

Howard Leithead

Call: 2014

"Howard quickly absorbs the detail and identifies the key issues. His calm and clear advocacy is authoritative and persuasive. His personable approach and ability to lead a team adds value and direction."

Legal 500 2024



Howard Leithead is a specialist planning and environmental law barrister. He is experienced in dealing with appeals to the Secretary of State (drafting written representations and appearing in hearings and inquiries) and in representing clients in cases in courts and tribunals from the magistrates' court to the Court of Appeal.

He acts for and advises clients of all types, including developers, local authorities, Secretaries of State, campaign groups, local residents, and private individuals.

Howard accepts instructions both from professional clients and on a public access basis across England and Wales. He is appointed to the Attorney General's C Panel of Counsel in London.

Howard regularly writes articles and speaks about planning and environmental issues. He provides expert analysis articles for Lexis®PSL, appears on No5 Planning Podcasts, takes part in webinars, and gives papers at seminars and conferences. He has also contributed to several specialist publications, including the NAPE Planning Enforcement Handbook.

He is committed to education and training and is involved in training professional witnesses for planning inquiries, coaching law students at Inner Temple and elsewhere, and judging mooted competitions.

Expertise

Planning

Howard is involved in a variety of development work. Much of his work is focused on helping clients to obtain or oppose grants of planning permission, including at the planning application stage, in appeals to the Secretary of State, and in challenges in the High Court and the Court of Appeal.

He further deals with a range of other matters, such as disputes over the interpretation of planning permissions and listed building consents, s.106 agreements, lawful development certificates, applicability of permitted development rights (such as in relation to domestic projects, agricultural buildings and barn conversions), use class disputes, implications of the granting of planning permissions by

Birmingham

103 Colmore Row
Birmingham
B3 3AG

DX: 16075 Fountain Court Birmingham
Telephone: +44 (0) 121 606 0500

London

Fifth Floor
7 Savoy Court
London WC2R 0EX

DX: 449 London Chancery Lane
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Bristol

30 Queen Square
Bristol
BS1 4ND

DX: 7838 Bristol
Tel: +44 (0) 117 917 8501

mistake, and issues that arise in the context of mineral permissions.

In addition, Howard further maintains a busy enforcement practice. He advises and represents both local planning authorities and those against whom enforcement action is being taken, both in appeals against enforcement notices and in court proceedings.

Highways

Howard regularly deals with on highways issues within the context of planning inquiries. In addition, he advises and represents clients on a range of technical issues, such as the obligations of highway authorities and in relation to enforcement action.

Planning Judicial and Statutory Reviews

Howard represents clients in judicial reviews and statutory reviews under s.288. In addition to the wide range of clients that he represents in appeals, he represents the Secretary of State in the High Court as a member of the Attorney General's C Panel of Counsel in London.

Recent cases include:

- *R (Whitley Parish Council) v North Yorkshire County Council* [2023] EWCA Civ 92, led by Richard Kimblin KC, represented the claimant parish council in its judicial review challenge of a decision to grant planning permission to a developer to extract pulverised fuel ash.
- *R (Curran) v London Borough of Lewisham Council and Network Rail Infrastructure Limited* (High Court, 2022), represented the claimant who challenged the defendant local planning authority's decision to grant prior approval for the significant development of Hither Green Railway Station under permitted development rights.
- *R (Besser) v Brighton and Hove County Council* (Court of Appeal, 2020), led by Christopher Young KC, represented the developers of a proposed development that included a new synagogue in opposing a judicial review claim in the High Court (unled) and the Court of Appeal.

Section 289 appeals and injunctions

In the High Court, Howard typically represents clients in s.289 appeals, applications for injunctions under s.178B and contempt proceedings.

Recent cases include:

- *Stuart Partners Ltd v Secretary of State for Levelling Up, Housing and Communities* (High Court, 2024), represented the Secretary of State in an appeal under s.289 against the decision of an inspector to uphold and enforcement notice concerning the development of an agricultural site for commercial purposes.
- *Peak District National Park Authority v Kohanzad* (High Court, 2023), represented the local planning authority in its application for a final injunction to enforce against the development of a holiday retreat/eco-village in breach of planning control on a large site in the Peak District National Park.
- *R (Dhanji) v Secretary of State for Levelling Up, Housing and Communities and Harrow Council* (High Court, 2023), represented the claimant in conjoined s.288 and 289 appeals involving developments at his residential property.

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Planning Appeals

Howard represents clients in both planning inquiries and hearings. He has recently been instructed in appeals concerning proposals for residential development and proposals for the development of a hotel, a prison, agricultural land, gypsy and travellers sites, and a battery energy storage system.

