunction should be granted.

He then emphasised that the public interest was a relevant factor and that planning permission was a factor that could be in favour of refusing an injunction. It would be a factor of real force where it was clear that the planning authority had reasonably and fairly been influenced by the public benefit of the activity.

Lastly, he dealt with damages in lieu and held that where appropriate the damages could include the loss of the claimant's ability to enforce his rights which might often be assessed by reference to the benefit to the defendant of not suffering injunctions.

Lord Mance agreed that the appeal should be allowed for the reasons given by Lord Neuberger save that (at paragraph 167), he stated that he did not consider that the grant of planning permission could give rise to any presumption that there should be no injunction.

Lord Carnwath agreed with Lord Neuberger that the court should take the opportunity to signal a move away from the strict criteria derived from Shelfer. At paragraph 245, he stated that he generally agreed with the observations of Lord Neuberger and Lord Sumption, but with some reservations. In particular, he stated his reluctance to open up the possibility of an assessment of damages on the basis of a share of the benefit to the defendants.

Lord Clarke agreed with the conclusions and reasoning of Lord Neuberger subject to some qualifications. He agreed that planning permission was relevant. He stated, however, that the issues of burdens of proof and how the discretion should be exercised should be reserved pending fuller argument. He seemed, at paragraph 171, to be lending some support to Lord Sumption's view that where damages is an adequate remedy, it would be inappropriate to grant equitable relief. Lastly at paragraph 173, he appeared keener on the principle of extending damages measured by a reasonable price for a licence to cases of nuisance by noise (and by inference to nuisance by interference with rights to light etc.).

Lastly, Lord Sumption, at paragraph 161, expressed his view that there was much to be said that damages would ordinarily be an adequate remedy for nuisance and that an injunction should not usually be granted in a case where it was likely that conflicting interests were engaged other than the parties' interests. In particular, he said, it might well be that an injunction should as a matter of principle not be granted in a case where the use of land to which objection was taken, requires and has received planning permission.

This case leaves the law in an unfortunate state of flux and uncertainty. Good news for lawyers, perhaps, bad for clients. The "slavish" following of the Shelfer rule did, at least, mean that parties knew where they were. It also upheld the, perfectly reasonable in this writer's view, principle that a wrongdoer ought not to be able to come to court to buy off his wrongdoing. That is akin to the courts developing, without statutory approval, a de facto private compulsory purchase system. The point does not appear to have been argued, but, in particular in relation to trespass, Protocol 1, Article 1 of the European Convention on Human Rights would appear to be engaged.

We will have to wait for further litigation (no doubt costly to the parties) for these principles to be fully developed. In the meantime, lawyers will have to advise their clients that there is, now, far more uncertainty as to the circumstances in which the courts will grant injunctions to restrain nuisances (and indeed trespass, breach of restrictive covenant and the like) and that, if an injunction is not granted, the basis of the damages to be awarded is, also, open to debate.

Historic environment reforms in April

Richard Harwood OBE QC

A variety of changes to the Planning (Listed Buildings and Conservation Areas) Act 1990 have been made by the Enterprise and Regulatory Reform Act 2013. The final reforms are coming into effect on 6th April 2014.

The changes comprise:

- Altering the effect of list descriptions (from 25th June 2013)
- Allowing certificates of immunity from listing to be granted without a planning application having been made (also from 25th June 2013)
- Abolishing conservation area consent and addressing demolition within conservation areas by planning control (from 1st October 2013) see http://www.39essex.com/docs/newsletters/pep_newsletter_october_2013.pdf
- Introducing certificates of lawfulness of proposed works to listed buildings (from 6th April 2014)
- Providing for national and local listed building consent orders which grant consent to specified works (from 6th April 2014)
- Introducing heritage partnership agreements which may grant listed building consent (6th April 2014)

The latest changes will be discussed in a future edition of this newsletter.

Recent changes to the CIL regime: a summary

Jonathan Darby

The Community Infrastructure Levy (CIL (Amendment) Regulations 2014 came into force on 24 February 2014 and are likely to be welcomed by developers. Updated Statutory Guidance to which Charging Authorities must have regard accompanies the revised regulations.

