



## Heather Sargent

Call: 2011

Email: [hsargent@landmarkchambers.co.uk](mailto:hsargent@landmarkchambers.co.uk)

### Practice Manager

#### Michael Gooch

Email: [mgooch@landmarkchambers.co.uk](mailto:mgooch@landmarkchambers.co.uk)

Phone: **0207 421 1305** Mobile: **07508 393 338**

#### Jonathan Barley

Email: [jbarley@landmarkchambers.co.uk](mailto:jbarley@landmarkchambers.co.uk)

Phone: **0207 421 2480**

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## Expertise

Planning, Environment, Public Procurement, European Union Law

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## Overview

Heather is the top-rated junior planning barrister under 35 in the country and is also listed as one of the top five juniors overall for the second year in a row (Planning Law Survey 2021). She has been ranked in both Chambers & Partners and the Legal 500 for several years.

Heather practises primarily in planning and compulsory purchase, environmental and EU law. Her experience includes:

- Acting for both developers and local planning authorities on several central London tall building schemes
- Advising Gatwick Airport on its proposed DCO to bring its existing standby runway into routine use
- Defending two judicial review challenges to the 2019 NPPF for MHCLG

- Defending six judicial review challenges to the Airports NPS (which provides policy support for a third runway at Heathrow) for the Secretary of State for Transport
- Appearing at the London Plan examination (for the London Borough of Enfield) and for site promoters at the Guildford, Wealden, Tandridge and Welwyn Hatfield Local Plans
- Advising the acquiring authority on a CPO for a £29.4m road scheme (sole counsel) and acting for the acquiring authority on both the Tunbridge Wells Borough Council (Calverley Square) CPO (theatre, civic centre and office scheme) and the London Borough of Enfield (Alma Estate Regeneration) CPO
- Acting for both appellants and local planning authorities on major housing schemes including Wisley Airfield, Guildford (2,000 units); Peel Hall, Warrington (1,200 units); and two sustainable urban extensions in Northampton
- Retail inquiry work (for both appellants and local planning authorities)
- Acting for retirement home providers on appeal
- High level judicial review and statutory challenge court work, including numerous appearances before the Court of Appeal as sole counsel

Heather is a member of the Attorney General's B Panel of Counsel and of the Welsh Government's B Panel of Junior Counsel. She is an Assistant Editor of the Encyclopedia of Planning Law and Practice, for which she focuses on heritage matters.

Heather is also the creator of "Planning Law Tea Break", a series of short videos offering insight on planning, environmental and compulsory purchase law: [www.planninglawteabreak.co.uk](http://www.planninglawteabreak.co.uk)

## Planning

Heather's experience includes:

### Court work

- Acting for the successful respondents both at first instance and in the Court of Appeal in *DLA Delivery Ltd v Baroness Cumberlege of Newick* [2018] EWCA Civ 1305. The High Court decision was one of *Planning* magazine's ten "need to know" court rulings for 2017.
- Defending two judicial review challenges to the Revised NPPF for MHCLG (led by Rupert Warren QC).
- Defending six judicial review challenges to the recently designated Airports National Policy Statement (counsel team led by James Maurici QC).
- Appearing for the successful local planning authority in *Oldham MBC v Tanna* [2017] 1 WLR 1970, in which the Court of Appeal considered the proper interpretation of the service provisions in the Town and Country Planning Act 1990, in the context of proceedings in respect of a s.215 notice.
- Appearing at first instance and before the Court of Appeal for an affordable housing developer in a statutory challenge to the grant of planning permission for a rural exception site.
- Acting for the first interested party, a telecommunications operator, in *R (o.a.o. Mawbey) v Lewisham LBC* [2018] EWHC 263 (Admin), a decision on the meaning of the word "mast" as used in Part 16 of the 2015 GPDO. The operator's appeal is to be heard by the Court of Appeal in March 2019.
- Successfully defending the judicial review claim in *Smech Properties Limited v Runnymede Borough Council* [2016] JPL 677, which raised before the Court of Appeal an important point concerning the High Court's discretion not to quash a defective grant of planning permission (led by Nathalie Lieven QC and David Forsdick QC).
- Successfully resisting on behalf of the developer a judicial review challenge to the grant of planning permission for the redevelopment of the former HMS Ganges site at Shotley Gate, Suffolk (led by David Elvin QC).
- Appearing for nine claimant London local planning authorities in a High Court challenge to the Mayor of London's Revised Early Minor Alterations to the London Plan, on grounds relating to affordable rented housing (led by Nathalie Lieven QC).
- Regular appearances in the Crown Court and in the Magistrates' Court in planning enforcement proceedings.

