



James Pereira

Year of call: 1996 (Middle Temple)



Practice Profile

James was named "Junior Barrister of the Year" in Planning and Environmental Law by Chambers and Partners Directory of the UK Legal Profession in 2007 and again in 2009. He specialises in planning, environmental, local government and administrative law, compulsory purchase and compensation.

He is recommended as a Leading Junior in the three categories of planning law, environmental law, and public and administrative law by The Legal 500, and by Chambers & Partners.

He was ranked number 4 in the Royal Town Planning Institute's survey of Junior Planning Barristers in 2009.

Published Comment

The leading directories say of James

"QC material" Chambers and Partners (2009)

"a terrific barrister" Legal 500 (2009)

'Outstanding bright star with a first-rate intellect' Chambers & Partners (2008)

'... an extremely able and personable barrister... one to watch' Legal 500 (2008)

'A very good young advocate who is a tenacious cross-examiner. He is charming, easy to work with and attentive to clients' needs' (Planning Magazine, 2008)

'destined for great things... commercial and impressive with clients' Chambers & Partners (2007)

'continues to impress both with his court work... and as a very effective performer in inquiries' The Legal 500 (2006)

'strong on environmental related regulation' The Legal 500 (2006)

'strong on paper work, responsive and get[s] to the point' The Legal 500 (2006)

'exceptional... continues to cause a stir in the planning world and is loved by clients' Chambers & Partners (2006)

'sharp, innovative and charming' Chambers & Partners (2005)

'effective in court and inquiry, he can home in on the key points and has a nice style' The Legal 500 (2005)

Examples of High profile cases

- Major infrastructure projects: instructed to promote the Stansted Airport G2 project (new runway, terminal and other facilities - 2008/9), the Docklands Light Railway Extension to Dagenham Dock (2008), the Olympic Park and Legacy Compulsory Purchase Order (2006).
- Junior counsel in the ECJ and House of Lords for the successful claimants in the recent leading cases on environmental impact assessment and outline planning permissions: *R v Bromley LBC ex parte Barker* [2007] 1 AC 470 ; ECJ Case C-290/03 *R v Bromley LBC ex parte Barker*; and *R v Secretary of State ex p Wells* [2004] ECR I-723.
- Junior counsel for the successful claimant in the leading Court of Appeal case on the IPPC regime and Best Practicable Means: *R (Rockware Glass) v Chester City Council* [2007] Env LR 3.
- Junior counsel for the successful interested party in the leading case on apparent bias in administrative law: *R (Condrón) v National Assembly for Wales*

[2007] BLGR 87.

- Counsel for the successful claimant in the first High Court case to consider the application of section 259 Public Health Act 1936 to flooding caused by highway bridges over rivers: *R (Robinson) v Torridge DC* [2007] 1 WLR 871.

Experience

PUBLIC LAW

James regularly acts both for and against public authorities in a broad range of public and administrative law areas beyond the planning and environmental law field. He is ranked as a leading junior in Public and Administrative Law (including local government) by the Legal 500 and Chambers & Partners Directories. He is a former committee member of the Administrative Law Bar Association (ALBA).

