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Charles Merrett



Year of call 2016

Charles' practice spans all areas of Chambers' planning work. He acts for a broad range of clients, including local authorities, developers, individuals and interested parties. He frequently appears in the High Court, public inquiries and hearings, both in his own right and as junior counsel.

Recent and ongoing court work includes:

- *R (Boruch Roth) v London Borough of Lewisham* CO/1049/2021 ? Charles is instructed as sole counsel for the defendant in a judicial review against the decision of a local planning authority to exercise their discretion under section 70C of the Town and Country Planning Act 1990 to decline to determine the Claimant's application for planning permission;
- *R (Helen Kinsey) v London Borough of Lewisham* CO/8/2021 ? Charles is instructed as junior counsel for the defendant in a judicial review against the decision of a local planning authority to grant planning permission for the demolition of existing buildings to provide 110 residential units;
- *R (Swainsthorpe Parish Council) v Norfolk County Council* CO/4064/2020 ? Sole counsel for the claimant in a judicial review against the formal response of a highways authority, the first case to consider the scope of the duty imposed upon a statutory consultee under the Town and Country Planning (Development Management Procedure) (England) Order 2015;
- *R (Julia Ewans) v Suffolk District Council* [2021] EWHC 511 (Admin) ? Sole counsel for the claimant in a judicial review against the grant of outline planning permission for the

erection of up to 300 dwellings;

- *Sevenoaks District Council v Secretary of State for Housing, Communities and Local Government* [2020] EWHC 3054 (Admin) ? Junior counsel for the claimant in a judicial review against the decision of a planning inspector that a draft local plan had to be withdrawn as the local authority had failed to comply with the Duty to Cooperate;
- *Wokingham BC v Scott* [2019] EWCA Crim 205 ? Junior counsel for the appellant in one of the leading cases concerning the enforcement powers available to a local planning authority when seeking to prosecute breaches of planning control and the correct exercise of those powers;
- *R (Shiva) v London Borough of Lambeth* [2019] EWHC 2387 (Admin) ? Junior counsel for the defendant in an application for permission for judicial review which sought to challenge a part of the Westminster Bridge Road Regeneration Scheme. Permission was refused by both the High Court and Court of Appeal;
- *East Hertfordshire District Council v Docherty and Ors* [2019] EWHC 2292 (QB) ? Charles acted for the successful party in committing 19 individuals for contempt of an injunction obtained to prevent breaches of planning control;

Recent and ongoing public inquiry and examination work includes:

- *Homestead Farm, Bothenhampton* APP/ D1265/W/20/3265649 ? Charles is instructed to appear in a 4-day inquiry for the Local Authority in an appeal against the refusal of planning permission for the demolition of a farmhouse in a conservation area and the erection of a 4-bedroom low carbon house;
- *Land at Haresfoot Farm, Berkhamsted* ? Charles is instructed to appear for the appellant in a complex appeal against an enforcement notice relating to the allegedly unlawful construction and use of 8 buildings within the Green Belt;
- *Land west of Finchampstead Road, Wokingham* APP/X0360/W/18/3213163 and *Land off Finchampstead Road, Wokingham* APP/X0360/W/18/3212916 ? Charles acted for the successful party in getting planning permission refused for a development of up to 80 dwellings outside of a settlement boundary and a Suitable Alternative Natural Greenspace. The local planning authority successfully argued the SANG was not suitable, contrary to Natural England's recommendation;

Alongside appearing in the High Court and Planning Inquiries, Charles frequently appears in specialist tribunals such as the Valuation Tribunal for England. Charles has also appeared in and welcomes instructions to appear in the magistrates' court and to appear in front of local authority committees (most commonly for licensing matters).

Before coming to the Bar, Charles read Philosophy and Theology at Oxford University. He completed the GDL and the Bar Course at City University. Charles was a paralegal at a specialist planning and environmental law firm.

In appropriate cases, Charles is happy to work on a pro-bono basis.

Experience

Planning and Environmental Law

Charles is a specialist in the law of town and country planning. He is frequently instructed to appear in court, both in his own right and as junior counsel. He also regularly appears in planning and enforcement inquiries and hearings.

