

THE BOUNDARY BETWEEN THE 1990 AND 2008 ACTS

Scott Lyness

Structure



- Will focus on scope of a “development consent” v. planning permission
- Then look at decision-making powers

DEVELOPMENT CONSENT

Need for Development Consent (1)



- PA 2008 s. 31:

“Consent under this Act (‘development consent’) is required for development to the extent that the development is or forms part of a nationally significant infrastructure project”
- Where development consent is required, planning permission under TCPA 1990 (and other identified consents) not required: see PA 2008 s. 33(1)(a)(planning permission)

“development” (1)

- TCPA 1990 s. 55: “development” = “the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land” (subject to further definitions and exclusions)
- PA 2008, s 32(1): “development” has same meaning as in TCPA 1990, subject to s. 32(2)-(3)”

“development” (2)

- But see s.32(2): “for the purposes of this Act”, following treated as material change of use and thus development:
 - “conversion of a generating station with a view to its being fuelled by crude liquid petroleum, a petroleum product or natural gas”
 - “starting to use a cavity or strata for the underground storage of gas” (operational development usually involved eg salt solution mining, but use of porous strata may involve change of use eg depleted gas fields)
 - “an increase in the permitted use of an airport”: “permitted” means “permitted by planning permission or development consent”(ss. 32(4) and 23(9)); but is there a specifically permitted level of “use” under the permission?

“development” (3)

- S. 32(3): “for the purposes of this Act” the following is development (to extent that would not be otherwise):
 - works for the demolition of a listed building or its alteration or extension in a manner which would affect its character as a building of special architectural or historic interest;
 - demolition of a building in a conservation area;
 - works resulting in the demolition or destruction of or any damage to a scheduled monument;
 - works for the purpose of removing or repairing a scheduled monument or any part of it;
 - works for the purpose of making any alterations or additions to a scheduled monument; and
 - flooding or tipping operations on land in, on or under which there is a scheduled monument.
- removes need for these consents under Planning (Listed Buildings and Conservation Areas) Act 1990 and Ancient Monuments and Archaeological Areas Act 1979: see s. 33(1)(f),(g),(i),(j)

“Is or forms part of a nationally significant infrastructure project” (1)



- No overarching definition of NSIP
- S. 14 defines types of NSIPs in fields of energy, transport, water, waste water and waste
- Subject to further definitions and thresholds in ss 15-30A (and see interpretation provision s. 235)
- See eg s. 15: includes extension of on-shore non-wind generating station where its capacity is “more than 50 MW”

“Is or forms part of a nationally significant infrastructure project” (2)



- S. 14: NSIP means: “a project which consists of any of the following:
 - (a) the construction or extension of a generating station; (b) the installation of an electric line above ground; (c) development relating to underground gas storage facilities; (d) the construction or alteration of an LNG facility; (e) the construction or alteration of a gas reception facility; (f) the construction of a pipe-line by a gas transporter; (g) the construction of a pipe-line other than by a gas transporter;
 - (h) highway-related development; (i) airport-related development; (j) the construction or alteration of harbour facilities; (k) the construction or alteration of a railway; (l) the construction or alteration of a rail freight interchange; (m) the construction or alteration of a dam or reservoir; (n) development relating to the transfer of water resources; (na) the construction or alteration of a desalination plant; (o) the construction or alteration of a waste water treatment plant or of infrastructure for the transfer or storage of waste water; (p) the construction or alteration of a hazardous waste facility; (q) development relating to a radioactive waste geological disposal facility”

Is or forms part of a nationally significant infrastructure project” (3)



- R (Gate) v. SST and Lancashire CC [2013] EWHC 2937 (Admin)
 - Dual carriageway proposed as part of link road between Heysham and M6
 - S. 14(1)(h): project which consists of “highway-related development”
 - S. 22(2)(b): “only if...the highway is to be constructed for a purpose connected with a highway for which the SoS is (or will be) the highway authority”
- Held that link fell within this description:

“the roads which lead from these junctions are all likely to be connected to the purpose of the junctions which they serve to a greater or lesser extent and over a distance which will vary from case to case. The point at which any given road leading from a motorway junction could be said to be sufficiently remote as to no longer to be connected with the purpose of the junction is a matter of judgment which the decision maker...will usually be best placed to judge” [24]

Is or forms part of a nationally significant infrastructure project” (3)