Cases include

- *Transport for London v Bug-Bugs and others* [2007] EWHC 2987 (QB), establishing it is not an abuse of process to seek a declaration to overturn a High Court judgment concerning the licencing of pedicabs in London.
- *R (Transport for London) v The Parking Adjudicator* [2007] RTR 39, on the power of parking attendants to serve tickets by post when conventional service has been frustrated.
- *Davey v Aylesbury Vale* [2007] EWHC 116 (QB), on the scope of pre-permission costs allowable in a defendant's costs order.
- *R (Haw) v Westminster City Council* (2006), a judicial review by the famous anti-war protester Brian Haw concerning the relationship between the right to Freedom of Expression and the licencing of loudhailers to make protests.
- *R (Walmsley) v PATAS* (2006) RTR 15, concerning the power of the Parking Adjudicator to consider non-statutory grounds of challenge when considering appeals.
- *R (RYA) v Secretary of State* (2004), a successful judicial review challenge to the legality of Yachting Safety Regulations.
- *R (Westminster CC) v Mayor of London* [2003] BLGR 611, junior counsel acting on behalf of the Mayor of London and Transport for London in the successful defence of the legality of the Central London congestion charging scheme.
- *R (Balchin) v Parliamentary Commissioner* [2002] EWHC 1876, junior counsel in a successful challenge to a decision of the Parliamentary Commissioner, in a case that eventually led to six-figure awards of compensation to the complainants.
- *R (Kent County Council) v Terril* (2001) ACD 27, a leading case on contempt of the Coroner's Court by non-attendance of witnesses.
- High profile advisory work such as for the Mayor of London and Transport for London, acting as junior counsel advising the Congestion Charging Scheme, Emissions related Congestion Charging and the Low Emissions Zone.

PLANNING

James was named 'Junior Barrister of the Year' in planning and environmental law by Chambers and Partners (2007 and 2009). He is listed among the highest leading juniors in this field by the Legal 500, Chambers & Partners, and the Royal Town Planning Institute.

The most recent directories say of James that he is "*brilliant for public inquiries*" (Legal 500, planning) and has "*incredibly detailed knowledge of planning law . . . QC material*" (Chambers and Partners, planning). Planning magazine (2008) refers to him as '*a very good young advocate who is a tenacious cross-examiner. He is charming, easy to work with and attentive to clients' needs*'.

His practice as an inquiry advocate is underpinned by frequent appearances in the High Court and his opinion is regularly sought on a range of advisory matters. His expertise covers all areas of planning, including promoting and resisting compulsory purchase orders.

James regularly speaks on planning matters and delivered the final speech at the 2008 Oxford Planning Conference.

Examples of planning appeals and call-in inquiries include

- Stansted G2 project (2009) - one of the team of Counsel promoting the planning applications for the second runway, additional facilities, and off-setting measures on behalf of BAA Ltd and Stansted Airport Limited.
- Arundel Great Court, Westminster (2009) - instructed by Westminster City Council to resist proposals for major redevelopment in this historically sensitive location near Somerset House and affecting views of St Paul's Cathedral.
- Rivenhall Airfield, Essex (2009) - instructed by the waste planning authority for a call-in inquiry into proposals for large waste recycling and industrial development.
- Turweston Aerodrome, Buckinghamshire: Counsel for Aylesbury Vale DC in two long running enforcement and section 78 inquiries concerning the expansion of Turweston Aerodrome (2007-2008).
- Walworth Road, Elephant and Castle (2006/2007): junior counsel on behalf of Goldcrest Homes for a major residential scheme in the Elephant and Castle Opportunity Area.

- Quinn Glass, Chester (2005/2006): junior counsel instructed by a major national glass bottle manufacturer to oppose planning permission for the largest glass bottle manufacturing plant in Europe.
- Brogborough Landfill, Bedfordshire (2006): successfully defending the waste planning authority's refusal of planning permission for an extension to one of the largest landfill sites in Europe.
- Promoting minerals, waste and general development plans.
- Numerous smaller-scale inquiries covering a wide range of planning subject matter.

