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CHARLES BANNER KC

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Areas of Practice

- Commercial Dispute Resolution
- Competition, State Aid & EU Law
- Energy & Natural Resources
- Environmental Law
- Infrastructure & Utilities
- Planning
- Regulatory & Public Law and Human Rights
- Northern Ireland
- Tribunal Appointments

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Practice Overview

"One of the real all-round talents at the Bar, he is an adaptable practitioner with a very strong profile"; "Charlie is at the top of the profession"; "Hugely energetic, enthusiastic and a real pleasure to work with." (Legal 500 UK Bar)

"Incredibly sharp and tenacious. As an advocate he is quick thinking and highly adaptable to suit the case, judge and his opponent. There are very few with more experience in the Supreme Court." (Legal 500 UK Bar)

"An undoubted intellect who quickly understands a problem and offers solutions." (Legal 500 UK Bar)

"Responsive, proactive, willing to lead to draft, great advocate and strategist. Charles is brilliant on all counts; excellent oral and written advice and outstanding advocacy skills. He is very likeable as well." (Legal 500 UK Bar)

"A brilliant advocate" (Chambers & Partners UK Bar)

"One of the best court advocates I've seen" (Planning Magazine Legal Survey)

Charles Banner KC was called to the Bar of England & Wales in 2004 and to the Bar of Northern Ireland in 2010. He was appointed Queen's Counsel in 2019 (at the age of 38, the youngest of the 2019 silks). He practices across both jurisdictions as well as internationally.

He has rights of audience in the Dubai International Finance Centre Court (Part II Registered since 2015). He sits judicially on a part-time basis as a Justice of the Astana International Finance Centre Court in Nur-Sultan, Kazakhstan.

He has a heavyweight domestic and international practice, principally focused on (i) planning & environmental regulation, (ii) public procurement, competition & state aid and (iii) commercial dispute resolution in the context of development, infrastructure and construction (particularly in the energy, transport, residential and tourism sectors). He also has considerable experience of public & constitutional law, human rights, EU law and commercial dispute resolution more generally.

He is recommended as a leading QC in a total of 8 practice areas by Chambers & Partners and Legal 500. He is also ranked as one of Great Britain's Top 4 planning QCs in the 2021 edition of Planning Magazine's annual Planning Legal Survey. The comments about him in these publications include: "very versatile", "an exceptional commercial barrister", and "one of the best court advocates I've seen".

His advocacy experience includes well over 150 reported cases, including 18 appeals in the UK Supreme Court (making him one of the top 10 currently practising barristers by number of appearances in the Supreme Court since its opening in 2009). He has appeared in 13 cases before the EU Courts (Court of Justice and General Court), 9 cases before the UNECE Aarhus Convention Compliance Committee, 4 cases before the European Court of Human Rights as well as UK Parliamentary Select Committee hearings. He has also appeared in well over 100 planning and environmental inquiries/examinations.

From 2015 until taking silk in 2019, he was a member of the Attorney General's A Panel of Junior Counsel to the Crown, in which capacity he represented the UK Government in some of its most challenging and high profile cases in the domestic courts and internationally.

He also acts as a dispute resolver. In addition to his part-time judicial work, he accepts appointments as an Arbitrator (FCIArb & FHKIArb), Mediator (ADR Group Accredited) and Expert.

He is the creator and co-presenter of the high profile cross-chambers planning themed weekly discussion show, 'Have We Got Planning News For You', which was nominated for 'Best Use of Social Media' at the Legal Cheek Awards 2021.

Work in 2022-23 includes: appearing in the Supreme Court in Hillside Parks (one of the most important planning cases in several years); litigation in Northern Ireland concerning the Casement Park stadium redevelopment, the Arc21 Energy From Waste project and the North-South Interconnector (all of which raise significant constitutional issues concerning the Belfast Agreement and the Northern Ireland Act 1998); successfully promoting a 2800-dwelling tall buildings urban regeneration project in Basildon at inquiry; 10 planning inquiry victories concerning major residential proposals and 5 year housing land supply issues; successfully resisting the High Court challenge to the Royal Borough of Windsor & Maidenhead Local Plan; a pending test case in the High Court concerning nutrient neutrality; obtaining permission on appeal for 'Recharge One' in the South Downs National Park; the redevelopment of the former US Embassy in Mayfair; plans for a new Center Parcs holiday village; advising the UK Government on constitutional issues relating to proposed legislation; advising on procurement issues relating to Northern Ireland's most significant waste disposal contract; advising on constitutional issues in Trinidad and Tobago; a high value arbitration in the Bahamas; five judgments as Justice of the Astana IFC Court in Kazakhstan; and acting as arbitrator in relation to a commercial dispute in Dubai.