### Planning inquiries and development plan examinations

- Acting for the developer at a forthcoming inquiry in relation to a motorway service area (led by Timothy Corner QC).
- Appearing for the appellant at an inquiry in respect of a proposed mixed-use development that includes 1,200 dwellings (junior to Christopher Lockhart-Mummery QC).
- Acting for the developer at a five week inquiry into the proposed development of up to 2,068 dwellings at the former Wisley Airfield, Surrey, a Green Belt site that is partially previously developed land (led by James Maurici QC).
- Appearing for the local planning authority at two inquiries in respect of proposed Sustainable Urban Extensions of 1,000 houses each (led by Timothy Corner QC).
- Appearing for the appellant at a six day inquiry into a retail-led regeneration scheme (led by Charles Banner QC).
- Regular work on appeals in relation to retirement home schemes.
- Appearing at the London Plan examination and at the examinations into the Guildford, Wealden, Tandridge and Welwyn

## Infrastructure

Heather's experience includes:

- Defending six judicial review challenges to the Airports National Policy Statement (counsel team led by James Maurici QC).
  - Advising in respect of the *National Policy Statement for new nuclear above 1GW post 2025: siting criteria and process* (led by Nathalie Lieven QC).
  - Advising as sole counsel on the Space Industry Act 2018 (at Bill stage).
  - Appearing for the claimant, a commercial objector, in *R (Trago Mills Ltd) v SSCLG* [2016] EWHC 1792 (Admin), a High Court challenge relating to a Development Consent Order.
  - Advising Highways England in relation to a claim for compensation in respect of compulsory acquisition pursuant to a Development Consent Order for a road improvement scheme.
  - Advising on a proposed challenge to the Secretary of State's decision not to "call in" an application for planning permission for development at London Luton Airport.
  - Acting for the developer at an inquiry in relation to a motorway service area (led by Timothy Corner QC).
  - Advising on EIA of a biomass plant.
  - Acting as junior counsel for the developer in a successful challenge to the refusal of consent for a wind farm in Powys.
  - Advising in respect of the Worcestershire Parkway Regional Interchange CPO.
  - Advising on the Worcester Southern Link Road CPO.
  - Successfully resisting (on behalf of the developer) a judicial review challenge to the grant of planning permission for the Beddington Energy Recovery Facility (led by David Elvin QC).
  - Appearing for Lambeth Borough Council in a claim for judicial review of its decision to grant planning permission for the "Garden Bridge" (led by Nathalie Lieven QC).
  - Advising the Welsh Ministers in relation to the M4 Corridor around Newport.
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## Compulsory Purchase

Heather's experience includes:

- Acting for the acquiring authority at the inquiry into the recently confirmed Tunbridge Wells Borough Council (Calverley Square) Compulsory Purchase Order 2018, led by Craig Howell Williams QC. The purpose of the CPO is to facilitate the Calverley Square redevelopment scheme, which was granted planning permission in June 2018 and includes a new 1,200 seat theatre, a new civic centre for the Council and commercial office space.
  - Acting for the acquiring authority at the inquiry into the (subsequently confirmed) London Borough of Enfield (Alma Estate Regeneration) CPO 2016 (junior to David Elvin QC).
  - Advising Highways England in relation to a claim for compensation in respect of compulsory acquisition pursuant to a Development Consent Order for a road improvement scheme.
  - Advising in respect of the Worcestershire Parkway Regional Interchange CPO.
  - Advising on the Worcester Southern Link Road CPO.
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## Environment

Heather has a particular interest in EU environmental law, having worked on Case C-258/11 *Sweetman v Ireland* (Article 6 of the Habitats Directive) as a trainee at the Court of Justice of the EU in 2012. Her EU environmental experience includes:

- Acting for the successful respondents both at first instance and in the Court of Appeal in *DLA Delivery Ltd v Baroness Cumberlege of Newick* [2018] EWCA Civ 1305, which addresses the requirements of reg. 68(3) of the Conservation of Habitats and Species Regulations 2010.
- Successfully defending (in both the High Court and the Court of Appeal) on behalf of the Homes and Communities Agency a judicial review challenge on Habitats grounds to the grant of planning permission by Forest of Dean District Council for development in Cinderford's "Northern Quarter" (led by James Maurici QC and Timothy Corner QC).
- Extensive advisory experience in respect of the EIA, SEA and Air Quality Directives and of the related domestic transposing provisions.
- Advising the Department of Energy and Climate Change on infraction proceedings proposed by the European Commission (junior to David Blundell).

Other environmental experience includes:

- Successfully defending *King v Environment Agency* [2018] EWHC 65 (QB), a claim for damages brought on human rights grounds in relation to flooding (led by Gwion Lewis).
  - Successfully acting for the Environment Agency in High Court challenges relating to the operation of the environmental permitting regime in the waste context.
  - Defending injunctive proceedings on behalf of Natural England.
  - Defending a prosecution pursuant to section 34 of the Environmental Protection Act 1990.
  - Advising on the Climate Change Act 2008.
  - Advising a local authority on how to approach long-term flood risk.
  - Regularly advising in respect of the Aarhus Convention fixed costs regime.
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## European Union Law

Heather spent 10 months working as a trainee in the EU institutions during 2011-2012, first for the Legal Service of the European Commission (Competition law) and subsequently at the Court of Justice of the EU (Cabinet of Advocate-General Sharpston).

In addition to EU environmental law (see "Environment"), she has particular experience of both EU State aid law and EU public procurement law. This includes:

- Acting for the claimant in a judicial review challenge to the local planning authority's interpretation of State aid provisions in the Community Infrastructure Levy ("CIL") Regulations 2010 (led by James Maurici QC).
- Appearing for the claimant in the High Court in *R (o.a.o. Faraday Development Ltd) v West Berkshire Council* [2016] EWHC 2166 (Admin), a public procurement, best value and State aid challenge to a £125 million development agreement (led by Charles Banner).
- Advising a contracting authority on the procurement of community transport services.
- Co-author (with James Maurici QC) of an article in the Journal of Planning and Environment Law on "State aid in planning and compulsory purchase order cases" (JPL 2015, 6, 621-643).

Other EU law experience includes acting *pro bono* in several sets of proceedings before the First-tier Tribunal (Social Security and Child Support) and the Upper Tribunal concerning EU residence rights, instructed by the AIRE Centre on behalf of the claimants.

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## State aid and Public Procurement

Heather's State aid and public procurement experience includes:

- Co-author with James Maurici QC of *State aid in planning and compulsory purchase order cases* (JPL, 2015).
  - Advising a local authority on the procurement of transport services.
  - Junior counsel for the claimant in the High Court in *R (o.a.o. Faraday Development Ltd) v West Berkshire Council* (led by Charles Banner).
  - Acting for the claimants in a judicial review challenge to the local planning authority's interpretation of the State aid provisions in the Community Infrastructure Levy Regulations.
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## Other

Heather speaks fluent French and is learning Welsh.

In addition to her main areas of practice Heather has a long-standing interest in public law more generally, having previously given tuitions in Administrative Law to students at the University of Oxford, taught Constitutional and Administrative Law at Birkbeck and written an MPhil thesis on the Human Rights Act 1998.

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## Qualifications

- 2010 – 2011: Bar Professional Training Course, Kaplan Law School, London
- 2009 – 2010: Master of Philosophy in Law, University of Oxford

- 2008 – 2009: Bachelor of Civil Law, University of Oxford (Distinction)
- 2004 – 2008: BA in Jurisprudence – Law with Law Studies in Europe (French), University of Oxford.

### Scholarships and Prizes

- 2012: Sunley Scholarship, Lincoln’s Inn
- 2011: Sir Peter Bristow Scholarship, Middle Temple (to spend time working in the EU institutions)
- 2010: Lord Denning Scholarship, Lincoln’s Inn
- 2009: Hardwicke Entrance Award, Lincoln’s Inn
- 2009 – 2010: Peter Birks Memorial Scholarship, Faculty of Law, University of Oxford
- 2009: Book Prize, Hertford College, University of Oxford (for performance on the BCL)
- 2006: Scholarship, Hertford College, University of Oxford (for performance as an undergraduate).

