

## CONSTANZE BELL

Year of call: 2013

Clerked by: William Brown Gary Smith Mark Ronson

AREAS OF EXPERTISE:

Planning & Environment Administrative & Public Law and Local Government Licensing



## Planning & Environment

Constanze practises in all areas of town and country planning law, including the specialist areas of compulsory purchase and highways. Her clients include developers, local planning authorities and local action groups. In the Planning Resource Planning Law Survey 2019 she was ranked as one of the 'Highest Rated Planning Juniors under 35'.

Constanze is a founding member and committee member of the 'Women in Planning' network's Yorkshire branch. She was recognised as a 'Woman of Influence' in *The Planner* magazine's 2019 survey. The Planner says that its Women of Influence List is its annual publication of "the most influential women in and around Planning" as nominated by its readers and selected by its independent panel, and is "representative of the women whose dynamism, creativity, effectiveness and achievement has most affected the planning profession".

Constanze is a member of the 'Environmental Law Foundation' and is willing to consider acting pro bono when instructed by ELF in appropriate cases. Pro bono work has included advising a local action group ('Power without Pylons') on their consultation response to the final public National Grid consultation on major infrastructure proposals to join up Moorside power station to the grid ('the North West Connections Project'). The proposals were featured in the press.

### Notable Cases

#### Inquiries have included:

***The Highways England Company Limited (M6 Motorway Junction 17 Improvements) (Private Means of Access to Local Highways) Compulsory Purchase Order 2018 & The Highways England Company Limited (M6 Motorway Junction 17 Improvements) (Private Means of Access to Local Highways) Side Roads Order 2018***

Represented Highways England at this CPO inquiry into the confirmation of two orders made under the Highways Act 1980 and the Acquisition of Land Act 1981 to provide improved and safe access to the motorway.

***Land at Station camp site, Carrog, Corwen (Appeal Ref: APP/r6830/x/18/3207261)***

Represented the Local Planning Authority in this appeal against a refused lawful development certificate for a camping and caravanning site in the Carrog Area of Outstanding Natural Beauty (AONB). The LPA successfully persuaded the Inspector that there had been a material change of use (MCU) within the last ten years by virtue of 'intensification'.

***The Lancashire County Council (Preston Western Distributor, East West Link and Cottam Link Roads) Compulsory Purchase Order 2018, The Lancashire County Council (Preston Western Distributor, East West Link and Cottam Link Roads) (Side Roads) Order 2018, The Lancashire County Council (Lea Viaduct) Scheme 2018 and The Lancashire County Council (Savick Brook Viaduct) Scheme 2018 (concurrent inquiries)***

Represented Lancashire County Council (LCC) at this significant compulsory purchase inquiry (junior to John Barrett). The inquiry related to the compulsory purchase of land to deliver Preston's £190m Western Distributor link road ('PWD'), a dual two-lane all-purpose carriageway from the M55 to the A583. The Scheme formed part of the Council's Transport Masterplan, to support the scale of development set out the Central Lancashire Core Strategy

***Inquiry into the called-in applications of CPG and the recovered appeal by Orbit concerning proposed retail development at Land off Earl Road/ Epsom Avenue, Handforth Dean, Cheshire (Appeal Ref: APP/R0660/V/17/3179605; APP/R0660/V/17/3179609; APP/R0660/V/17/3179610; APP/R0660/V/17/3155191).***

Represented Stockport MBC (junior to Martin Carter) at this retail development planning inquiry. The inquiry concerned three called-in applications by CPG Developments (27,439 sqm of retail development) and a recovered appeal by Orbit Investments (Properties) Ltd (6,035 sqm of retail development).

***Land at Lodge Farm, Clapp Gate, Appleby, Scunthorpe, DN15 0DB (Appeal Ref: APP/Y2003/W/17/3173530 and***

**APP/Y2003/W/17/3180606)**

Successfully represented North Lincolnshire Council (junior to Alan Evans) and secured the dismissal of Egdon Resources appeal against North Lincolnshire Council's refusal to grant planning permission for the long-term production of hydrocarbons (conventional hydrocarbon extraction) at the existing wellsite in Lodge Farm, Scunthorpe. Planning Inspector KL Williams' decision was covered in local and national press.. The inquiry process was followed in detail by the website 'Drill or Drop'.

**Land at Intall Fields Farm, Stoke Pound Lane (Appeal Ref: APP/P1805/C/16/3163467)**

Represented the LPA in a complex enforcement notice appeal where the extent of the planning unit was in dispute. The LPA submitted and the Inspector concurred that the site was one planning unit in composite mixed use. Accordingly, the immunity clock reset each time a new use was added to the existing mixture of uses (providing any such change was material).

**Sty Lane, Micklethwaite (Appeal Reference: APP/W4705/V/14/2228491)**

Represented Redrow and Bellway Homes, as junior to Paul Tucker QC, in this appeal against a refused residential housing development. Paul and Constanze secured outline permission for 420 to 440 dwellings.