Howard is familiar with all the main topic areas for which expert evidence is required in planning inquiries, such as heritage, highways, landscape, Green Belt, flood risk, housing land supply, viability, accessibility, noise, and light. He is experienced in working with teams of expert witnesses and in cross examining the witnesses of opposing parties.

Beyond development, Howard has represented clients in appeals concerning footpaths and rights of way.

Recent appeals include:

- Land off Haywood Way, The Close, Cleeve Prior, Worcestershire WR11 8LF, APP/H1840/W/23/3317390, 13 December 2023, represented a parish council who objected to the proposed change of use of the site to use as a residential caravan site for gypsy families. There was already a residential caravan site on land adjacent to the appeal site and the main issues of the appeal were concerned with whether proposal was of an appropriate scale for the location and its impact on the living conditions of nearby residents.
- Land adjacent to HMP Gartree, Welland Avenue, Gartree, Market Harborough, Leicestershire LE16 7RP, APP/F2415/W/22/3300227, called in by Secretary of State), 15 November 2023, represented the local planning authority in an appeal concerning the proposed development of a new national Category B prison of up to 82,555 square metres. The main issues included the effect of the development on the character and appearance of the surrounding area, whether the site was a site location having regard to accessibility, and the need for the proposal. It was a highly controversial appeal, which attracted parliamentary interest and which was reported by national and local media.
- Land off Barkby Road, Queniborough, Leicestershire LE7 3FB, APP/X2140/W/23/3316574, 9 November 2023, represented the local planning authority in an appeal concerning the proposed development of 150 dwellings and associated infrastructure. The issues in this appeal included whether proposed modifications to the proposal constituted a revised scheme, harm to landscape and visual impact and the impact of the scheme on an area of local separation.
- Land at Buckingham Hotel, 1-2 Burlington Road, Buxton, Derbyshire SK17 9AS, APP/H1033/W/22/3302879, 15 August 2023, represented the local planning authority in an appeal concerning an appeal to redevelop a historic hotel. This was an unusual scheme for the Buxton in that it was proposed to demolish and rebuild a historic hotel and it involved considerable evidence on the structural condition of the existing hotel and the optimum viable use of the building.
- Land at (OS 8579 4905) Post Office Lane, Kempsey, Worcestershire, APP/J1860/W/22/3313440, 14 August 2023, represented the local planning authority in an appeal involving a proposal for 30 dwellings. The main issues in this appeal, which sat for more than two weeks, the impact of the proposal on the character and appearance of the local area was of particular significance and housing land supply on which the evidence was particularly complex.
- Land at Loughborough Road, Burton on the Wolds, Leicestershire, PP/X2410/W/22/3310932, 26 July 2023, represented the local planning authority in an appeal concerning a proposal including the development of 56 dwellings. The main issues included the effect of the proposal on character and appearance and on various heritage assets and whether the site represented an appropriate location taking into account accessibility of services.
- Land at Broadway Lane, Fladbury, Pershore, Worcestershire WR10 2QF, APP/H1840/W/22/3313745, 22 June 2023, represented the local planning authority in an appeal involving a proposal to develop 34 affordable dwellings. In this appeal the main issues concerned the scale and type of development and the scope for future accessibility to services and facilities.
- Land off Leconfield Road, Nanpantan, APP/X2410/W/22/3304644, 5 May 2023, represented the local planning authority in an appeal concerning the proposed development of up to 30 dwellings. The main issues included the effect of the proposal on the character and appearance of the site and the local area and the effect on biodiversity.
- Land at 8-10 Station Road, Shirehampton, Bristol BS11 9TT, APP/Z0116/W/22/3305852, 5 April 2023, represented the

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developer in an appeal involving the proposed development of 21 dwellings. This appeal raised numerous issues, including the effect of the proposal on the character and appearance of the area, heritage assets, and on green infrastructure and biodiversity.

- Land North of Barking Road, Needham Market IP6 8EZ, APP/W3520/W/22/3308189, 31 March 2023, represented the developer in an appeal involving a proposal for up to 279 dwellings. In this appeal, the main issues included the impact of the proposal on highway safety, landscape character and the appearance of the surrounding area, and on residential amenity as a result of noise and light from an adjacent football club.
- Land at Rush Lane, Dosthill, Tamworth, APP/R3705/W/22/3290788, 25 January 2023 represented the Rule 6 major construction suppliers in opposing the proposed development of up to 189 dwellings. Costs were awarded to the Rule 6 party against the appellant following its withdrawal of the appeal.

Planning Enforcement

Howard is involved in a wide range of enforcement work. He is skilled at providing clear advice and advocacy and is focused particularly on helping clients to find practical solutions in an area where the law can be particularly complex.