Court cases include

- *R (Brown) v Carlisle City Council* [2010] EWCA Civ 523 - salami slicing and EIA development.
- *Williams v Herefordshire Council* [2010] Divisional Court - on the scope of the 'non-owner' offence of not complying with a planning enforcement notice.
- *R (Ardagh) v Chester City Council* [2010] EWCA Civ 172 - on the validity of retrospective planning permissions for EIA development.
- *R (Wye Valley Action Group) v Herefordshire Council* (2010) Env LR 18 - on the requirement for EIA of polytunnel development
- *Barbone v Secretary of State* [2009] EWHC 463 (Admin), a successful defence of Stansted G1 planning permission; correct approach to national policy statements.
- *R (Ardagh Glass Ltd) v Chester City Council* [2009] EWHC 745 (Admin), a successful application for mandatory order compelling local planning authority to take enforcement action.
- *Hobson v Secretary of State* [2009] EWHC 981 (Admin), on enlargement of dwellings in the Green Belt.
- *R (Smith) v Cotswold DC* [2007] EWCA, on reasons for the grant of planning permission.
- *R (Condron) v National Assembly for Wales* [2007] BLGR 87 (CA), on the test for apparent bias in the grant of planning permission.
- *South Beds v Price* [2006] JPL 1805 (CA); Times 22 May 2006, on the relevance of circular 1/2006 on Gypsies and Planning to existing injunctions against Gypsies.
- *R (Noble) v Thanet District Council* (2006) Env LR 8, a challenge to a planning permission based upon the duty to take remedial action under EU law.
- *R (Wall) v Brighton and Hove* [2005] JPL 807, the first case on the duty to give reasons for a grant of planning permission under the GPDO.
- *Basildon v First Secretary of State* [2005] JPL 942, on the meaning of "very special circumstances" under PPG2.
- *Davey v Mentmore Towers* [2005] EWHC 359, on enabling development.
- *Field v FSS* [2004] JPL 1286, on validly implementing planning permission without a "material operation".
- *Edward Ware v Secretary of State* [2003] EWCA Civ 566, on the requirement of fairness at planning inquiries.
- *R v Tower Hamlets LBC ex parte Barratt Homes* [2000] JPL 1015, on the lawfulness of affordable housing policies.
- *Tandridge DC v Verrecchia* [2000] QB 318, on the correct approach to under enforcement of planning control.

COMPULSORY PURCHASE AND COMPENSATION

James is an editor of the 2-volume loose leaf encyclopaedia "Compulsory Purchase and Compensation Service" (Tottel), and a co-author of "The Law of Compulsory Purchase" (Tottel, 2008).

He is regularly instructed to advise on compulsory purchase and compensation matters and appears regularly in the Lands Tribunal. He is a member of the panel of counsel who act on behalf of the Secretary of State handling compensation claims arising out of the Channel Tunnel Rail Link project, and is also a member of the panel of Counsel instructed to act on behalf of Crossrail Ltd handling compensation claims arising from the Crossrail project. He is in demand as an advocate at CPO inquiries whether for promoting authorities or objectors. He was one of the team of Counsel who acted on behalf of the LDA in promoting the CPO for the Olympic Park and Legacy proposals.

Recent cases include

- Over 200 subsoil claims before the Lands Tribunal which arose from the London Tunnels section of the CTRL (2009/ 2010).
- *Kent County Council v Union Railways North Ltd* [2009] EWCA Civ 363, acted for the successful claimant in the leading case on omitted interests.
- *Kent County Council v Union Railways* [2008] 23 EG 117, on the entitlement to compensation when no notice to treat is served.
- *Bocado SA v Star Energy UK Ltd* [2009] EWCA Civ 279, instructed to advise successful oil company on valuation of rights to extract oil through third party land under the Mines (Working Facilities and Support) Act 1966.
- *Solartrack v London Development Agency* [2009] UKUT (LT) 242 -, acting for the LDA striking out a compensation claim on estoppel and other grounds.

James is a member of the Compulsory Purchase Association and spoke at its annual conference in 2007.

INFRASTRUCTURE PROJECTS

James has extensive experience of acting in cases involving major infrastructure projects, both transport and non-transport related. He is currently involved in projects for which consent may be required from the Infrastructure Planning Commission under Planning Act 2008.

Specialist knowledge of planning, environmental law, compulsory purchase and compensation brings valuable experience to any team of promoters or objectors.