- also found, in relation to the s. 14 phrase “a project which consists of”: the proposal “must fall entirely within the relevant definition of an NSIP to fall within the scope of section 14. Otherwise, the word ‘includes’, or an equivalent, would be used” [24]
- but at [27]: rejected submissions that descriptions of NSIPs should be narrowly construed because carrying out works requiring development consent is a criminal offence – would undermine statutory purpose of streamlining consent process
- NB after Gate s. 22(2)(b) replaced with defined thresholds for areas of development

“Is or forms part of a nationally significant infrastructure project”



- PA 2008 s. 31: development which “forms part of” NSIP:
 - prevents salami-slicing of projects
 - eg phase of larger project, even if itself falls below threshold, would generally require consent
 - Cf “associated development” under s. 115 – see later

Power to amend types of NSIPs (1)

- PA ss. 14(3)-(7) allow SoS to amend by order types of projects in s. 14(1)
- Additional type may only be:
 - in fields of energy, transport, water, waste water or waste
 - wholly within England, waters up to seaward limits of territorial sea (12 nm – see Territorial Seas Act 1981 s. 1(1))
 - in field of energy, a Renewable Energy Zone (area of outside territorial sea where UK claims exclusive rights for production of energy from water and wind – see s. 84(4) Energy Act 2004)

Power to amend types of NSIPs (2)

- July 2018: government consulted on including major shale gas production projects in the NSIP regime (England only):
 - suggested major shale gas developments which are at the production phase would be most suitable
 - potential criteria: number of individual wells per well-site/pad; number of well-sites in development; volume of recoverable gas; estimated production rate; whether multiple well-sites will be linked via shared infrastructure
 - potential timings to introduce change (eg ASAP, or when a critical mass of shale gas exploration and appraisal sites has been reached)
- 5 July 2018, HC Housing, Communities and Local Government Select Committee report recommended that fracking planning applications should not be brought under the NSIP regime: “would result in a significant loss to local decision-making, exacerbating existing mistrust between local communities and the fracking industry”

Directions in relation to NSIPs: general (1)



- S 35(1): SoS may give direction for development to be treated as development for which development consent should be granted
- S. 35(2): may give direction only if:
 - the development is or forms part of (i) a project (or proposed project) in the field of energy, transport, water, waste water or waste, or (ii) a business or commercial project (or proposed project) of a prescribed description [see later]
 - the development will (when completed) be wholly in one or more of:
 - England or waters adjacent to England up to the seaward limits of the territorial sea
 - if in field of energy, a Renewable Energy Zone
 - SoS thinks the project (or proposed project) is of national significance, either by itself or when considered with one or more other projects (or proposed projects) in same field

Directions in relation to NSIPs: general (2)



- Power to give direction in energy field etc only exercisable in response to qualifying request if no application for consent/authorisation under s. 33(1)-(2) has already been made (includes application for planning permission): S. 35ZA(1)
- Power to give direction in relation to prescribed business or commercial projects only exercisable in response to qualifying request made by one or more of:
 - a person who proposes to carry out any of development to which request relates;
 - a person has applied, or proposes to apply, for planning permission (or other consents under PA2008 s 33(1) or (2));
 - a person who, if a s. 35 direction is given in relation to that development, proposes to apply for development consent for any of that development (s. 35(ZA)(2))

Directions in relation to NSIPs: general (3)

- S. 35ZA(3) also makes clear that the SoS may direct that:
 - an application for planning permission (or other s. 33(1)-(2) consent) be treated as an application for development consent;
 - if a person proposes to make an application for planning permission (or other PA 2008, s 33(1)-(2) consent), the proposed application be treated as a proposed application for development consent
- Ss 35 and 35ZA do not make development to be dealt with under PA2008 regime – give promoters opportunity to make “qualifying requests” to be brought within it

Directions in relation to NSIPs: commercial and business development (1)



- Background:
 - Benefits of NSIP regime attractive to those promoting other forms of development
 - Consolidated consent regime (inc compulsory purchase) and single application
 - SoS decision on fixed timetable
 - Infrastructure Planning (Business or Commercial Projects) Regulations 2013 [BCP Regulations] came into force on 18.12.13 and brought into effect changes to PA 2008 in ss. 35(2)/35ZA
- If at least part of development is in Greater London; and is of forms part of a prescribed business or commercial and project, consent of Mayor is required: s. 35(4)