**Application to register land at Newry Beach and Green, Holyhead, Anglesey as a TVG**

Instructed on behalf of a local action group seeking to register land as a TVG in Wales. Legal issues at the inquiry included: the significance of the use; statutory incompatibility; the application of Barkas; and the presumption of lawfulness.

**Land at Blencathra View, Gamblesby (Appeal Ref: APP/H0928/C/15/3141454)**

Represented a landowner in this conjoined enforcement notice and CLEUD refusal appeal regarding horsiculture and 'planning law's ponies'.

**Hearings have included:**

**Land adjacent to Beechwood Specialist Care Centre, Beechwood Road South, Liverpool L19 0LD (Appeal Ref: APP/Z4310/W/18/3207829)**

Represented the local planning authority in a hearing regarding: green wedge and green space policies; character and appearance of the area; effect on protected trees and 5YHLS. The Inspector upheld the LPA's decision and dismissed the appeal.

**Land to the West of Arrow Bridge, Grange Lane, Alvechurch B48 7DJ (Appeal Ref: APP/P1805/X/16/3155580)**

Represented the local planning authority in a hearing regarding a refused CLOPUD which sought a declaration that a change from a mixed ancillary use to a storage use would be lawful in circumstances where there was a proposed change of ownership which would sever the existing planning unit. The Inspector upheld the LPA's decision and dismissed the appeal.

**Walters and Leeds City Council, a Revocation Order under s.97 TCPA 1990**

Represented a developer opposing a revocation order for a planning permission issued in error. Issues include: the correct approach to compensation; whether the notice is a nullity and the expedience of a revocation. The LPA withdrew the revocation notice.

**Rights of Way Inquiries have included:**

**The Lancashire County Council Public Footpath on Foreshore to Lindeth Road Silverdale (Definitive Map Modification) Order 2013 & The Lancashire County Council Browns Houses to Lindeth Road Silverdale (Definitive Map Modification) Order 2013**

Represented the Order Making at this conjoined inquiry into two definitive map modification orders. Issues included: technical considerations regarding the limitations and conditions in the Order schedules; whether use was 'by force'; the extent of the highway maintainable at public expense; and the effect in law of part of one of the claimed routes becoming open access land under the CROW Act 2000. Both Orders were confirmed.

**Wildlife and Countryside Act 1981 - Cyngor Sir Ynys Môn / Isle Of Anglesey County Council Definitive Map And Statement - Cyngor Sir Ynys Môn / Isle Of Anglesey County Council (Footpath 10, Rhoscolyn) Modification Order 2015**

Represented the Order Making at this inquiry into a definitive map modification order to delete a section of footpath depicted on the Definitive Map and a new footpath. Issues included: whether the OMA, when making the Order, had applied the correct legal test and whether prejudice had occurred as a result of the error alleged; and whether there was an inference of dedication at common law with regard to the proposed addition.

**The Shropshire Council (Bridleway Additions, Parish of Richard's Castle) Modification Order 2015; Ref: ROW/3172071**

Represented the Order Making at an inquiry into a definitive map modification order to add two public rights of way (bridleways) to the definitive map. Issues included: whether deviation could lead to the establishment of an additional right of way; the status of the two proposed routes; and the relevant period of public use. The order was confirmed in part.

**Isle of Anglesey County Council (Addition of Footpath at Tai Bach the Community of Llanddona) Modification Order 2016;Ref: ROW/3161246**

Represented the Order Making Authority for representation at an inquiry into a definitive map modification order to add a public right of way to the definitive map. Issues included: use by implied permission; intention to dedicate; and the correct date of challenge. The order was confirmed.

**The Shropshire Council (Parish of Frodesley) Modification Order 2010; Ref: FPS/L3245/7/16**

Represented the Order Making Authority at this complex inquiry into an order proposing to: add a bridleway; add a footpath; downgrade a bridleway and delete part of a bridleway. Issues included: the discovery of a drafting mistake and its sufficiency to displace the presumption in favour of the definitive map; the creation of a new right of way on land adjoining land over which there is an obstructed right of way; and whether public rights could be acquired over a route mistakenly shown on the definitive map.

## Significant Reported Cases

### ***R (Preston) v Cumbria County Council [2019] EWHC 1362***

Appearing for the Claimant (junior to John Hunter) in a successful judicial review claim. The High Court held that the Council's decision to grant planning permission was unlawful because: there had not been a "screening opinion" for the purposes of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (the "EIA Regs"); and, there had not been an "appropriate assessment" for the purposes of the Conservation of Habitats and Species Regulations 2017 (the "Habitats Regulations").

### ***R (LOGS) v Liverpool CC & Redrow Homes Ltd [2019] EWHC 55 (Admin)***

Appearing for Liverpool City Council (junior to Paul Tucker QC) in a challenge brought by a local action group concerning the interpretation of Liverpool's 'green wedge' policies.

