

PEBA The Planning & Environment Bar Association

PART FIVE: PLANNING AND ENVIRONMENT

Gain an understanding and experience of work in the specialist area of work undertaken by the pupil supervisor and the chambers or employer where the pupillage is being undertaken

PART ONE [A] CORE KNOWLEDGE

1. Substantive Planning Law and Policy¹

The Domestic Scheme of Planning and Environmental Controls

- 1.1 The Need for Planning Permission under the Town and Country Planning Act 1990 ("TCPA")
- 1.2 Operational Development and Material Changes of Use
- 1.3 Permitted development
- 1.4 The Status of the Development Plan under the TCPA and the Planning and Compulsory Purchase Act 2004 ("PCPA")
- 1.5 Reserved Matters, Planning Conditions and Applications under section 73 and 96A TCPA
- 1.6 Planning Obligations under s106 TCPA
- 1.7 Listed Buildings and Conservation Areas
- 1.8 Planning Enforcement

Development Plans

- 1.9 The Local Development Scheme (LDS), Local Development Documents (LDD), Development Plan Documents (DPD) and Supplementary Planning Documents (SPD) under the PCPA 2004
- 1.10 Pre-PCPA 2004 Plans and PCPA 2004 Regional Strategies
- 1.11 The Procedural Requirements for the making of a Development Plan Document
- 1.12 Neighbourhood Plan-Making
- 1.13 National Policy and Practice Guidance covering Plan-Making
- 1.14 Strategic Environmental Assessment

International Treaties and Law

- 1.15 European Union Directives: particularly Environmental Impact Assessment, Waste, Habitats and protected species

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1.16 Aarhus Convention in respect of participation

¹ It is expected that Parts One [A] (either Planning or Environmental), Two and Three should be covered so far as practicable.

National Planning Policy and Practice Guidance

1.17 The National Planning Policy Framework (NPPF)

1.18 The Planning Practice Guidance (PPG)

1.19 Other Forms of National Policy and Guidance: National Policy Statements, Written Ministerial Statements, Letters to Planning Inspectorate

1.20 The Legal Basis for National Policy and Guidance

Compulsory Acquisition and Compensation

1.21 The main statutory powers of compulsory acquisition

1.22 Policy tests for the making of a CPO (or equivalent under other powers)

1.23 Valuation principles, the amended 1961 Act

2. Substantive Environmental Law and Policy

Environmental Permitting

2.1 The Environmental Permitting (England and Wales) Regulations 2016

2.2 The EU Directives

2.3 Regulated and exempt facilities

2.4 Environmental permits and conditions

2.5 Enforcement notices

2.6 Additional enforcement powers

2.7 Enforcement Appeals

Statutory Nuisance

2.8 The Environmental Protection Act 1990 (“EPA”), Part III and statutory nuisance

2.9 Scope of “statutory nuisance” under s79 EPA 1990

2.10 Abatement Notices

2.11 Appeals to the Magistrates Court, including Grounds of Appeal

2.12 Statutory Offences

2.13 Statutory Defences

2.14 Fines and other penalties

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Private Nuisance

- 2.15 Scope of “private nuisance”: activities/state of affairs
- 2.16 Qualifying proprietary interests: “Interference with use and enjoyment of land”
- 2.17 Locality, duration and sensitivity
- 2.18 *Coventry v Lawrence* considerations: “coming to a nuisance”
- 2.19 Defences: prescription and statutory authority
- 2.20 Damages
- 2.21 Injunctions
- 2.22 Abatement

3. Substantive Public Law

- 3.1 The scope of the Planning Court’s jurisdiction and remedies
- 3.2 Principles of administrative decision making
- 3.3 Discretion and impact of breaches on remedy

4. Procedural Knowledge – Tribunals

- 4.1 Inquiry procedure rules in England and in Wales
- 4.2 Hearing procedure rules in England and in Wales
- 4.3 Call-in and recovery criteria and consequences
- 4.4 The powers to award costs and related guidance