Directions in relation to NSIPS: commercial and business development (2)



- BCP Regulations prescribe descriptions of development in respect of which a direction may be made
- project must be of a description that “consists wholly or mainly” of development within regulation 2(2)(a)(i) or (ii)
- regulation 2(2)(a)(i):
 - development comprising the “construction of buildings or facilities” for the purposes of one or more of the Schedule matters
 - Schedule: office use; research and development of products and processes; an industrial process or processes (see reg 1(2); storage or distribution of goods; conferences; exhibitions; sport; leisure; tourism
- regulation 2(2)(a)(ii):
 - further form of development, being the winning and working of minerals in, on or under land
 - “minerals”: BCP Regulations, reg 1(2); but specific exclusion for the winning or working of ‘peat, coal, oil or gas’ (reg 2(2)(b)(i)).

Directions in relation to NSIPS: commercial and business development (3)



- See too exclusion of “the construction of one or more dwellings” (see BCP Regulations, reg 2(2)(b)(i)), confirming PA2008 s. 35(5)): so prescribed description of business/commercial project does not include dwellings
- BCP Regulations contain no numerical thresholds to confirm national significance – but see guidance...

Directions in relation to NSIPs: commercial and business development (4)



- DCLG Policy Statement “Extension of the nationally significant infrastructure planning regime to business and commercial projects” (2013):
 - “In considering whether a project is of national significance, the Secretary of State will consider all relevant matters, including: • whether a project is likely to have a significant economic impact, or is important for driving growth in the economy • whether a project has an impact across an area wider than a single local authority area • whether a project is of a substantial physical size or • whether a project is important to the delivery of a nationally significant infrastructure project or other significant development”; and
 - “...any matter which the Secretary of State considers relevant to whether a direction should be made. This will include: • whether a project is likely to require multiple consents or authorisations, and which...would benefit from the single authorisation process offered by the NSIP regime • whether the project is related to a NSIP being brought forward at the same time and therefore would benefit from the scheme being considered as a single application...”

Directions in relation to NSIPs: commercial and business development (5)



- “[SoS] would not normally expect to receive requests for directions in relation to projects that are not of a substantial size. For example...construction projects where the gross internal floorspace to be created by the project is less than 40,000m²; for leisure, tourism and sports facilities where the area to be developed is less than 100 hectares; or for sports stadia where the seating capacity is less than 40,000 seats”
- minerals: “...not normally expect to receive requests for projects unless they involve the extraction of a strategically important industrial mineral, or extraction of a mineral on a significant scale, for example where the surface or underground area was over 150 hectares”
- retail: “...local planning authorities should normally decide planning applications for retail projects. Some projects that fall within the prescribed types of project might include an element of retail. However, the Secretary of State would not expect to receive requests where a project is retail-led”

Associated development: general

- PA s. 115(1): development consent may be granted for development for which development consent is required [see above], or
 - “(b) associated development, or
 - “(c) related housing development”
- Associated development:
 - development which is associated with the development for which development consent required, or any part of it;
 - does not consist of or include the construction of one or more dwellings; and
 - is within subsection (3), (4) or (4A)
 - subsection (3): England; subsection (4), (4A) – Wales (more restricted)

Associated development: guidance (1)

- DCLG Guidance on Associated Development at [8]:
“It is for applicants to decide whether to include something that could be considered as associated development in an application for development consent or whether to apply for consent for it via other routes. However, where an applicant does wish to apply for consent for associated development, it should be included in the application for the principal development”
- Where development consent granted for AD, s. 33 applies so that none of identified consents (including planning permission) required: s. 115(5)

Associated development: guidance (2)



- At [5]: for SoS to decide on a case by case basis whether or not development should be treated as associated development
- core principles:
 - direct relationship between NSIP and AD
 - AD should not be aim in itself
 - AD should not be included to cross-subsidise NSIP
 - AD should be proportionate to nature and scale of NSIP
- R (Innovia Cellophane Ltd) v IPC [2012] PTSR 1142: dwellings exclusion did not preclude Hinkley Point C application including temporary worker accommodation as AD: “dwelling” distinct from hostels and other types of resi accommodation which are not permanent or self-contained