Examples of his court work includes:

- *R (Boruch Roth) v London Borough of Lewisham* CO/1049/2021 ? Charles is instructed as sole counsel for the defendant in a judicial review against the decision of a local planning authority to exercise their discretion under section 70C of the Town and Country Planning Act 1990 to decline to determine the Claimant's application for planning permission;
- *R (Helen Kinsey) v London Borough of Lewisham* CO/8/2021 ? Charles is instructed as junior counsel for the defendant in a judicial review against the decision of a local planning authority to grant planning permission for the demolition of existing buildings to provide 110 residential units. This case raises important questions concerning heritage issues and the requirements for officers reports to be lawful;
- *R (Swainsthorpe Parish Council) v Norfolk County Council* CO/4064/2020 ? Sole counsel for the claimant in a judicial review against the formal response of a highways authority. Charles welcomes instructions on novel or unusual points of law and this is the first case to consider the scope of the duty imposed upon a statutory consultee under the Town and Country Planning (Development Management Procedure) (England) Order 2015;
- *R (Julia Ewans) v Suffolk District Council* [2021] EWHC 511 (Admin) ? Sole counsel for the claimant in a judicial review against the grant of outline planning permission for the erection of up to 300 dwellings;
- *R (Voice4Deptford) v London Borough of Lewisham* CO/2569/2020 ? Charles was instructed as junior counsel for the defendant in a judicial review relating to a comprehensive redevelopment of a major site. Successfully defended the application for permission as being totally without merit ? importantly, the court agreed with the defendant that the claimant's challenge, in reality, was to the grant of outline permission over 10 years prior to the challenge being issued;
- *Sevenoaks District Council v Secretary of State for Housing, Communities and Local Government* [2020] EWHC 3054 (Admin) ? Junior counsel for the claimant in a judicial review against the decision of a planning inspector that a draft local plan had to be withdrawn as the local authority had failed to comply with the Duty to Cooperate;
- *Wokingham BC v Scott* [2019] EWCA Crim 205 ? Junior counsel for the appellant in one of the leading cases concerning the enforcement powers available to a local planning authority when seeking to prosecute breaches of planning control and the correct exercise of those powers;
- *R (Shiva) v London Borough of Lambeth* [2019] EWHC 2387 (Admin) ? Junior counsel for the defendant in an application for permission for judicial review which sought to challenge a part of the Westminster Bridge Road Regeneration Scheme. Permission was refused by both the High Court and Court of Appeal;

Charles frequently acts in both planning and enforcement inquiries, and welcomes instructions from appellants, local authorities and interested parties who may wish to join proceedings as a rule 6 party.

Examples of his inquiry work include:

- *Homestead Farm, Bothenhampton* APP/ D1265/W/20/3265649 ? Charles is instructed to appear in a 4-day inquiry for the Local Authority in an appeal against the refusal of planning permission for the demolition of a farmhouse in a conservation area and the erection of a 4-bedroom low carbon house;
- *Land at Haresfoot Farm, Berkhamsted* ? Charles is instructed to appear for the appellant in a complex appeal against an enforcement notice relating to the allegedly unlawful construction and use of 8 buildings within the Green Belt;
- *Land at the Drive, London* APP/R5510/W/20/3244256 ? Charles acted for the local planning authority in a complicated hearing which concerned the relevance of policies in the soon to be adopted London Plan. The application was for backland development constituting the erection of two semi-detached houses with associated parking;
- *Land at Love Lane, Woolwich* APP/E5330/W/19/3233519 ? Charles assisted the Rule 6 party, Speak Out Woolwich, in successfully opposing a large-scale development for the construction of a 27-storey tower and a further 3 buildings between 9 and 16 storeys in Woolwich;
- *Land west of Finchampstead Road, Wokingham* APP/X0360/W/18/3213163 and *Land off Finchampstead Road, Wokingham* APP/X0360/W/18/3212916 ? Charles acted for the successful party in getting planning permission refused for a development of up to 80 dwellings outside of a settlement boundary and a Suitable Alternative Natural Greenspace. The local planning authority successfully argued the SANG was not suitable, contrary to Natural England's recommendation;
- *Land at 39 Selborne Gardens, London* APP/N5090/C/18/3197214 ? Charles acted for the successful local planning authority in upholding an Enforcement Notice issued against the unlawful erection of a building and use as a residential dwelling;
- *Land at 8 Leopold Road, London* APP/N5090/C/18/3195336 ? Charles acted for the successful local planning authority in upholding an Enforcement Notice issued against the unlawful conversion of a dwelling into 5 self-contained flats.