5. Procedural Knowledge – Court

- 5.1 Standing, the role of an interested party
- 5.2 Sources of statutory review in Planning Court claims and time limits
- 5.3 Judicial review and its procedural adaption for Planning Court claims
- 5.4 The tests for permission, renewal and appeal
- 5.5 CPR 54 and PD54A
- 5.6 CPR 52 and PD52C
- 5.7 Costs in the Administrative Court, including protective costs

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6. PART ONE [B] OPTIONAL AREAS OF KNOWLEDGE²

Criminal Planning and/or Environmental

- 6.1 The course of a prosecution
- 6.2 Penalties and sanctions
- 6.3 The role of the Divisional Court and case stated

Compulsory purchase – extended

- 6.4 Compulsory purchase in particular contexts, such as infrastructure, housing, regeneration
- 6.5 Tribunal procedure and practice
- 6.6 Valuation issues and practice

Rating

- 6.7 Concept of rateable occupation
- 6.8 Rateable value, valuation issues and practice
- 6.9 Alterations to the rating list and appeals to the valuation tribunal and upper tribunal
- 6.10 Enforcement procedure and liability order hearings (and case stated appeals to the High Court)
- 6.11 Rates avoidance and mitigation

Environment – extended

- 6.12 Environmental appeals
- 6.13 Statutory nuisance substantive law and the course of an appeal
- 6.14 Private nuisance substantive law, procedural practice and remedies

Minerals and Waste

- 6.15 Key issues for minerals and waste development plan documents
- 6.16 County matters and development control
- 6.17 PD rights for minerals and waste
- 6.18 ROMPs
- 6.19 National planning policies

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Highways

- 6.20 The making of a highway
- 6.21 PROW and related hearings
- 6.22 Highways, diversion, stopping up and development proposals

Village Greens

- 6.23 Commons registration
- 6.24 Inquiry procedure
- 6.25 Impact on development

Parliamentary Bills

- 6.26 Hybrid and Private Bills
- 6.27 The Hybrid Bill Process and Timetable
- 6.28 Select Committee Procedure

Transport and Works Act 1992

- 6.29 The Transport and Works Act 1992: Scope
- 6.30 Procedure
- 6.31 Inquiries and hearings
- 6.32 Special Parliamentary Procedure
- 6.33 Environmental Impact Assessment considerations
- 6.34 Compulsory Purchase considerations
- 6.35 Consents under other legislation

Local Government Administration and Finance

- 6.36 Local Government Act 1972: Organisation, Governance, Powers and Proceedings
- 6.37 Local Government Act 2000: Constitutions, Executive, Committee and Delegated Functions

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6.38 Local Government Finance Acts 1992 and 2012: Council Tax and Valuation

6.39 Freedom of Information Act 2000

PART TWO: WRITTEN WORK

1. Preliminary Work

- 1.1. Draft opinion(s)/advice on evidence or tactics
- 1.2. Opinion on an issue of statutory construction
- 1.3. Drafting documents with legal effect such as: Enforcement Notice, Indictment/Summons for breach of Enforcement Notice, breach of condition notice, CPO, DCO.

2. Court Work

- 2.1. Statement of Fact and Grounds
- 2.2. Summary Grounds of Defence
- 2.3. Detailed Grounds of Defence
- 2.4. Skeleton argument – permission and/or substantive
- 2.5. Grounds of appeal to the judge at first instance and/or Court of Appeal

3. Inquiry

- 3.4. Statement of case
- 3.5. Opening
- 3.6. Closing submissions
- 3.7. Costs application or response

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PART THREE: OBSERVATION

1. Hearings and Inquiries

- 1.1 Examination of plans
- 1.2 Public Inquiry and Hearing – planning and/or environmental appeal: (a) short; (b) one week
 - 1.2.1 Draft grounds of appeal – planning and/or environmental appeal, enforcement appeal
 - 1.2.2 Pre-inquiry statements
 - 1.2.3 Settle proofs of evidence
 - 1.2.4 Attend conference(s) and site view
 - 1.2.5 Attend pre-inquiry meeting
- 1.3 Enforcement Inquiry

2. Court

- 2.1 Permission hearing
- 2.2 Substantive s288/JR application and s289 application
- 2.3 Appeal to the Court of Appeal against an order of the Planning Court
- 2.4 Injunction

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