Related housing development: general

- PA s. 115(1)(c) [see above] introduced by Housing and Planning Act 2016 s. 160, coming into force 6 April 2017
- Means development which:
 - consists of or includes the construction or extension of one or more dwellings
 - is on the same site as, or is next to or close to, any part of the development for which consent required or is otherwise associated with that development (or any part of it)
 - is to be carried out wholly in England and
 - meets the condition in subsection (4C) (ie if development for which consent is required is in England or its territorial waters): s. 115(4B)

Related housing development: guidance (1)



- DCLG “Guidance on Nationally Significant Infrastructure Projects and Housing” (2017) [8]: notes that s. 115(7) PA2008 requires SoS of State to “take into account any matters set out in this guidance when deciding an application for an order granting development consent that includes related housing development”
- [11]: housing can be granted development consent in two specific circumstances:
 - “...functional need for the housing in terms of the construction or operation of a project eg where housing (rather than temporary accommodation) is needed for construction workers, or to support 24 hour presence on site for key workers”
 - “where...housing is...in geographical proximity to the project eg housing which is within the boundary of an infrastructure project such as a business and commercial project that includes housing, or housing that is adjacent to or in close proximity of a nationally significant project (eg a rail station on a railway line)”.

Related housing development: guidance (2)



- [12]: changes introduced by the 2016 Act will not allow projects that only comprise housing to be granted development consent
- [13]: clarifies that application may include local infrastructure associated with housing, where “integral” to housing and “proportionate” to scale of housing
- [17]-[18]: should limit application to 500 dwellings (to ensure that “local planning process is not undermined”); although may apply for housing (not temporary accommodation) for construction workers at higher level during construction phase, provided subsequently converted so that permanent dwellings 500 or less: [19]

Related housing development: guidance (3)



- TCPA 1990-type considerations adopted in guidance: [21]: where “specific policies in the NPPF indicate that development should be restricted, a lower number of dwellings, or no housing at all, is likely to be appropriate. These policies include those for: - sites protected under the Birds and Habitats Directives, listed or proposed Ramsar Sites and/or sites designated as Sites of Special Scientific Interest; - land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, Heritage Coast or within a National Park (or the Broads Authority); designated heritage assets; and - locations at risk of flooding or coastal erosion”: cf new NPPF?
- [23] where consent granted on basis of geographical proximity, % of affordable housing expected in accordance with local plan policies, to be secured through s. 106 with LPA

Related housing development: guidance (4)



- [25] If housing is being provided on the basis of a functional need, then the expectation is that the housing will normally need to be located close to the infrastructure project concerned. However, where it is proposed to provide a large amount of housing to meet a functional need (eg for construction workers) it may be more appropriate for this to be in a location that is not in the immediate vicinity of the infrastructure project. It may, for example, be more sustainable in overall terms for the housing to be provided in a local town, with better access to other local services and facilities, as long as it is within reasonable commuting distance of the infrastructure being constructed.

Related housing development: guidance (5)



- [27]: Although there will be a single examination, the housing element of any application is likely to need careful examination in its own right to ensure that the housing proposed is acceptable in planning terms
- [29]-[30]: examining authority will need to assess against NPPF and supporting guidance; and development plan policies likely to be “important and relevant consideration”
- [32]: where SoS considers a request for direction under s. 35, consideration of any housing element will not form part of assessment of national significance in deciding whether a direction should be issued

Related housing development: guidance (6)



- [24]: Where housing is being provided on the basis of geographical proximity... “close to” should be considered to be up to 1 mile away from any part of the infrastructure (excluding any associated development) for which development consent is being sought
- [44]: “It will, however, be open to the Secretary of State to grant development consent for the infrastructure, but refuse consent for some or all of the housing, if the Secretary of State considers that the adverse impact of the housing outweighs the benefits of the development as a whole” [emphasis added]

Related housing development: guidance (7)



- Where development consent granted for related housing development, s. 33 applies so that none of identified consents (including planning permission) required: s. 115(5)
- May not be many NSIPS requiring related housing but given commercial incentives new provisions may gather support (particularly on grounds of geographical proximity)
- Pressure on housing delivery may lead to pressure to increase thresholds identified in guidance

DECISION-MAKING POWERS

Decision-making: TCPA 1990/PCPA 2004 (1)



- Under TCPA 1990 when dealing with an application for planning permission, the local planning authority “shall have regard to (a) the provisions of the development plan, so far as material to the application...(b) any local finance considerations, so far as material to the application, and (c) any other material considerations: s. 70(2)
- PCPA 2004 s. 38(6): “If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise”
- Whether or not a particular consideration is material (ie relevant) is a matter for the court: Tesco Stores v. SSE [1995] 1 WLR 759 per Lord Keith at 764