Some of the notable amendments to the regime include:

- An expansion in the "phasing" provisions (the calculation and payment of CIL in phases to match the development) to enable full planning permissions to benefit to the same extent as outline permission.

- Those who intend to occupy the dwelling as their sole or main residence for three years from the date of completion will benefit from new mandatory exemptions that have been introduced for self-build housing, residential annexes and extensions (note that these exemptions are subject to "claw-back" provisions).

- The social housing relief criteria has been amended and now includes a provision that enables discount market sale housing to be developed free from CIL liability. The social housing relief provisions are, however, discretionary and dependent upon the relevant charging authority.

- Charging authorities are now able to set differential rates. Such rates may be based upon criteria such as the intended floor-space or the intended number of units.

- The previous rules under which CIL liability could be discharged through land provision have been extended to enable charging authorities to accept payments in kind through the provision of infrastructure both on and off site.

- An apparently greater emphasis on charging authorities to prepare viability evidence to justify CIL rates in order to strike a balance between the desirability of funding infrastructure and the viability of developments. Furthermore, developers can now claim relief from liability where full payment of CIL would render permitted schemes economically unviable.

- The proposed restrictions on local authorities' powers to seek financial contributions through the use of section 106 agreements will now not come into force until April 2015.

- The "vacancy test" has been amended (buildings which have been in use for six continuous months out of the last three years will now be discounted from CIL liability).

CONTRIBUTORS

Gordon Nardell QC specialises in commercial and regulatory disputes about natural resources and major projects including energy and infrastructure. Recent cases include Barnwell Wind Energy Ltd v E. Northants DC, English Heritage and National Trust [2014] EWCA Civ 137 (onshore wind), R (Manchester Ship Canal Co) v Environment Agency [2013] EWCA Civ 542 (flood risk) and R (Walker) v DECC [2011] EWHC 2048 (Admin) (nuclear safety). He is currently instructed in an international contract dispute about emissions trading. A former member of the UK Parliamentary Counsel Office, Gordon has undertaken extensive drafting and advisory work on a succession of bills relating to the energy sector, most recently the bill for the Energy Act 2013. Gordon is recommended by Chambers & Partners in Environment. He is a Member of the Chartered Institute of Arbitrators and an accredited mediator. He currently serves as Leader of the European Circuit of the Bar. To view full CV click here.

Richard Harwood OBE QC specialises in planning, environmental, Parliamentary and public law, appearing in many leading cases including Mellor, SAVE Britain's Heritage and Heard. Richard was awarded “Environmental/Planning Junior of the Year” at the Chambers Bar Awards 2011. He is a case editor of the Journal of Planning and Environmental Law and the author of 'Historic Environment Law' and 'Planning Enforcement'. To view full CV click here.

Simon Edwards has long experience of property disputes. Amongst his most recent and of substantial interest to developers was Kettel v Bloomfold where he successfully stopped a development because it infringed his clients’ parking rights. He also advises on boundary, rights of way and rights to light issues, often major stumbling blocks to the success of a project. To view full CV click here.

Justine Thornton specialises in environmental and planning law and is rated by Chambers and Partners as "one of the finest juniors in the field". Prior to joining 39 Essex Street, she worked for Allen & Overy LLP, Simmons & Simmons and the European Commission Environment Department. Justine is a member of the Attorney-General's Panel of Counsel, appointed to act for the Government and is appointed as an advocate for the Welsh Assembly. She is (with Richard Wald) General Editor of Thomson's Encylopeadia of Environmental Law and a contributor to Tromans on Environmental Impact Assessment law and Practice. She is a Case Law Editor of the Journal of Environmental Law. To view full CV click here.

Jonathan Darby was recently ranked amongst best junior planning barristers under 35 nationwide in the Planning Magazine Guide to Planning Lawyers. Jon practises across chambers' areas of work, with a particular interest in planning, environmental and property law and the relevant intersection with broader public and administrative law. He has experience in undertaking pleading and advisory work for a wide variety of domestic and international clients and appears regularly in all types of court and tribunal. Before coming to the Bar, Jon taught Property and International Environmental Law at Cambridge University whilst completing a PhD in International Environmental Law at Queens' College. To view full CV click here.

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