Charles also welcomes instructions to appear in the Magistrates' Court and in front of planning committees. He has significant experience of appearing in the Magistrates' Court for planning matters, including prosecutions for non-compliance with enforcement notices under s. 179 of the Town and Country Planning Act 1990.

Charles has a strong understanding of the advertising regime. He is currently instructed to appear on behalf of JC Decaux UK Limited in an appeal against a removal notice under s. 225B of the Town and Country Planning Act 1990.

Charles has a keen interest in issues that arise alongside the development of land. He has advised on contractual matters such as misrepresentation and damages, and tortious liability, especially with regards to claims in nuisance. Charles has significant experience in relation to matters concerning the restriction of use of land, and has advised on

restrictive covenants, repairing covenants, adverse possession and prescriptive easements.

PLAN-MAKING

Charles is familiar with and welcomes instructions on matters relating to local plans and neighbourhood plans. He acted as junior counsel for the claimant local planning authority in *Sevenoaks District Council v Secretary of State for Housing, Communities and Local Government* [2020] EWHC 3054 (Admin), one of the leading cases on the requirements of the Duty to Cooperate. He acted as sole counsel for the claimant in *R (Julia Ewans) v Suffolk District Council* [2021] EWHC 511 (Admin), in which the court considered the argument that an officer's report failed to properly apply paragraph 48 of the NPPF (the weight to be given to emerging policies). He has experience issuing challenges to local plans under s. 113 of the PCPA 2004

He has experience acting on behalf of both local planning authorities promoting plans and interested parties objecting to draft local plans and neighbourhood plans. He advises parties on legal and procedural matters relating to the creation of local and neighbourhood plans as well as appearing at local plan examinations.

During his seat with Suzanne Ornsby QC, Charles assisted with a number of local plan examinations. This included advising on the legality of a sustainability appraisal, answering inspector's questions and providing a written opinion on the impact of the revised NPPF (2018) for the delivery and supply of housing.

ADVISORY

Charles advises on a broad range of matters and some recent examples of planning advice he has given include:

- Advising on the drafting, effectiveness and enforceability of s. 106 agreements;
- Advising on the effects and requirements of Tree Preservation Orders, including what remedies are available to those impacted by TPOs;
- Advising on matters arising from the CIL Regulations including collection and liability;
- Advising on issues arising after the grant of planning permission, such as whether permissions have been implemented and to what extent the land is subject to previous permissions;
- Advising on enforcement matters;

Compulsory Purchase and Compensation

Charles has a strong interest in compulsory purchase and compensation matters and is instructed by both acquiring authorities as well as individuals objecting to an order and landowners seeking compensation subsequent to the compulsory purchase of their land. Some examples of the work that Charles has done in this field include:

- *Harrow Grange Farm Estate regeneration* ? providing advice, both as junior counsel and in his own right, on a number of different procedural and legal matters;
- Advising a local authority in relation to use of compulsory purchase powers in relation to gypsy and traveller sites, including consideration of the public sector equality duty;
- Advising a local authority in relation to whether compensation for disturbance was in principle payable and, if so the amount payable, following the compulsory acquisition of a property;
- The application of the compensation code, in particular the assessment of compensation under s. 5 of the Land Compensation Act 1961;
- The correct basis for valuation of land purchased from a landowner in which it was argued by the acquiring authority that the land had nil-value due to a lack of market comparables alongside the no-scheme principle. This case resulted in a settlement substantially higher than the valuation suggested by the authority;
- The formulation of an objection to a compulsory purchase order which required significant alterations in order to suitably protect the interests of the landowner.