Decision-making: TCPA 1990/PCPA 2004 (2)



- NPSs may be material considerations when determining applications under TCPA 1990: see eg R (Corbett) v. Cornwall Council [2013] EWHC 3958 at [32] which referred to adoption of EN-1 and EN-3 in fn 17 of NPPF 12 regarding assessment on likely impacts of wind energy development
- Cf Powys CC v. Welsh Ministers [2015] EWHC 3284 (Admin): Welsh Ministers entitled not to have regard to EN-1 in granting permission on appeal for wind farm generating less than 50MW. Unlike NPPF in England at time, Planning Policy Wales did not contain similar references to NPSs. See [43]-[49]: provisions of EN-1 did not apply directly to the determination of the appeal in the present case – they “deal with a different subject matter, assessed by a different minister, in a different statutory context” [45]

Decision-making: TCPA 1990/PCPA 2004 (3)



- Current NPPF:
 - [5]: “The Framework does not contain specific policies for nationally significant infrastructure projects. These are determined in accordance with the decision-making framework in the Planning Act 2008 (as amended) and relevant national policy statements for major infrastructure, as well as any other matters that are relevant (which may include the National Planning Policy Framework). National policy statements form part of the overall framework of national planning policy, and may be a material consideration in preparing plans and making decisions on planning applications”
 - [104]: “Planning policies should:..(e) provide for any large scale transport facilities that need to be located in the area...In doing so they should take into account whether such development is likely to be a nationally significant infrastructure project and any relevant national policy statements”.

Decision making: PA 2008: decisions where national policy statement has effect (1)

C

- Cf PA 2008 s. 104(2): SoS “must have regard to”
 - (a) any national policy statement [NPS] which has effect in relation to development of the description to which the application relates (a “relevant national policy statement”)
 - (aa) the appropriate marine policy documents (if any), determined in accordance with section 59 of the Marine and Coastal Access Act 2009
 - (b) any local impact report...
 - (c) any matters prescribed in relation to development of the description to which the application relates, and
 - (d) any other matters which the Secretary of State thinks are both important and relevant to the Secretary of State’s decision [emphasis added]

Decision making: PA 2008: decisions where national policy statement has effect (2)



- NPSs:
 - designated in accordance with PA 2008 s. 5
 - designated for Overarching Energy (EN-1), Fossil Fuels (EN-2), Renewable Energy (EN-3), Oil and Gas Supply and Storage (EN-4), Electricity Networks (EN-5), Nuclear Power (EN-6), Ports, National Networks, Airports, Hazardous Waste, Waste Water, Geological Disposal Infrastructure
- Prescribed matters: see Infrastructure Planning (Decisions) Regulations 2010 (as amended): eg reg. 3 imposes duties relating to listed buildings and conservation areas similar to those which apply to determination of planning applications; see too reg.6 relating to hazardous substances

Decision making: PA 2008: decisions where national policy statement has effect (3)



- Whether NPS “has effect” will usually be clear from explanation of its purpose compared with NSIP type
- But NPS may not “have effect” regarding all forms of development to which seems to relate: eg NPS EN-1: “in so far as this NPS has effect in relation to applications for new nuclear power stations, it only has effect in relation to applications for development of new nuclear power stations on sites listed in EN-6” [1.4.5] – so application on unlisted site would fall within s. 105 (see below)
- What SoS thinks both “important and relevant” to the decision:
 - cf approach to materiality under TCPA s. 70
 - scope for SoS to think aspects of other/draft NPS important and relevant to decision?