### Languages

- Fluent French
- Basic Welsh

## Recommendations

*“Widely regarded as a rising star, with particular expertise in infrastructure, housing and compulsory purchase matters.” “She develops an instant rapport with clients and is impeccably prepared for conferences and hearings.” “She delivers very persuasive pleadings and stays calm under pressure.”* **Chambers & Partners 2021 - Planning**

*“This barrister is very bright, is always impeccably prepared for conferences, gives clear and well structured advice and importantly for clients and solicitors is down to earth and very easy to deal with. This barrister garners the confidence of the client and in my view has a very strong future ahead of them.”* **Legal 500, 2021 - Planning**

*“She is a first-rate environmental lawyer who shows meticulous attention to detail and gets to the heart of complex issues quickly.”* **Legal 500, 2021 - Environment**

*“Excellent all round and a star of the future.”* **Chambers & Partners 2020 - Planning**

*“She does the work of barristers five years more senior.”* **Legal 500, 2020 - Planning**

*“Highly rated – silks fight over her.”* **Legal 500, 2020 - Environment**

*“Extremely bright and down-to-earth.”* **Planning Law Survey 2020**

*“She was very effective at cross-examination, highly organised and excellent at working collaboratively with us to build a strong case.” “She’s excellent – the quality of her written work and submissions is fantastic. She acts as a really effective junior in being available and going between all parties.”* **Chambers & Partners 2019 - Planning**

*“Razor sharp and completely unflappable: without a doubt a rising star of the planning Bar.”* **Legal 500, 2019 - Planning**

*“She has an incisive and unstuffy approach.”* **Planning Law Survey 2019**

**Razor sharp and completely unflappable: without a doubt a rising star**

Legal 500

## Cases

18 Jan 2021

Wild Justice v Natural Resources Wales [2021] EWHC 35 (Admin)

22 May 2020	High Court quashes EIA screening direction in respect of site previously used to dispose of BSE-infected cattle
04 Dec 2019	Guildford Local Plan challenges rejected
04 Nov 2019	High Court to hear Guildford Local Plan challenges
17 Oct 2019	Heathrow expansion judicial review hearings to begin in the Court of Appeal
16 Oct 2019	High Court dismisses challenge to Inspector's approach to viability review mechanisms
08 Oct 2019	High Court allows statutory challenge against Secretary of State's dismissal of appeal in relation to 1,200 dwelling scheme
15 Feb 2019	Court of Appeal dismisses application for judicial review in relation to the Environmental Permitting Regulations
09 Nov 2018	Challenge to the written ministerial statement on fracking dismissed
09 Aug 2018	High Court judgment on consideration of alternatives in the context of an application for listed building consent
13 Jun 2018	Court of Appeal dismisses appeal in DLA Delivery Ltd v Baroness Cumberlege of Newick
19 Feb 2018	R (o.a.o. Mawbey) v Lewisham LBC [2018] EWHC 263 (Admin)
22 Jan 2018	King v Environment Agency [2018] EWHC 65 (QB)
08 Sep 2017	Airports NPS Update
04 Aug 2017	High Court quashes Secretary of State's grant of planning permission for 50 dwellings in Newick
10 Feb 2017	Court of Appeal rules on the service provisions in the Town and Country Planning Act 1990 and the Local Government Act 1972
30 Jan 2017	[2017] EWHC 121 (Admin): Airports judicial review struck out
26 Aug 2016	R (Faraday Development Ltd) v West Berkshire Council & Anor [2016] EWHC 2166 (Admin)
21 Jul 2016	R (o.a.o. Trago Mills Ltd) v Secretary of State for Communities and Local Government [2016] EWHC 1792 (Admin)
21 Jul 2016	R (o.a.o. Woolverstone Parish Council) v Babergh District Council
15 Jul 2016	High Court dismisses Stoke Poges Free School challenge
14 Jul 2016	Court of Appeal upholds narrow interpretation of rural exceptions sites policy
30 Mar 2016	Faraday Development Limited v West Berkshire Council (CO/5763/2015)
03 Feb 2016	Smech Properties Limited v Runnymede Borough Council [2016] EWCA Civ 42
22 Sep 2015	R (Foster and Langton) v Forest of Dean DC and Homes and Communities Agency [2015] EWHC 2648 (Admin) Cranston J
21 Jul 2015	Old Hunstanton Parish Council v Secretary of State for Communities and Local Government [2015] EWHC 1958 (Admin)
27 Mar 2015	R (o.a.o. Smech Properties Ltd) v Runnymede Borough Council [2015] EWHC 823 (Admin)