Rating and Valuation

Charles regularly acts in rating and valuation matters. He has appeared in both the magistrates' court and valuation tribunal on a wide range of matters including applications to quash liability orders and appeals against valuations. He is frequently instructed to provide advice for both ratepayers and billing authorities.

Charles has appeared numerous times in the Valuation Tribunal for England since commencing practice and is currently instructed to appear in the High Court on an appeal against a decision of the VTE concerning Council Tax liability. He also welcomes instructions for appeals under section 16 of the Local Government Finance Act 1992 that individuals are not liable for council tax.

He gained significant experience of this area during his seat with Cain Ormondroyd, in which he assisted with a number of matters relating to business rates. These included:

- The correct approach to the identification of the hereditament, following the decision of *Woolway v Mazars*;
- The scope of the meaning of 'material change in circumstances' when considering the extent of business rates liability;
- Charles also gained experience of more general land valuation matters, including assisting with a probate case in the Upper Tribunal in which the main issue was the valuation of property.

He welcomes instructions in any cases which raise issues of business rates and / or land valuation.

Infrastructure

Charles has a strong interest in infrastructure work. Some recent examples of his work include being instructed in the Heathrow litigation and providing advice on an element of an order made under the Planning Act 2008. Charles also has advised on matters relating to Transport and Works Act Orders and Nationally Significant Infrastructure Projects.

Rights of Way and Highways

Charles has a strong understanding of the law relating to highways and rights of way. He is currently instructed as junior counsel for the claimant in a claim for a declaration that disputed land is not part of the public highway / publicly maintainable highway and an order that the disputed land be removed from the local authority's list of streets maintainable at the public expense kept under s. 36 of the Highways Act 1980. He was instructed as junior counsel for the defendant in *R (Shiva) v London Borough of Lambeth* [2019] EWHC 2387 (Admin), which was an application for permission to judicially review a decision to approve parts of an extensive scheme of road redevelopment works under s. 23 of the Road Traffic Regulation Act 1984.

During his seat with Ned Westaway, Charles assisted with a number of matters relating to both private and public rights of way. These included:

- Researching matters relating to the definitive map, including definitive map modification orders;
- The extinguishment of highways, including permanent stopping up. Charles helped research and draft grounds on the potential extinguishment of a public highway due to the
- Applications for Traffic Regulation Orders, gaining experience of both applications for TROs and objections to them.
- Furthermore, Charles gained experience of a number of public highway inquiries, including a complex 3-day inquiry into the simultaneous extinguishment and creation of a public right of way in Kent.

Licensing

Charles frequently appears before licensing committees, acting on behalf of applicants for premises licences, premises licence holders subject to review and responsible authorities. Charles has successfully obtained multiple premises licences, for establishments such as restaurants, pubs and bars.

He recently acted for a premises licence holder in a review of their premises licence following multiple alleged breaches of Covid-19 regulations, where he successfully obtained a 3-week suspension of the premises licence rather than a revocation, as initially sought by the applicant for the review.

Charles has also acted for local authorities in appeals under s. 61 Local Government (Miscellaneous Provisions) Act 1976 against revocation of taxi driving licences.

a number of licensing matters, including committee hearings and appeals. Charles welcomes instructions to advise on any area of licencing law.

Public Law and Local Government

Charles has a keen interest in broad public law cases and principles, including cases giving rise to issues relating to human rights. He has helped advise on a number of broad public law matters including legitimate expectation, the legality of resolutions made by local authorities, the procedural requirements imposed upon a local authority and the correct interpretation of legislation in the Divisional Court. Charles welcomes instructions in cases raising such issues.

He is junior counsel in *R (Helen Kinsey) v London Borough of Lewisham* CO/8/2021, in which one of the primary issues is the requirement to make background papers available under s. 100D of the Local Government Act 1972.

Public Speaking

Charles frequently gives talks on planning law. Recent talks given include the enforcement powers of local authorities, the correct approach to heritage assets and the interpretation of the revised 2018 NPPF.

Qualifications

- Oxford University, Philosophy and Theology (2.i) 2014
- City University, (Distinction) GDL 2015
- City Universty, (Very Competent) BPTC 2016

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