

**Welcome to Landmark Chambers’  
‘Planning Case Law in 2020: A re-cap’  
webinar**

The recording may be accessed [here](#).

Your speakers today are...



**Heather Sargent**



**Matthew Fraser**

## R. (Friends of the Earth Ltd) v Heathrow Airport Ltd

[2020] UKSC 52

National Policy Statement on third runway at Heathrow not unlawful for failing to have proper regard to the Paris Agreement on climate change.

# Hillside Parks Ltd v Snowdonia National Park Authority

[2020] EWCA Civ 1440

The end of the “drop-in” application?

- High Court was entitled to conclude that 1967 planning permission could no longer be implemented
- 2003 decision of the House of Lords in **Sage** has made it “clearer than it was before ... that a planning permission needs to be implemented in full”
- Endorses approach taken in **Singh**
- **Lucas** should be regarded as having been decided on its own facts

## R. (Samuel Smith Old Brewery) v North Yorkshire CC

[2020] P.T.S.R. 221

Visual impacts are not an essential part of a Green Belt openness assessment, which is a matter of planning judgment, not law.

See also: *R (Liverpool Open and Green Spaces Community Interest Co) v Liverpool City Council* [2020] EWCA Civ 861

## Dill v SSHCLG

[2020] 1 WLR 2206

- (1) An inspector considering an appeal under the Listed Buildings Act\* can consider whether or not an item that's listed is actually a “building”
- (2) The **Skerritts** criteria (size; permanence; degree of physical attachment to the land) are relevant when determining whether an item that's listed in its own right is a “building” for the purposes of the Act

\*Planning (Listed Buildings and Conservation Areas) Act 1990

## Aireborough Neighbourhood Development Forum v Leeds City Council

- Capacity to bring proceedings: [2020] 1 W.L.R. 2355
- Substantive challenge: [2020] EWHC 1461 (Admin)
- Remedy: [2020] EWHC 2183 (Admin)

The Inspectors examining the plan had failed to deal with the consequences of the emerging housing need reduction, and failed to give adequate reasons why exceptional circumstances for Green Belt release still existed.

## Norfolk Homes Limited v North Norfolk District Council

[2020] EWHC 2265 (QB)

S. 106 obligations: no reason why the statements made by the Supreme Court on interpretation of documents in *Trump* and *Lambeth* shouldn't apply to a s. 106 obligation, whether unilateral or bilateral

## Peel Investments v SSHCLG

[2020] EWCA Civ 1175

The expiry of the specified period of a development plan does not render the policies in that document automatically “out-of-date” for the purposes of para. 11(d) of the NPPF, thereby triggering the tilted balance.

See also:

- Gladman Developments Ltd v SSHCLG [2020] P.T.S.R. 993
- Oxton Farm v Harrogate BC [2020] EWCA Civ 805
- Paul Newman New Homes Ltd v SSHCLG [2021] EWCA Civ 15
- Monkhill Ltd v SSHCLG [2020] P.T.S.R. 416 (appeal judgment pending)

## R (Rights: Community: Action) v SSHCLG

[2020] EWHC 3073 (Admin)

Divisional Court dismisses claim for judicial review of the 3 statutory instruments that amended the GPDO and the Use Classes Order in August/September 2020

(I.e. the SIs that introduced: (i) PD right to construct one or two additional storeys in certain circumstances; (ii) PD right to demolish and rebuild for residential use in certain circumstances; and (iii) Class E to the UCO)

## Other cases to note

- R (o.a.o. Bertoncini) v LB Hammersmith and Fulham (CO/3213/2019) (an interested party has standing to apply for a variation to the Aarhus Convention costs limit)
- Finney v Welsh Ministers [2020] PTSR 455 (the limits to what can lawfully be achieved under s. 73 of TCPA 1990)
- Gluck v SSHCLG [2020] EWCA Civ 1756 (extending time periods for prior approval applications)
- London Historic Parks and Gardens Trust v SSHCLG [2020] EWHC 2580 (Admin) (EIA of Secretary of State's own projects)

# Thank you for listening

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