Examples of infrastructure projects James has been involved in include

- Airports: Stansted G2 Project - instructed by BAA as one of the team of counsel promoting the proposals for a second runway at Stansted Airport.
- Railways: Docklands Light Railway Extension - instructed as junior counsel to promote the DLR extension to Dagenham Dock (inquiry adjourned in October 2008).
- Reservoirs: currently advising a water company in respect of proposals for new reservoirs.
- Power stations: advised on proposals for Tilbury C and Pembroke CCGT power stations.
- Community facilities: one of the team of counsel who successfully promoted the CPO for the Olympic Park in order to facilitate the 2012 Olympic Games.
- Waste disposal: acted for the successful waste planning authority resisting the extension of the major landfill site at Brogborough, Bedfordshire, and has also promoted Waste Local Plans.
- Ports and Harbours: acted successfully for the sole objector to the CPO promoted by Great Yarmouth Borough Council for the expansion of Great Yarmouth Harbour.

James's court experience includes defending, or challenging, decisions to approve infrastructure projects including

- *Barbone v Secretary of State* [2009] EWHC (Admin) - forthcoming - acted on behalf of the interested party defending a challenge to the planning permission to expand the capacity of Stansted (the G1 consent).
- *R (Friends of the Earth) v Sussex County Council* [2008] EWHC (Admin) - challenge to a waste incinerator permission.
- *Bown v Secretary of State* [2003] EWHC 819 Admin, a challenge to a by-pass CPO for failure to comply with the Wild Birds Directive.

ENVIRONMENTAL LAW

James was named by Chambers and Partners Directory as 'Junior Barrister of the Year' for environment and planning law in 2007 and 2009. He is ranked among the top juniors in environmental law by both Chambers and Partner and the Legal 500 directories.

The latest directories refer to him as "*a terrific barrister*" (Legal 500, environment) who is "*smooth and effective . . . a hit among clients due to his high success rate*" (Chambers and Partners, environment).

His practice spans a wide range of areas of environmental law, including IPC regulation, contaminated land, water resources, species and habitats protection, pollution control, statutory nuisances and environmental impact assessment. He has been involved in a number of leading court cases involving the application of European Law in the UK courts and has appeared in two of the recent leading cases on Environmental Impact Assessment before the European Court of Justice. He also has extensive experience of planning cases and public inquiries involving environmental issues, including the promotion of Waste Local Plans.

His advisory work covers conventional environmental matters and also novel forms of environmental regulation, such as proposals for a Low Emissions Zone in Central London, Emissions related Congestion Charging and EU Carbon Emissions Trading.

He is a co-author of "Statutory Nuisance: Law and Practice" (2ed., Tottel, 2008), and a visiting lecturer on European Environmental Law at King's College, London.

Cases include

- Water Resources Management Plan Inquiry (May-June 2010) - acted for South East Water against the Environment Agency in the first ever water resources management plan inquiry.
- *R (Brown) v Carlisle City Council* [2010] EWCA Civ 523 - salami slicing and EIA development.
- *R (Wye Valley Action Group) v Herefordshire Council* (2010) Env LR 18 - on the requirement for EIA of polytunnel development
- ECJ Case C-290/03 *R(Barker) v London Borough of Bromley* and in the House of Lords *R(Barker) v LB Bromley* [2007] 1 AC 470 - junior counsel for the successful claimants in the leading ECJ cases on environmental impact assessment and reserved matters applications.
- *R (Rockware Glass) v Chester City Council* [2007] Env LR 3, junior counsel for the successful claimant in the leading Court of Appeal case on the IPPC Directive and Regulations and the approach to assessing Best Practicable Means.
- *R (Robinson) v Torridge DC* [2007] 1 WLR 871, acting for the successful claimant in the first case to consider the application of section 259 Public Health Act

1936 to highway bridges that cause flooding.

