

Killian Garvey

Year of call 2014

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Killian Garvey is a specialist **planning barrister** who practices across England and Wales. He acts for both developers and local authorities.

Killian has been consistently ranked as one of the top planning barristers nationally in Planning Resource Magazine. In 2023, Killian was ranked as the best planning barrister under the age of 35, he was ranked as the 6th best junior planning barrister nationwide and the 9th best planning barrister for housing developments amongst all barristers nationally.

Killian is ranked within Band 1 for Planning Law in Chambers and Partners.

Clients have said as follows about him in Chambers and Partners:

"Killian gives very clear and considered advice, and presents the advice extremely well to clients. The advice is always well thought through and thorough. Killian is sharp, a very good team player, and is very easy to work with. He will go very far."

"Killian's knowledge and experience is exceptional. Not only is he technically fantastic, he is also incredibly commercial, which is a winning combination for clients." "Killian is extremely intelligent and hard-working."

"Killian is highly impressive and is set to be one of the future stars of the Planning Bar."

"He is extremely bright and combines in-depth knowledge of planning law with pragmatism and commercial acumen."

Within Legal 500, clients have said the following:

'Killian is a very bright barrister, who is also very personable, direct and has an incisive eye for the core issue of a matter.'

Expertise

Administrative & Public Law

Residential Development Inquiries

Notable Residential Development Inquiries cases

Land at Chesnut Tree Farm, Twigworth (Appeal Reference: APP/G1630/W/23/3326538)

Successfully acted for L&Q Estates in securing outline permission for 85 dwellings in Twigworth

Land West of Robin Hood Road, Elsenham

Assisted with securing outline permission for 40 dwellings in Uttlesford District Council following a hearing

Land bounded by Rockingham Street, Sheffield (Appeal Reference: APP/J4423/W/23/3324229)

Assisted with securing permission for a s.73 application which resulted in changing the heights of several tall buildings from 38 storeys down to 32 storeys, alongside a number of design considerations. The Council contested this on the basis that lawfully this was impermissible, but the inspector accepted the legal submissions that it fell within the remit of s.73 TCPA 1990

43 New Street, Blaby (Appeal Reference: APP/T2405/W/23/3318532)

Assisted with securing permission for 12 dwellings, following a previous refusal. The appeal turned on whether a private arrangement for waste collection services could be secured as a matter of law

Land at Shudehill, Manchester (Appeal Reference: APP/B4215/W/23/33221178)

Successfully acted for Manchester City Council in resisting an appeal for a 18 storey tall building in Manchester City Centre on the basis of design and heritage

Land at Purton Road, Swindon (Appeal Reference: APP/Y3940/W/21/3275053)

Successfully assisted with securing permission for 79 dwellings on the edge of Swindon. This involved an inquiry, 2 hearings and a legal challenge but after a lengthy battle, permission was ultimately secured

A444 Land at Wilsons Lane, Coventry (Appeal Reference: APP/U4610/W/23/3319687)

Successfully assisted L&Q estates with securing permission for 73 dwellings and up to 55,750 sqm of commercial floorspace on this cross-boundary application/appeal, wherein costs were awarded against the local planning authority

Liss Forest Nursery, Greatham (Appeal Reference: APP/Y9507/W/23/3314274)

Successfully assisted with securing 37 dwellings in the South Downs National Park Authority for a scheme where viability was the key issue

Land to the east of Braintree Road, Tye Green (Appeal Reference: APP/Z1510/W/22/3307493)

Successfully assisted with securing permission for 35 dwellings in Braintree District Council

Land at Witney Road, Ducklington (Appeal Reference: APP/D3125/W/22/3297487)

Successfully assisted with securing permission for 120 dwellings in Oxfordshire District Council, where the issues of landscape, 5 year supply and heritage were engaged

Land off Park Road, Ketton (Appeal Reference: APP/A2470/W/21/3287674)

Assisted with securing 75 dwellings on appeal against the decision of Rutland County Council

Land at Main Street, Loughborough (Appeal Reference: APP/X2410/W/21/3289048)

Successfully assisted with securing 120 dwellings in Charnwood Borough Council, for a scheme that was an emerging allocation, contrary to the requirement to have a masterplan

Hay End Lane, Fradley (Appeal Reference: APP/K3415/W/20/3264280)

Successfully secured permission for a large scale scheme for 184 C3 units, 122 C2 units

Meadowcroft, Windermere (Appeal Reference: APP/Q9495/W/20/3254342)

Successfully acted for Hillcrest Developments at a hearing in securing a consent for a development in the Lake District

Broad Town Primary School, Wiltshire (Appeal Reference: APP/Y3940/W/20/3249284)

Successfully acted for Greystoke Land Limited in a hearing for 10 entry-level affordable dwellings

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 KC, 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 KC, 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 KC, 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

Notable Enforcement cases

Land at Fairview Farm, Forest Road (Appeal Reference: APP/X0360/C/22/3300653)

Successfully acted for Wokingham Borough Council in 18 conjoined appeals, where the Council were successful in having all notices upheld with an award of costs to cover most appeals

Unit 1, Rolleston Lodge Business Centre (Appeal Reference: APP/F2415/C/22/3292748)

Assisted with getting an enforcement notice quashed and costs against the authority in respect to a notice alleging a breach of condition, which the inspector found was not breached as a matter of legal interpretation