08 Dec 2014	R (Larkfleet Homes Ltd) v Rutland County Council [2014] J.P.L. 697
07 Nov 2014	R (o.a.o. Khan) v London Borough of Sutton [2014] EWHC 3663 (Admin)
13 Mar 2014	High Court hears challenge to the Mayor of London's Revised Early Minor Alterations to the London Plan

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## Inquiries

07 Jan 2021	Tall building proposed in Lambeth refused on appeal
15 Nov 2019	Residential scheme dismissed on appeal on grounds including unresolved highways matters
14 Aug 2019	Residential scheme dismissed on appeal on heritage grounds despite absence of five year housing land supply
03 May 2019	CPO confirmed for new theatre, civic centre and office development in Tunbridge Wells
19 Sep 2017	Wisley Airfield inquiry opens
01 Mar 2016	Secretary of State grants permission for Northampton Sustainable Urban Extension
02 Dec 2014	Land off Cheltenham Road, Bredon, Wychavon District
29 Jul 2014	Southend Airport footpath inquiry
26 Feb 2014	Newmarket retail inquiry

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## Publications

16 Sep 2021	The Stonehenge case - assessing alternative schemes
16 Sep 2021	What's new in infrastructure development? - webinar
05 Jul 2021	"Bridging the Gap": More Planning Pointers for Property Practitioners - webinar
22 Mar 2021	Planning Law Update for Local Authorities: Planning challenges - webinar
21 Jan 2021	Planning Case Law in 2020: A re-cap - webinar
15 Sep 2020	Permission In Principle: In Practice - Webinar
03 Sep 2020	EIA and the Habitats Regulations: Recent developments
03 Sep 2020	Delivering Infrastructure in Wales: Current issues - Webinar
04 Aug 2020	New Class E: The Legal Implications - Webinar
30 Jul 2020	The scheme cancellation assumption
30 Jul 2020	Delivering Major Infrastructure: Part 4 - Land compensation issues - scheme cancellation and planning assumptions - Webinar

06 Jul 2020	What's next for the London Plan?
06 Jul 2020	Planning for investment in London - Webinar
17 Jun 2020	Planning in Wales: New schemes and "priority areas" under the Draft National Development Framework
17 Jun 2020	Repowering Onshore: Planning for Onshore Wind in England, Wales and Northern Ireland - Webinar
18 May 2020	Habitats Update
18 May 2020	Current Issues In Environmental Law Part 3 - Webinar
27 Jun 2019	JR Case Law Update
22 May 2018	Automatic Suspensions
30 Apr 2018	Making effective objections on appeals
19 Apr 2018	Revised NPPF: Housing delivery and the housing delivery test
05 Mar 2018	SEA and Plan Making: Legal Update
04 Dec 2017	The proposed approach to statements of common ground: Will the Government's proposals help or hinder the duty to co-operate?
13 Nov 2017	EIA and SEA Update
23 Mar 2017	The New Aarhus Costs Rules: "Miscellaneous"
17 Oct 2016	Green Belt Issues: Recent Developments
26 Sep 2016	Neighbourhood Plans and Their Future: Friend or foe?
08 Jun 2016	Environmental Case-Law: An update
21 Jan 2016	Judicial Review - The Post Permission Stage
02 Nov 2015	Development management under the Planning (Wales) Act 2015
30 Jun 2015	Neighbourhood Planning: Lessons from the case law
26 Nov 2014	An Introduction to Housing Act Possession Claims
17 Nov 2014	Habitats: A case law update
09 Oct 2014	An Introduction to Lease Extensions: The terms of the new lease
07 Apr 2014	Current Issues in Environmental Assessment