

James Corbet Burcher

Planning and Environment



Year of Call: 2011

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James Corbet Burcher is a leading junior in Planning & Environmental Law. He is rated as a Band 1 Junior in the Midlands by Chambers & Partners.

Advocacy forms the core of his practice, representing private and public sector clients: (1) at Planning Inquiries and Hearings, (2) at Local Plan Examinations and (3) before the High Court and Appellate Courts.

He also has an extensive advisory practice covering (a) strategy; (b) individual planning applications; (c) appeal prospects and preparation; and (d) judicial review and planning-related litigation of all kinds.

In his first decade in practice, he has been closely engaged with a number of major reforms to the planning system. He was instructed/involved in a number of major changes: (i) the NPPF and many cases on its interpretation, (ii) the first cases before the Planning Court; (iii) Neighbourhood Plans, and (iv) Rosewell/Virtual Inquiries. His principal area of interest is Planning Data and Digitisation.

Recent Instructions

In 2023/24, James' practice has included work on the following instructions:

(1) Places for Everyone Examination: Representing Peel Investments (North) Ltd (both sole instruction and as junior to Chris Young KC) at multiple hearings during the 5-month examination - the largest DPD examination of its kind.

(2) Marshcroft, Tring Inquiry: Representing Harrow Estates (as junior to Chris Young KC), promoting 1400 homes in the Green Belt, as a sustainable urban extension in the Green Belt, one of the largest such inquiries of recent years;

(3) Monkton Lane, Farnham, Waverley: Representing Cove Homes, securing permission for 56 homes on appeal at hearing

(4) Bedford Local Plan Examination: Representing Prologis (as junior to Paul Cairnes KC), promoting land for 85,000 sqm life sciences and industrial floorspace development through the Local Plan;

(5) Acting for Wirral Borough Council, Chesterfield Borough Council, Hinckley & Bosworth Borough Council and Somerset Council in a range of s78 and other statutory inquiries concerning residential development, protective designations, enforcement and highway matters.

Residential Development (including Affordable, Self-Build and Older Persons)

James regularly acts for and advises housebuilders, land promoters and local authorities in respect of applications for residential development of all kinds.

Section 78 appeal work has included:

- Wheatley Campus, South Oxfordshire: Acting for Oxford Brookes University (junior to Chris Young KC), securing permission for 500 homes in a recovered appeal by the Secretary of State
- Land at Pear Tree, Chorley: Acting for Gladman (junior to Chris Young KC), securing permission for 190 homes at one of the first virtual inquiries
- Hartley Wintney, Hart District: Acting for Forest Care, securing permission for a 60-bed care home at a hearing
- Brimington, Chesterfield: Acting for the successful Appellant, securing permission for 150 homes at inquiry
- Hanslope, Milton Keynes: Acting for Davidson Homes, securing permission for 141 homes at inquiry
- Loggerheads, Newcastle-under-Lyme: Acting for the Council, resisting 80 homes at inquiry
- Alford, Waverley: Acting for Cove Homes, securing permission for 23 homes at a hearing
- Doveridge, Derbyshire Dales: Acting for the Council, resisting permission for 165 homes at inquiry

Additional court work in this field has included litigation on the following issues:

(i) The presumption in favour of sustainable development (Peel Investments v SSHCLG [2020] EWCA Civ 1175; Wavendon Properties v SSHCLG [2019] EWHC 1524 (Admin); Cheshire East BC v SSCLG and Renew Land Developments [2016] EWHC 571 (Admin))

(ii) The calculation of housing land supply (Wavendon; St Modwen v SSCLG [2017] EWCA Civ 1643; Kings Lynn [2015] EWHC 2464 (Admin))

(iii) Older Persons Needs (Sonning Common, South Oxfordshire: Successfully defending the permission granted on appeal to Inspired Villages)

Commercial Development

James regularly advises major employers, logistics operators and landowners in respect of commercial development. Much of this work includes Green Belt sites and the application of the Very Special Circumstances test. Inquiry and examination work has included:

- Denby Hall, Amber Valley: Acting for Garner Holdings, securing permission for 60,000 sqm of new floorspace in three new B1/B2/B8 units and associated development, generating in excess of 1000 local jobs for a major Derbyshire employer
- Bedford Local Plan Examination: Acting for Prologis, promoting 85,000 sqm of life sciences / B2/B8/E(g) industrial floorspace
- Pinewood Studios: Acting for Pinewood Studios (junior to Martin Kingston KC), securing 100,000 sqm of core operational facilities, including new studios, stages, workshops, production offices and streetscapes, generating 1300 additional jobs, to secure the future of the British film industry in this historic location.