- *R (Lewis) v Environment Agency and Onyx* [2006] Env LR 10, counsel for the successful second respondent on the first case to consider the meaning of "prevent" under annex I of the Landfill Directive and the legality of sub-water table landfill sites.
- ECJ Case C-201/01 *R v Secretary of State ex parte Wells* [2004] ECR I-723, junior counsel for the successful claimant before the ECJ in a leading case on the duty to take remedial action for breaches of the EIA Directive.
- *Bown v Secretary of State* [2003] EWHC 819 Admin, a challenge to a CPO for failure to comply with the Wild Birds Directive.
- *Gillespie v Secretary of State and Bellway Homes* [2003] Env LR 30, Times, 7 April 2003 on the scope of considerations relevant to a screening opinion under the EIA Directive.
- *Prokopp v Tower Hamlets* [2003] EWHC (Admin) 960 - successful defence to an EIA challenge of the East London Line Extension.
- *Ind v Plant Hire Co.* [1999] Env LR D15 - £3.5 million claim for contaminated land.

James is a member of the United Kingdom Environmental Law Association, the Environmental Law Foundation and the Planning and Environment Bar Association.

Publications and Seminar Presentations

Text Books, Loose-Leaf Encyclopaedias and Journals:

- Co-author, 'Statutory Nuisance Law and Practice' (Tottel, 2ed, 2008).
- Co-author, 'The Law of Compulsory Purchase' (Tottel, 2008)
- Editor, 'Compulsory Purchase and Compensation Service', (2 volume loose-leaf edition, published by Tottel).
- 'Compulsory Purchase Annual Update' Solicitors' Journal, December 2007.
- 'Amending Planning Applications' Journal of Planning Law, September 2006.
- 'Environmental Impact Assessment and Outline Planning Applications' [2006] 4 Env. Liability 168.
- 'Statutory Nuisance Update' Solicitor's Journal, November-December 2003.
- 'Human Rights and Environmental Regulation' Utilities Journal, October 2000.
- 'Leave Applications in Judicial Review' Judicial Review, 1998 (co-author).

Seminars:

- 'Current topics in compulsory purchase', Chambers seminar, April 2009
- 'Affordable housing policy', for CLT conferences, March 2009.
- 'Compulsory purchase update' for CLT conferences, October 2008.
- 'Obtaining Confirmation' Chambers CPO Seminar paper delivered in London and Leeds, October 2007.
- 'Recent Developments in CPOs', a paper delivered to the Annual Conference of the Compulsory Purchase Association, June 2007.
- 'Planning Law Update' Delivered at the annual conference of the national planning team of Eversheds Solicitors, May 2007.
- 'Advertising Control' Presentation for Trevor Roberts Association, May 2007.
- 'Key Judicial Review Cases of 2006', chambers' seminar, January 2007.
- 'Challenging Decisions of the Ombudsman and Standards Board' chambers' seminar, November 2006.
- 'Liability for Water Pollution and Flooding - some recent developments', chambers' seminar, September 2005.
- 'Current Issues in Minerals Planning Law', chambers' seminar, January 2005.
- 'Screening Development Proposals', chambers' seminar, February 2004.
- 'The Practicalities of Planning Policy and Affordable Housing', chambers' seminar, May 2003.
- 'Recent Developments in Development Control' Presentation to the Northern Branch of the RTPI, October 2002.
- 'EIA - some recent cases' Presentation to the Northern Branch of the RTPI, October 2002.
- 'Issues relating to Contaminated Land' Seminar presented to Laing Homes, September 2002.

Qualifications and Appointments

- Called to the Bar in 1996 (Middle Temple).
- MA, St. Catharine's College, Cambridge (1993).
- LLM, King's College, London (1995).
- BA Level Diploma in translation (Portuguese-English), University of Westminster (1996).
- Visiting Lecturer in European Environmental Law, King's College, London (current).
- Committee Member of the Administrative Law Bar Association (2005-2007).
- Former Assistant Secretary to the Planning and Environmental Law Bar Association.
- Former Judicial Assistant to the Court of Appeal.
- Fellow of the Royal Society of Arts.