

KILLIAN GARVEY

Year of call: 2014

Qualifications: BA History, Graduate Diploma in Law, Bachelor of Laws LLB, Bachelor of Civil Law

Clerked by: Gary Smith Mark Ronson

AREAS OF EXPERTISE:

Administrative & Public Law Environment Local Government
Planning



Profile

Killian Garvey is a specialist planning barrister.

Killian regularly appears in inquiries and the High Court/Court of Appeal across the country. He acts for both developers and local authorities.

Killian has been consistently ranked as one of the top 5 juniors under the age of 35 in Planning Resource Magazine. For two years consecutively he has been ranked as the 13th best junior barrister nationally.

Clients have said as follows about him:

"Scarily bright and just so good on the detail."

"He is beyond his years in ability and is a very strong cross-examiner and a confident inquiry advocate."

"He talks things through and explains things well to the client."

"Confident, good insight, persuasive in court for a junior of his call."

Killian is a member of the Attorney General's C Panel of Junior Counsel

Year of Call: 2014

Areas of Expertise

Administrative & Public Law

Environment

Significant Recent Cases

Residential Development Inquiries

Southbourne, Chichester (Appeal Reference: APP/L3815/W/17/3173380) - Successfully acted for Beechcroft Land Ltd in this planning appeal, where the Appellant secured permission for 34 dwellings in Southbourne, Chichester. The case has significant implications nationally as it gives guidance on policies contained within a neighbourhood plan and the implications of the Secretary of State's 'written ministerial statement'.

Land off Haven Lane, Oldham (Appeal Reference: APP/W4223/W/17/3175644) - Successfully represented Heyford Developments in pursuing a planning application for up to 23 dwellings in Oldham. A previous application had been refused in respect to the site on highways grounds. Killian secured permission despite this highways objection and also secured an award of costs against the Council.

Desborough, Kettering (Appeal Reference: APP/L2820/W/16/3149835) - Successfully represented Kettering Borough Council in securing the dismissal of a housing application for 147 dwellings in Desborough. The appeal related to 5 year housing land supply and landscape. The Council were successful on both issues. It was pursued by Gladman Developments. Gladman pursued a statutory challenge of the Inspector's decision, which Killian assisted in securing a dismissal of in the High Court acting for the Council.

Moneystone Park, Staffordshire (APP/B3438/W/16/3144848) - Acting as the junior to Paul Tucker QC, Killian assisted in securing planning

permission for 250 holiday lodges near Alton Towers. This was a particularly long running application, that took several years to secure permission through a repeat application, which had to survive a challenge in the High Court.

Ansley, Warwickshire (Appeal Reference: APP/R3705/W/16/3149572) – Successfully represented Muller Property Group in securing 79 dwellings in Ansley, Warwickshire. This was the first occasion since the adoption of the North Warwickshire Local Plan Strategy 2014 that the Council were found to be unable to demonstrate a 5 year supply of housing land.

Northampton South SUE (Appeal Reference: APP/V2825/W/15/3028151) – Successfully represented Bovis Homes, as the junior to Anthony Crean QC, in this housing development. Anthony and Killian secured outline permission for 1,000 dwellings. Costs were also awarded to Bovis Homes.

123 High Street, Wellingborough (Appeal Reference: APP/H2835/W/15/3140655): Successfully represented the Council in resisting this s.78 appeal concerning a housing development for 59 dwellings in Irchester.

Windermere Avenue, Colne – (Appeal Reference: APP/E2340/W/15/3131974) – Successfully represented the developer, as the junior to Paul Tucker QC, in this s.78 appeal relating to a residential development for 90 dwellings.

Gladman Developments Limited v Cherwell District Council (Appeal Reference: APP/C3105/W/15/3134944) – Successfully represented the Council in resisting this s.78 appeal concerning a housing development for 75 dwellings in Kirtlington

Little Harrowden, Wellingborough (Appeal Reference: APP/H2835/W/15/3140093) – Successfully represented Wellingborough Borough Council in securing the dismissal of a housing development for 11 dwellings. Costs were also awarded to the Council.

199 Northampton Road, Wellingborough (Appeal Reference: APP/H2835/W/16/3144277) – Successfully represented Wellingborough Borough Council in securing the dismissal of a residential development for 102 dwellings. The inquiry lasted for 5 days and included substantial issues relating to ecology, landscape, 5 year housing land supply and planning.

East of Wem Road, Shropshire (Appeal Reference: APP/L3245/W/16/3150322) – Successfully represented the Council in this section 78 appeal relating to 25 dwellings. The development proposal was refused having regard to the correct interpretation of the presumption in favour of sustainable development.

Peartree Cottages, Durham (Appeal Reference: APP/X1355/W/16/3165827) – Successfully represented the developer in this written representation appeal concerning an extension to a HMO within a conservation area.

Enforcement

Land to the rear of Old Bank House, Cumbria (Appeal Reference: APP/Q9495/C/16/3155448) – Successfully represented the Appellant in this enforcement appeal relating to the historical use of a car park under ground s.174(d) of the Town and Country Planning Act 1990, where the Council were alleging concealment.