Local Plans

James has acted at over 10 plan examinations in the past decade, both promoting and challenging allocations. Work in the past 5 years has included:

- Places for Everyone (Greater Manchester Combined Authority): Representing Peel Investments (North) Ltd, in respect of 8 Green Belt allocations (400 to 3000 units in scale)
- Warrington Local Plan: Representing Cheshire Police in respect of s106 contributions
- Mole Valley Local Plan: Representing Thakeham Homes in respect of draft allocation for 200 homes
- St Helens Local Plan: Representing Lovell Partnerships, in respect of safeguarded land allocation
- Harrogate District Local Plan: Representing Oakgate, in respect of broad location for growth of c. 3000 homes
- West of England Joint Spatial Plan: Representing Churchill Residents Action Group, resisting a strategic development location for 2800 homes

Court Work in this field includes a significant number of the s113 challenges of the past decade including:

- Flaxby Park v Harrogate BC [2020] EWHC 3204 (Admin): Acting for the successful Interested Party Oakgate (as junior to Chris Young KC) in the defence of the challenge to the draft broad location for growth. The claim concerned strategic environmental assessment, viability and local authority procedural matters.
- Compton PC v Guildford BC [2019] EWHC 3242 (Admin): Acting for the successful Interested Party, Catesby (as junior to Chris Young KC) defending against the challenge to the Guildford Borough Local Plan. The claim raised a number of issues in respect of Green Belt policy, Housing Numbers, Strategic Environmental Impact Assessment, Habitats and examination procedure.
- IM Properties Development Ltd v Lichfield DC [2015] EWHC 2077 (Admin); IM Properties Development Ltd v Lichfield DC [2015] EWHC 1982 (Admin): Acting for the Interested Party, Persimmon in successive defences of the Lichfield Local Plan, raising issues in relation to Strategic Environmental Assessment and Green Belt policy.

- Zurich Assurance Ltd v Winchester City Council [2014] EWHC 758 (Admin): Acting for the claimant in one of the first cases to explore the duty to cooperate.

Neighbourhood Plans

James has acted in respect of over 70 neighbourhood plans since 2014, including at 10 hearings, including: Winsford (Cheshire West), Backwell (North Somerset), Winslow (Buckinghamshire), Great Horwood (Buckinghamshire), Great Somerford (Wiltshire), Earls Barton (South Northamptonshire), Cheddar (Somerset), Petersfield (South Downs NPA), and Farnham (Waverley).

The majority of his work in this field is for housebuilders and land promoters. He assists them and their consultants with detailed written representations covering the “basic conditions”, site assessment, strategic environmental assessment and procedure, as well as related public law and local government issues.

He has advised local planning authorities on procedure on several occasions.

He also acted for Central Milton Keynes Town Council in a major recovered appeal concerning the CMK Neighbourhood Plan and the redevelopment of an area adjacent to the listing Shopping Centre building and Midsummer Boulevard.

Assets of Community Value

James has appeared in three cases before the First Tier Tribunal (General Regulatory Chamber):

- CR2014/0016 : Idsall School v Shropshire Council – an early challenge to an ACV designation of school playing fields

- CR2016/0014: New Barrow Ridge Ltd v Ribble Valley Borough Council – successful challenge to ACV designation of allotments

- CR2017/0017 Hickinbottom v Telford; Wrekin Council: successful defence of ACV designation for public house

He has also advised extensively in this area, and also conducted non-Tribunal advocacy including securing the removal of the designation at the internal review stage, appearing before the Council in person.

Judicial Review and Statutory Challenges

Court work is at the heart of James' practice, having appeared in over 50 cases before the High Court, Court of Appeal and Supreme Court.