Appeals

Howard acts for both developers and local planning authorities in appeals to the Secretary of State against enforcement notices under s.174 and appeals against decisions to refuse lawful development certificates under s.195.

Recent appeals include:

- Land at Graddfa Industrial Estate, Colliery Road, Llanbradach, Caerphilly, CF83 3 QS, CAS-01852-Y1C3K9 and CAS-01884-X4P5V8, 17 January 2024, represented the local planning authority in conjoined appeals against an enforcement and against the authority's decision to refuse to grant a lawful development certificate in relation to the development of a large industrial site.
- Land at Brindwood House, Millthorpe Lane, Holmesfield, Derbyshire, APP/R1038/C/21/3288613 and 771, 4 January 2023, represented the local planning authority in appeals against enforcement notices involving development in the Green Belt
- Land at 13-15 Walm Lane, Willesden Green, London, APP/T5150/C/18/3209760 and 1506, 19 April 2022, represented the developer in appeals against enforcement notices concerning the development of a restaurant

Cases

Howard represents clients in courts from the magistrates work to the High Court and the Court of Appeal. His work divides broadly into (a) civil cases, such as s.289 appeals, applications for injunctions under s.178B, contempt proceedings, and appeals against s.215 notices, and (b) criminal prosecutions in the magistrates' court and the Crown Court.

Recent cases include:

- *Stuart Partners Ltd v Secretary of State for Levelling Up, Housing and Communities* (High Court, 2024), represented the Secretary of State in an appeal under s.289 against the decision of an inspector to uphold and enforcement notice concerning the development of an agricultural site for commercial purposes.
- *Peak District National Park Authority v Kohanzad* (High Court, 2023), represented the local planning authority in its application for a final injunction to enforce against the development of a holiday retreat/eco-village in breach of planning control on a large site in the Peak District National Park.
- *Bromsgrove District Council v Southside Properties (Midlands) Ltd* (County Court, 2023), represented the local planning authority in its application for an interim injunction under s.187B to restrain the development of a site in the Green Belt for

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industrial and commercial purposes.

- *R v Algul and N.R. Algul Limited* (Crown Court, 2023), represented the defendants in a complex prosecution concerning multiple enforcement notices.
- *R (Dhanji) v Secretary of State for Levelling Up, Housing and Communities and Harrow Council* (High Court, 2023), represented the claimant in conjoined s.288 and 289 appeals involving developments at his residential property.
- *HHM 20 Ltd v Manchester City Council* (magistrates' court, 2023), represented the appellant owner of a Grade II listed theatre challenging a s.215 notice that required extensive works.

Residential

Much of the development work Howard is involved in concerns residential development. In appeals he advises and acts for both developers and local planning authorities as well as interest groups and other objectors.

This focus has enabled Howard to obtain considerable experience of the issues which arise and his willingness to act for different parties helps him to understand issues and to pre-empt arguments made by other parties.

Environment

Howard's environmental planning practice encompasses environmental work that is both intrinsic to the planning process and separate to it.

Within the planning context, Howard regularly deals with issues such as environmental impact assessment and biodiversity net gain. He further deals with planning applications for environmental matters such as waste disposal operations and the minerals projects.

More broadly, he has been involved on other environmental matters, including statutory nuisance, environmental permits, enforcement action, and criminal prosecutions.

Since 2021, he has organised the United Kingdom Environmental Law Association (UKELA) Moot.

Recent cases:

- *Environment Agency v Himley Environmental Limited* (High Court, 2023), represented the defendant company in injunctive proceedings concerning two enforcement notices. In this case the company was able to reach agreement with the Environment Agency as whereby the notices were withdrawn following the carrying out of alternative works.

Biodiversity Net Gain

Howard has advised developers and local planning authorities in relation to biodiversity net gain in the context of planning appeals. With the statutory requirement to demonstrate a biodiversity net gain of 10%, this is an issue which routinely arises and Howard is well-experienced in dealing with it.

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Awards



Accreditations

- Major Scholarship, Inner Temple
- Exhibition Award, Inner Temple
- Lightfoot Prize, University of Cambridge
- Senior Scholarship and Tripos Prize, Trinity College, Cambridge

Memberships

- Planning and Environment Bar Association (PEBA)
- United Kingdom Environmental Law Association (UKELA)
- Inner Temple

Appointments

- Howard is appointed to the Attorney General's C Panel of Counsel in London.

Qualifications

- GDL and BPTC, City University, London
- MPhil, Trinity College, Cambridge (Distinction)
- BA (Hons), Trinity College, Cambridge (First Class)

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