36 Langleys Road, Birmingham (Appeal Reference: APP/P4605/C/15/3129371) – Successfully represented the Council in this enforcement appeal where grounds (a) and (c) were challenged. Killian demonstrated that the Appellant did not have legal standing to bring the appeal. The Council were awarded their costs in full.

Bassetlaw District Council v Leigh Bower – Successfully represented the Council in this planning prosecution case where the Council secured a criminal behaviour order against the Defendant

Robert Vaudry v Stratford-upon-Avon DC (Appeal Reference: APP/J3720/C/15/3003712) – Successfully represented the Council, as the junior to Gary Grant, in this enforcement appeal where the Council were awarded their costs in full

Yorkshire Dales National Park Authority (Appeal Reference: APP/C9499/C/15/3128765) – Successfully represented the Council in this enforcement appeal.

Compulsory Purchase Orders

Swindon Borough Council Compulsory Purchase Order (Appeal Reference: APP/NPCU/CPO/U3935/74830) – Successfully represented the Council, as the junior to Anthony Crean QC, in this CPO inquiry relating to the regeneration of Swindon town center.

Chesterfield Road, Sheffield City Council – Successfully represented the Council in this CPO matter, wherein through a disclosed advice the relevant objectors all agreed to the CPO being confirmed by consent.

High Court litigation

R.(Paul Housiaux) v Staffordshire Moorlands District Council and Laver Leisure Ltd [2017] EWHC 2157 (Admin) – Successfully represented the Interested Party, as the junior to Paul Tucker QC, in this judicial review.

R.(Anthony Waller) v Birmingham City Council (Claim No. CO/2458/2017) - Successfully acted for Birmingham City Council in this matter. The Council were Defendants to a claim for judicial review. The matter concerned a number of issues, including environmental concerns and the need for consultation. As a result of the Council's pleadings, the Claimant agreed to withdraw the claim prior to the full hearing in the matter.

Gladman Developments Ltd v SSCLG & Wellingborough BC [2016] EWHC 683 (Admin) – Successfully represented the Council in defending this High Court challenge as the junior to Anthony Crean QC

R. (Mr Philip David Scaling) v Selby District Council (Claim No. CO/3168/2016) – Successfully represented the Council in this matter wherein permission was refused and the claim was certified as being totally without merit.

Shropshire Council v SSCLG [2016] EWHC 2733 (Admin) – Successfully represented the Council in this s.288 claim, as the junior to Anthony Crean QC, concerning the duty of an inspector to determine the 5 year housing land supply of the Council. The Secretary of State conceded to judgment, however, the Interested Party argued the case.

Malvern District Council v Peter Annetts – Successfully represented the Defendant in this injunctive proceedings. Killian demonstrated to the Court that the Council did not have delegated authority to issue the proceedings.

Bushell v Shropshire Council – Successfully represented the Claimant in these judicial review proceedings, wherein the Council consented to judgment.

Mapeley Beta Acquisition Company Limited v SSCLG & Swindon BC [2016] EWHC 2997 (Admin) – Successfully represented the Council, as junior to Anthony Crean QC, in these judicial review proceedings brought by the unsuccessful objector in a CPO inquiry.

R. (Orbital Shopping Park Swindon Limited) v Swindon Borough Council [2016] EWHC 448 (Admin) – A significant case concerning the application of the community infrastructure levy

Other Matters

Hunky Dory, Shropshire (Appeal Reference: APP/L3245/X/16/3147191) – Successfully represented the Council in this appeal of a refusal of a lawful development certificate. Despite the Council presenting no evidence, it was demonstrated through cross-examination that the Appellant's factual background was incorrect.

Helms Deep Barn, Wyre Borough Council (Appeal Reference: APP/U2370/W/15/3137151) – Successfully represented the Council in this s.78 appeal relating to the refusal of prior approval for permitted development rights relating to the conversion of an agricultural building to residential dwelling.

Local Government

Planning

SIGNIFICANT COURT CASES

R.(oao James Hall and Company) v City of Bradford Metropolitan DC [2019] EWHC 2899 (Admin) – Successfully secured the quashing of permission for a petrol station for a rival developer. The Court established, for the first time, that in respect to heritage assets even negligible harm engaged the policies in the NPPF.

Chichester District Council v SSHCLG [2019] EWCA Civ 1640 – Successfully defended the grant of planning permission in the Court of Appeal. This judgment concerned the proper interpretation of neighbourhood plans and the circumstances where it was appropriate to infer conflict into a development plan.

Bassetlaw DC v SSHCLG [2019] EWHC 556 (Admin) – Successfully defended the Secretary of State in this challenge concerning the circumstances where an inspector is required to address arguments not raised in the reasons for refusal.

R.(oao Fulford Parish Council) v City of York Council [2019] EWCA Civ 1359 – Acted for the Claimant in this important case concerning the power to make non-material amendments pursuant to s.96A of the TCPA 1990.

R.(oao Mary Urmston) v City of York Council [2018] EWHC 2102 (Admin) – Successfully acted for the Claimant in quashing a development. This concerned the extent to which officer reports need to be updated where there is an error in the original report.