In addition to the cases cited above, recent JR and statutory challenge work has included:

- Northstowe, South Cambridgeshire: Acting for Homes England in the successful defence of a judicial review to the permission for 4000 houses, claim withdrawn prior to substantive hearing

- Stuart Partners v SSLHUC: Acting for a commercial operator in s289 proceedings (as junior to Richard Kimblin KC)

Recommendations

James has been consistently ranked in the Top Juniors in Planning Magazine's Annual Planning Law Survey and was voted the No.1 Junior Under 35 years in 2018.

Sources for Chambers and Partners Bar have described him as:

"All-round brilliant." "James is superb technically, he leaves no stone unturned." "Seamlessly blends laser-focused insight with old-school charm." [2023]

"[He] is clear, precise, relaxed and encouraging. He is very forensic and detailed." [2022]

"He's fantastic on the law with an extraordinary level of enthusiasm." "Very diligent and client-focused." [2021]

"Incredibly intelligent and hard-working, and an impressive advocate." "A sincere and very committed member of the Bar." [2020]

"A very good junior with an excellent grasp of what's important. He's wonderful to work with." "Highly intelligent." [2019]

"He has extensive knowledge of the legal system...Extraordinarily detailed and very thorough." [2018]

"An up-and-coming junior frequently highlighted for his client-friendly approach who is developing a strong reputation in the market...He has a good style and intellectual approach...He is very capable and very keen." [2017]

Notable Cases

Persimmon Homes (Thames Valley) v Worthing BC [2023] EWCA Civ 762

Flaxby Park v Harrogate BC [2020] EWHC 3204 (Admin)

Peel Investments v SSCHLG [2020] EWCA Civ 1175

Aireborough Neighbourhood Forum v Leeds CC [2020] EWHC 2183 (Admin)

R(Wright) v Resilient Energy Severndale Ltd [2019] UKSC 53

Richborough Estates v SSCLG [2018] EWHC 33 (Admin)

St Modwen v SSCLG [2017] EWCA Civ 1643

Verdin (t/a The Darnhall Estate) v SSCLG [2017] EWHC 2079 (Admin)

Baroness Cumberlege of Newick v SSCLG and DLA Delivery [2017] EWHC 2057 (Admin)

East Staffordshire BC v SSCLG [2017] EWCA Civ 89

DLA Delivery Ltd v Lewes DC [2017] EWCA Civ 58

R(Kebbell Developments Ltd) v Leeds City Council [2016] EWHC 2664 (Admin)

Cheshire East BC v SSCLG and Renew Land Developments [2016] EWHC 571 (Admin)

West Berkshire DC v SSCLG and HDD Burghfield Common Ltd [2016] EWHC 267 (Admin)

IM Properties Development Ltd v Lichfield DC [2015] EWHC 2077 (Admin)

Kings Lynn and West Norfolk BC v SSCLG and Elm Park Holdings [2015] EWHC 2464 (Admin)

IM Properties Development Ltd v Lichfield DC [2015] EWHC 1982 (Admin)

Appointments

Bar Council Legal Services Committee (2019-date)

Bar Council IT Panel (2019-date)

Member of Bar Council (2018-2023)

Member of Planning and Environment Bar Association Committee (2018-2023)

Lincoln's Inn Advocacy Trainer

Awards

University of Oxford:

- Demy (Full College Academic Scholarship)
- Oxford Half-Blue, Modern Pentathlon

Lincoln's Inn:

- Hardwicke Entrance Award
- Lord Bowen Scholarship
- Lord Mansfield Scholarship
- Sunley Pupillage Award

Other: UKELA Moot:

- Winner of both Senior and Junior Competitions

Memberships

Planning and Environmental Bar Association (PEBA)

UK Environmental Law Association (UKELA)

National Infrastructure Planning Association (NIPA)

Constitutional and Administrative Law Bar Association (ALBA)

International Bar Association (IBA)

American Bar Association (ABA)

American Planning Association (APA)

International Society of City and Regional Planners (ISOCARP)

International Planning History Society (IPHS)

Society for Computers and the Law (SCL)

Planning, Law and Property Rights Association (PLPR)

International Platform of Experts in Planning Law

Qualifications

BA(Hons) Modern History (First Class), Magdalen College, University of Oxford

Mst Modern History, Magdalen College, University of Oxford

CPE (Distinction), City University

LLM (Distinction), University College London

BPTC, BPP (London)

Publications

Routledge Handbook of Comparative Planning Law (

forthcoming) - Chapter on Planning System in England (with Dr Ashley Bowes)