Punch Bowl Inn, Ribbles Valley (Appeal Reference: APP/Q2371/F/22/3296097)

Successfully acted for the Council in this dispute concerning the demolition of a listed building. This involved a successful prosecution in the Magistrates Court, following a criminal trial, as well as a successful enforcement appeal, wherein costs were awarded against the appellants

Land at 3 Measham Way, Liverpool (Appeal Reference: APP/Z4310/X/23/3316521)

Successfully acted for an appellant who established that a property was being used as a C3 dwelling, rather than under C2 use

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 underground 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

Notable Compulsory Purchase Orders cases

Enterprise Rent-A-Car UK Limited North West, Widnes

Successfully represented Enterprise in a CPO claim that resulted in a positive settlement

Swindon Borough Council Compulsory Purchase Order (Appeal Reference: APP/NPCU/CPO/U3935/74830)

Successfully represented the Council, as the junior to Anthony Crean KC, 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

Notable High Court Litigation cases

Ward v Secretary of State for Levelling Up, Housing and Communities [2024] EWHC 676 (Admin)

Successfully defended the Secretary of State in a challenge to an inspector's decision

Bennett v Secretary of State for the Environment Food and Rural Affairs [2023] EWHC 2542 (KB)

Successfully secured the quashing of an inspector's decision refusing a public path diversion order

R.(oao Davies) v Oxford City Council [2022] EWHC 2883

Successfully defended the grant of planning permission for 159 dwellings in the Green Belt

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 KC, 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 KC

(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 KC, 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 KC, in these judicial review proceedings brought by the unsuccessful objector in a CPO inquiry

(Orbital Shopping Park Swindon Limited) v Swindon Borough Council [2016] EWHC 448 (Admin)

A significant case concerning the application of the community infrastructure levy

Highways England

Successfully acted for Highways England in respect to pursuing warrants under section 173 of the Housing and Planning Act 2016, to allow Highways England access to land as part of Nationally Significant Infrastructure Projects. Two of these cases involved projects that were required to give weekly updates to 10 Downing Street.

Other Matters

Notable Other Matters cases

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

Notable Planning cases

Tewkesbury Borough Council v SSHCLG & Others [2021] EWHC 2782 (Admin)

Successfully acted for the Interested Party in this High Court claim concerning the use of oversupply in the assessment of 5 year housing land supply. This followed from successfully representing the Appellant at the planning inquiry in respect to 50 dwellings in Gotherington, Tewkesbury.

Asda v Medway Council

Successfully acted for Asda in challenging the grant of planning permission for a Lidl in Medway. Killian brought five successive legal challenges in respect to the same development at the same site. On each occasion, the Council and Lidl consented to judgment (the final occasion followed a hearing in the High Court). The various legal challenges concerned delegated authority, the interpretation of development plan policy and flood risk

R.(oao Fraser) v Shropshire Council [2021] EWHC 31 (Admin)

Successfully acted for Shropshire Council in defending the grant of planning permission for a care scheme.

R.(oao Thomas) v North Northamptonshire Council [2021] EWHC 1428 (Admin)

Successfully acted for the Council in defending the issuing of an enforcement notice, where it was alleged that the Council did not have the power to do so given that the matter related to mineral issues

R.(oao Day) v Shropshire Council [2020] EWCA Civ 1751

Successfully acted for Shropshire Council in the Court of Appeal and High Court defending the Council's decision to grant planning permission, in the context that it was claimed that the land was open space. The Court gave important clarification as to the proper disposal of open space by local planning authorities

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.

Local Plan Examinations

Notable Local Plan Examinations cases

Solihull Local Plan

Acted for 5 developers in respect to omission sites in the local plan

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.

Planning Inquiries

Notable Planning Inquiries cases

Ashmead Drive, Gotherington (Appeal Reference: APP/G1630/W/20/3256319)

Successfully secured permission for 50 dwellings in Tewkesbury following a planning inquiry

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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Compulsory Purchase Orders

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Swindon Borough Council Compulsory Purchase Order (Appeal Reference: APP/NPCU/CPO/U3935/74830)

Successfully represented the Council, as the junior to Anthony Crean KC, 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 2023

“A silk of the future, who is very proactive and thinks strategically.”

“Killian offers the ‘complete package’ of excellent advocacy, combined with thorough and up-to-date knowledge.”

“Killian is great with clients and has an excellent knowledge of case law and planning.”

“Just an excellent all-rounder.”

Legal 500 2023

‘Killian is very bright and gives clear advice. He is a very strong advocate and good at explaining complex matters to clients and their teams. He is very accessible and quick to turn around work. Very pleasant to work with – a real team player.’

Chambers UK 2022

“Killian’s knowledge and experience is exceptional. Not only is he technically fantastic, he is also incredibly commercial, which is a winning combination for clients.”

“Killian is extremely intelligent and hard-working.”

Legal 500 2022

“Killian has an impressive ability to get to cut through to the important issues in a case quickly and focus on its key strengths and weaknesses. He has an encyclopaedic knowledge of the relevant case law and appeal decisions and is extremely good on his feet.”

“Killian gives very clear and considered advice, and presents the advice extremely well to clients. The advice is always well thought through and thorough. Killian is sharp, a very good team player, and is very easy to work with. He will go very far.”

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.”

Accreditations