R.(Paul Housiaux) v Staffordshire Moorlands District Council and Laver Leisure Ltd [2017] EWHC 2157 (Admin) – Successfully represented the Interested Party, as the junior to Paul Tucker QC, in this judicial review.

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SIGNIFICANT LOCAL PLAN EXAMINATIONS

Wrexham Local Plan – Acted for a local third party who were trying to prevent the adoption of the Wrexham Local Plan. The plan was found to not be sound based entirely on the submissions presented for this local third party. The inspectors favoured these submissions over the Welsh Government, who were expressing an alternative interpretation of Welsh planning policy

Sevenoaks Local Plan – Acted for Richborough Estates, promoting a development through the examination into the local plan.

North Warwickshire Local Plan – Acted for Richborough Estates, promoting a development through the examination into the local plan.

Kirklees Local Plan – Acted for a local interest group resisting an allocation of a golf course for development. The examiner accepted the interest group's case that the allocation did not satisfy the relevant tests in the NPPF. The submissions at the examination led to Sports England reversing their position on the issue.

SIGNIFICANT PLANNING INQUIRIES

Grovefield Way (Appeal Reference: APP/B1605/W/18/3200395) – Successfully secured permission for a large scale business park on appeal, including an Aldi, Costa Coffee, office development and nursery. This followed an inquiry, subsequent High Court litigation and then a further hearing. The inspector awarded costs against the Council in this appeal.

Church of the Immaculate Conception (Appeal Reference: APP/X1118/W/19/3239847) – Assisted the Catholic Church in respect to a redevelopment scheme that related to substantial harm to a listed Church.

Land off Braybrooke Road, Desborough (Appeal Reference: APP/L2820/W/18/3215362) – Successfully acted for Kettering BC in resisting an appeal against Gladman developments. This involved defending the Council's 5 year housing land supply, as well as arguing over landscape and highway impacts.

Land North East of Junction 37 of the A1 Motorway (Appeal Reference: 17/00301/FULM) – Secured the dismissal of permission for a motorway service station for Doncaster Council, contrary to the officer recommendation. This was a called appeal to the Secretary of State.

Land at Hill Cottage (Appeal Reference: APPU3935/W/17/3192234) – Assisted with securing permission for a large scale housing development in Swindon Borough Council.

Pear Lea Farm (Appeal Reference: APP/P2365/C/17/3190196) – Successfully secured the dismissal of an enforcement appeal, with a full costs award against the Appellant, for West Lancashire Borough Council.

Southbourne, Chichester (Appeal Reference: APP/L3815/W/17/3173380) – Successfully acted for Beechcroft Land Ltd in this planning appeal, where the Appellant secured permission for 34 dwellings in Southbourne, Chichester. The case has significant implications nationally as it gives guidance on policies contained within a neighbourhood plan and the implications of the Secretary of State's 'written ministerial statement'.

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SIGNIFICANT ENFORCEMENT CASES

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Yorkshire Dales National Park Authority (Appeal Reference: APP/C9499/C/15/3128765) – Successfully represented the Council in this enforcement appeal.

SIGNIFICANT COMPULSORY PURCHASE ORDERS

Swindon Borough Council Compulsory Purchase Order (Appeal Reference: APP/NPCU/CPO/U3935/74830) – Successfully represented the Council, as the junior to Anthony Crean QC, in this CPO inquiry relating to the regeneration of Swindon town center.

Chesterfield Road, Sheffield City Council – Successfully represented the Council in this CPO matter, wherein through a disclosed advice the relevant objectors all agreed to the CPO being confirmed by consent.

Calderdale CPO – Acted for Calderdale Council in respect to three compulsory purchase orders, including a large scale regeneration scheme

Memberships

Northern Circuit

Lincoln's Inn

Planning and Environment Bar Association

Qualifications / Education

University of Oxford: Bachelor of Civil Law (2014)

University of Law: Bachelor of Laws LLB (2014) – First Class Honours

University of Law: Bar Professional Training Course (2014) – Outstanding

College of Law (Chester): Graduate Diploma in Law (2011) – Distinction, 1st in the year

University of Liverpool: Bachelor's Degree in History (2010) – First Class Honours, 1st in the year

St. Anselm's College (Birkenhead)

Recommendations

Chambers UK 2021

"He is hard-working, responsive and intelligent."

"He provides strong and competent legal advice with a commercial focus."

Legal 500 2021

"He combines exceptional technical knowledge with a willingness to go above and beyond for solicitors."

"Killian has exceptional technical knowledge and a fantastic ability to explain complex areas of law in easy to digest ways. You cannot underestimate how important this is when advising clients in planning litigation."

Chambers UK 2020

"Scarily bright and just so good on the detail." "He is beyond his years in ability and is a very strong cross-examiner and a confident inquiry advocate." "He talks things through and explains things well to the client."

Chambers UK 2018

"Very helpful and quick to come up with solutions to quite complex issues."

"An excellent advocate who provides great timely advice and great customer service."