### ***Sykes v Cheshire West and Chester BC [2018] EWHC 3655 (Admin)***

Appearing for Chester Borough Council in a case concerning the legal principles of consultation and the adequacy of consultation in a planning context.

### ***R (Save Britain's Heritage) v Liverpool City Council and another [2016] EWCA***

Successfully resisted an application for an urgent injunction brought by Save Britain's Heritage in the Court of Appeal to prevent deconstruction of the Futurist Cinema in Liverpool.

### ***R (Save Britain's Heritage) v Liverpool City Council and another [2016] EWCA Civ 806***

Instructed (as a junior to Anthony Crean QC) on behalf of a Local Authority in an important heritage case. The question before the Court of Appeal was whether paragraph 18a-036 of the Planning Practice Guidance required a local authority to consult the Department for Culture, Media and Sport separately on development proposals for Lime Street, Liverpool which was within the buffer zone of a World Heritage Site. The appeal was dismissed and permission to appeal to the Supreme Court was refused.

## Profile

Constanze has a varied public law, planning and environmental law practice. In the Planning Resource Planning Law Survey 2019 she was ranked as one of the 'Highest Rated Planning Juniors under 35'.

She was appointed to the Attorney General's Regional Panel (Junior Counsel to the Crown, C Panel) in April 2018 and to the Panel of Special Advocates for Health & Safety and Environmental Law (C Panel) in March 2019.

Constanze is an Assistant Editor of the (forthcoming) third edition of *Judicial Review Law and Practice* (to be renamed '*Patterson and Karim on Judicial Review*'). She is also a member of the Kings Chambers author team who write for and produce the quarterly bulletin for the *Encyclopaedia of Local Government Law*.

Before coming to the Bar, Constanze worked in the NGO sector. She was part of the legal team for 'Control Arms', a coalition of NGOs working to secure a human rights orientated Arms Trade Treaty and attended the July 2012 Arms Trade Treaty Diplomatic Conference and negotiations at the UN in New York. Constanze retains an active interest in human rights law and in particular with regards to planning, regulatory and environmental cases involving human rights issues.

**Year of Call:** 2013

## Areas of Expertise

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Administrative & Public Law and Local Government

Licensing

Planning & Environment

## Memberships

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PEBA (Planning & Environmental Bar Association)

ELF (Environmental Law Foundation)

WiP (Women in Planning)

## Appointments

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Assistant Editor of the (forthcoming) third edition of *Judicial Review Law and Practice* (to be renamed '*Patterson and Karim on Judicial Review*').

Panel of Special Advocates for Health & Safety and Environmental Law, C Panel (March 2019-)

Attorney General's Regional Panel, Junior Counsel to the Crown, C Panel (April 2018-)

## Qualifications

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Bar Professional Training Course, Kaplan London - Very Competent

Grauate Diploma in Law, City University, London - Commendation

History & Philosophy of Science BSc (Hons), UCL, First Class. First class in all three years, final year dissertation graded first class.

## Awards

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**2019:** Recognised as a "Woman of Influence" by *The Planner* magazine

**2018:** Awarded an International Professional & Legal Development Grant by the Bar Council to present a paper at the 10th International Conference on Sustainable Development & Planning at the University of Siena, Italy

Middle Temple Harmsworth Scholarship (major award) for BPTC & GDL

UCLU Centenary Colours and UCLU Debating Society Honorary Life Membership

## Publications

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- 'Civil Restraint Orders in Law and Practice', (August 2019) *Encyclopaedia of Local Government Law Bulletin*, Sweet & Maxwell
- 'R. (oao Hollow) v Surrey CC [2019] EWHC 618 (Admin): Case Comment', (March 2019) *Encyclopaedia of Local Government Law Bulletin*, Sweet & Maxwell
- Legal Landscape, 'Communities & Decision Making', (May 2019), *The Planner* magazine, (*republished by The Consultation Institute in their digital newsletter, June 2019*)
- Bell, C., Sustainable Development in English Planning Policy: A Lawyer's Perspective, *WIT Transactions on Ecology and the Environment*, Volume 217, WIT Press, 2018, ISSN 1743-3541 (presented as a paper at the 10<sup>th</sup> International Conference on Sustainable Development & Planning at the University of Siena, Italy)
- What does the revised NPPF mean for housebuilding in the UK?, August 2018, UK Construction Online News Article
- 'Case Comment: R. (on the application of Mason) v Winchester Crown Court & CC of Hampshire [2018] EWHC 1182 (Admin), (August 2018) *Encyclopaedia of Local Government Law Bulletin*, Sweet & Maxwell
- Planning Permission in Principle: Why not Planning Permission in Practice? (*with Freddie Humphreys*), July 2018, Building Construction Design News Article
- 'It's not fair! Is it?', (April 2018) *Encyclopaedia of Local Government Law Bulletin*, Sweet & Maxwell