

## CONSTANZE BELL

Year of call: 2013

Clerked by: Gary Smith Mark Ronson

AREAS OF EXPERTISE:

Administrative & Public Law Licensing Local Government  
Planning & Environment



## Local Government

Constanze practices 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. She regularly appears in inquiries as an advocate and is instructed to both bring and defend statutory challenges in the High Court. She has a busy advisory practice and regularly assists with complex enforcement cases, submissions for local plan consultations and advice regarding prospects of success on appeal. Particular areas of expertise include: the implementation of planning permissions; interpreting planning permissions and amending planning permissions.

Constanze is 'up and coming' in the field of planning law (Chambers & Partners 2020). Constanze is one of the 'Highest Rated Planning Juniors under 35' (2019 Planning Resource Planning Law survey).

Constanze is a committee member of the 'Women in Planning' network's Yorkshire branch and was recognised as a 'Woman of Influence' in *The Planner* magazine's 2019 survey, an annual publication of "the most influential women" in planning, "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').

### Notable Cases -

#### Planning (residential, retail & industrial)

Examples of Recent Planning Inquiries/ Hearings include:

#### **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.

#### **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'.

#### **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.

#### Planning Enforcement & Development Control

Examples of Recent Enforcement/ Lawful Development Certificate Inquiries/ Hearings include:

##### **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'.

##### **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).

##### **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'.

##### **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.

#### Development Plan Examinations

Examples of Recent Development Plan Instructions/ Appearances include:

##### **Wrexham Local Development Plan (examination ongoing)**

Appeared at the Wrexham local Development Plan Examination in Public on behalf of Byrmba Community Council in September 2019.

##### **Kirklees Local Plan (adopted February 2019)**

Counsel, with Anthony Gill for Kirklees Council's Local Plan, assisting with the preparation and submission of the Kirklees Local Plan and representing the Council at examination in public.

#### Compulsory Purchase

Examples of Recent Compulsory Purchase Order Inquiries include:

##### **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.

##### **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.

#### Highways and Rights of Way

Examples of Recent Rights of Way Inquiries include:

##### **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.

### **Licensing & Regulatory**

Constanze's varied licensing practice involves regular instruction to appear in the Magistrates and Crown Courts in licence revocation appeals. Constanze is recognised as a 'leading junior' in regulatory and licensing law (Legal 500 2020). She appears before licensing committees as an advocate and acts as legal advisor for licensing committees. Constanze has also represented local authorities in prosecutions for plying for hire and advises on licensing matters including the commission of regulatory offences and POCA proceedings.

Constanze has particular experience in dealing with taxi licence revocation cases in which the revocation is founded upon allegations of the former licence-holder having connections to child sexual exploitation ('CSE'). She has extensive experience of safeguarding in the licensing regime.

Recent cases have included: successfully representing a local authority in the Crown Court in a case which involved special measures for a child complainant; successfully persuading a District Judge that evidence relied upon to support an immediate revocation attracted public interest immunity and, as such, should not be disclosed to the Appellant; and, successfully arguing that an Operator Licence had ceased to exist when the Appellant company was dissolved prior the Crown Court hearing, in a case reported in the Institute of Licensing 'Licensing Flash' newsletter.

Constanze regularly addresses members of various branches of the Institute of Licensing on licensing law matters, recent topics have included: the relationship between planning and licensing; the 'agent of change' principle in NPPF; and safeguarding in licensing. She provides training for the licensing committee members of her local authority clients.

## Profile

Constanze has a varied public law, planning and environmental law practice. She is 'up and coming' in the field of planning law (Chambers & Partners 2020) and a 'leading junior' in regulatory and licensing law (Legal 500 2020). Constanze is one of the 'Highest Rated Planning Juniors under 35' (2020 & 2019 Planning Resource Planning Law survey).

During the Covid-19 Pandemic Lockdown Constanze has been involved with efforts to trial videoconferencing technology (Zoom and MS Teams) to hold committee meetings and conduct public inquiries. She writes for the Kings Chambers' 'Law in the Time of Corona' website (<https://lawinthetimeofcorona.wordpress.com/about/>), edited by Gordon Exall, set up to provide practical assistance to the legal and business community during the pandemic.

Constanze was appointed to the Attorney General's Regional Panel in April 2018 and to the Panel of Special Advocates for Health & Safety and Environmental Law in March 2019.

Constanze is the Assistant Editor of the third edition of *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.

Constanze is a committee member of the Women in Planning network's Yorkshire branch and was recognised as a 'Woman of Influence' in *The Planner* magazine's 2019 survey.

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, in planning, regulatory and environmental cases involving human rights issues.

**Year of Call:** 2013

## Areas of Expertise

Administrative & Public Law

Licensing

Local Government

Planning & Environment

## Significant Reported Cases

### **Regina v Roderick Bloor [2020] EWCA Crim 402, 2020 WL 01290364**

Acted for Doncaster Metropolitan Borough Council and successfully resisted an appeal against sentence in the Court of Appeal. The appeal concerned the amount of a fine imposed for failing to comply with an enforcement notice. The Court of Appeal held that the fine was not wrong in principle or manifestly excessive and dismissed the appeal.

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

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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.

## **Memberships**

PEBA (Planning & Environmental Bar Association)

ELF (Environmental Law Foundation)

Women in Planning

## **Appointments**

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**

Bar Professional Training Course, Kaplan London, Very Competent

Graduate 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.

## **Recommendations -**

### **Chambers UK, 2021**

"Extremely thorough and clear in her advice. She is very good at explaining what are sometimes difficult legal matters to clients." "She is a very capable barrister who is flexible in her approach and very clear and decisive on points of strategy."

### **Legal 500, 2021**

"She is highly intelligent and capable, with the ability to convey the most complicated of legal issues in the simplest manner. She is very approachable and personable, which makes instructing her a real pleasure - she has a real team-mentality of approach which recognises everyone's contribution. She is able to lead and give direction to other team members in an authoritative, assertive manner."

### **Legal 500, 2020**

"Relates well to clients and has excellent advocacy skills."

### **Chambers UK, 2020**

"Always thoroughly well prepared, which provides real authority to her advice."

"She has a knack of establishing a great rapport with the tribunal she's in front of."

## **Awards**

2020: Awarded a Pegasus Scholarship by the Pegasus Trust

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 a paper at the 10<sup>th</sup> 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**

Lowrison Bell, C. Practice and Procedure. In: Karim QC, S. and Lowrison Bell, C. eds. *Patterson & Karim on Judicial Review*. Third Edition, London: Jordan Publishing.

'Local Authorities' Investigative Powers in Trading Standards', (November 2019) *Encyclopaedia of Local Government Law Bulletin*, Sweet & Maxwell

'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)

'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

'It's not fair! Is it?', (April 2018) *Encyclopaedia of Local Government Law Bulletin*, Sweet & Maxwell



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