Decision making: PA 2008: decisions where national policy statement has effect (4)



- Subs (3): SoS “must decide the application in accordance with any relevant national policy statement, except to the extent that one or more of subsections (4) to (8) applies”
- (4)-(8) apply if SoS satisfied that:
 - deciding in accordance with any relevant NPS would lead to the United Kingdom being in breach of any of its international obligations
 - deciding the application in accordance with any relevant NPS would lead to the SoS being in breach of any duty imposed on the SoS by or under any enactment
 - deciding the application in accordance with any relevant NPS would be unlawful by virtue of any enactment
 - the adverse impact of the proposed development would outweigh its benefits
 - any condition prescribed for deciding an application otherwise than in accordance with a national policy statement is met

Decision making: PA 2008: decisions where national policy statement has effect (5)



- Where NPS sets out a national policy position on need, as well as the weight to be given to it, the application must be determined to accord with that policy position and attach any identified weight to the need for that type of development
- Cf s. 104 (9): fact that any relevant NPS identifies a location as suitable (or potentially suitable) for a particular description of development does not prevent one or more of subsections (4) to (8) from applying

Decision making: PA 2008: decisions where national policy statement has effect (6)



- R (Scarbrick) v. SSCLG [2017]EWCA Civ 787:
 - NPS on hazardous waste: “SoS will assess applications for infrastructure covered by this NPS on the basis that need has been demonstrated”
 - Claimant argued that need was for type of facility at strategic level, not for particular proposed facility
 - Held: need assessment not required in context of any application: “to implement the policy selectively to relevant decision-making - by applying only to some projects embraced within it but not to others – would be to ignore its plain meaning and purpose” [27]

Decision making: PA 2008: decisions where national policy statement has effect (7)



- R (FCC Environment (UK) Limited) v Secretary of State for Energy and Climate Change [2015] EWCA Civ 55 at [10] recorded agreement on submissions by SoS:

“35...(3) Where “the application” includes proposed powers of compulsory acquisition of land, in assessing whether there is a “compelling case in the public interest” pursuant to section 122(3), the decision-maker will have to make that assessment in accordance with the contents of any relevant NPS by virtue of section 104(3)

(4) However, where, as in the present case, the NPS establishes an urgent need for development, this does not mean that the “compelling case in the public interest” test is automatically and necessarily met – section 104(3) means that, in assessing whether there is a “compelling case in the public interest”, the need for the development must be treated as established and cannot be questioned, but it may be possible to meet the need without the use of the requested powers of compulsory acquisition”

Decision making: PA 2008: decisions where no national policy statement has effect (1)



- Less prescriptive: under s. 105(2) SoS must have regard to:
 - any local impact report
 - any matters prescribed in relation to development of the description to which the application relates, and
 - any other matters which the Secretary of State thinks are both important and relevant to the Secretary of State's decision
- Gate: no relevant NPS designated specifically for highway projects. SoS did not err by relying upon NPSs not material to development under consideration

“56. It must follow [from s. 105], and common sense would in any event dictate, that the decision maker is not precluded from taking into account matters incorporated within national policy statements which are not directly applicable to the development so long as he considers that they are both important and relevant to his decision”.

Decision making: PA 2008: disregarding matters (1)



- s. 106(1): SoS may disregard representations if considers that the representations
 - are vexatious or frivolous
 - relate to the merits of policy set out in a national policy statement, or
 - relate to compensation for compulsory acquisition of land or of an interest in or right over land
- Similar provision for Examining Authority: s.87

Decision making: PA 2008: disregarding matters (2)



- R (Thames Blue Green Economy Ltd) v. SSCLG [2015] EWHC 727 (Admin), [2015] EWCA Civ 876:
 - Objection to Thames Tideway Tunnel project – tunnel wrong solution to waste water pollution issues in Thames and SUDs should be used instead
 - NPS Waste Water: assess application for Thames Tunnel on the basis that the national need for this infrastructure has been demonstrated
 - ExA decided not to entertain representations that challenged “tunnel” solution in NPS
 - Ouseley J, refusing permission, rejected argument that despite term “may” no discretion had been exercised – ExA had considered objections and entitled to disregard because related to policy merits [32]-[34]
 - See too findings on alternatives: section 104(7) did not enable SoS to consider alternatives to reach a decision that “the adverse impact of the proposed development would outweigh its benefits” [37]
 - CA refused permission (Sullivan LJ on paper) and Sales LJ ([12] and [14])



© Copyright Landmark Chambers 2019


London

180 Fleet Street
London, EC4A 2HG
+44 (0)20 7430 1221

Birmingham


4th Floor, 2 Cornwall Street
Birmingham, B3 2DL
+44 (0)121 752 0800

Contact us

 clerks@landmarkchambers.co.uk

 www.landmarkchambers.co.uk

Follow us

 [Landmark_LC](https://twitter.com/Landmark_LC)

 [Landmark Chambers](https://www.linkedin.com/company/landmarkchambers)