Alongside his private practice at the Bar, Charles has held the following non-executive board positions:

• Chair of the Joint Nature Conservation Committee, the statutory UK nature conservation advisory body, 2023-present (previously Duty Chair 2021-23 and Board Member 2017-2021). Appointed by the Secretary of State for the Environment.

• Advisory Committee Chair, SAV Group, 2022-present.

• Independent Member of the Global Standards and Regulation Board of the Royal Institution of Chartered Surveyors (the global professional self-regulatory body for over 110,000 chartered surveyors and 10,000 firms worldwide), 2020-2023. Previously an Independent Member of RICS' UK and Ireland Regulatory Sub-Board, 2018-2020.

• UK Member, European Union Fundamental Rights Agency Management Board, 2017-2020. Appointed by the UK Secretary of State for Justice.

He is an elected Committee Member of the Planning and Environment Bar Association (since 2020. He has also been a Council Member and Trustee of the UK Environmental Law Association (2016-2020) and a College Lecturer in Law at the University of Oxford (2010-2015, holding weekend classes in EU law and administrative law at Lincoln, Oriel and Regent's Park Colleges). In 2005-06 he spent a year on secondment as Judicial Assistant to the Appellate

Committee to the House of Lords (the predecessor to the UK Supreme Court) and the Judicial Committee of the Privy Council.

Recent Cases

Construction and Commercial Dispute Resolution

Charles has considerable experience acting as advocate in, and advising on, disputes arising out of development agreements, contractual disputes in the energy, infrastructure and agriculture sectors, and commercial claims brought by or against government or other public authorities. He also has a substantial advisory and litigation practice in relation to economic sanctions. Since joining Keating Chambers in 2020 he has also acquired increasing experience of construction disputes. He is a contributor to Keating on Construction Contracts (11th Edition Supplement, Sweet & Maxwell, 2021). He is a contributor to Keating on Construction Contracts (11th Edition Supplement, Sweet & Maxwell, 2021).

He also acts as a resolver of commercial disputes. He sits judicially on a part-time basis as a Justice of the Astana International Finance Centre Court in Nur-Sultan, Kazakhstan. He also accepts appointments as an Arbitrator (FCIArb & FHKIArb), Mediator (ADR Group Accredited) and Expert.

Recent and ongoing cases include:

- Construction dispute concerning a major residential development in Oxford (2023-ongoing)
- Dispute concerning a hotel construction project in the Bahamas (2022-23, ongoing).
- Dispute relating to alleged defects in a hotel construction project in the UK (2022).
- Arbitrator in commercial dispute in Dubai (2022-23, ongoing).
- Judge in three commercial and construction disputes in Kazakhstan, heard in the Astana IFC Court (2022).
- Acting in relation to defects claims under a series of highway adoption agreements (2021).
- Advising on a high value construction dispute concerning planning-related delay (2020).
- Advising on force majeure and frustration issues arising out of the COVID-19 crisis in relation to development funding and building contracts relating to large development projects that have stalled due to the pandemic (2020).
- A substantial claim in the Bahamas Supreme Court arising out of a marine accident (2020-2022).
- Arbitration concerning a high value contractual dispute between a statutory water undertaker and a high profile public body (2019-ongoing).
- Arbitration concerning the interpretation of a contract concerning the maintenance and repair of the tidal defence gates at a major UK harbour (2017-2019).
- A substantial and vigorously contested Chancery Division claim between the Arora Group (which has 6 hotels and substantial land interests at London Heathrow Airport) and Heathrow Airport Ltd (the operator of Heathrow Airport) concerning real estate, planning and competition issues regarding Arora's proposed 9 storey multi storey passenger car park at Heathrow. The trial is awaiting listing but the case has already produced two reported judgments from contested interim applications: **Arora Management Services Ltd v. Heathrow Airport Ltd** [2019] 5 C.M.L.R. 24 and **Arora Management Services Ltd. Heathrow Airport Ltd** [2020] EWHC 79 (Ch).
- Advising Her Majesty's Treasury on the application of the Libya (Financial Sanctions) Regulations 2016 to complex corporate structures (2019-ongoing).
- A £10m+ Commercial Court claim relating to alleged contamination in food supplied to one of the largest commercial pig farms in the UK (2018-2019, settled).
- Arbitration concerning the ownership of London's main roads (and in particular the valuable rights in relation to land above, below and adjacent to the road surface), which following an appeal under s.69 of the Arbitration Act 1996 proceeded to the UK Supreme Court: ***Southwark LBC v. Transport for London*** [2018] 3 W.L.R. 2059.
- Acting for a services provider in a £100m+ contractual dispute with a NHS regional clinical commissioning group over the interpretation of a contract for the provision of health services to NHS patients, in expert determination proceedings before a former Supreme Court Justice (2017-2019).

- A multi-jurisdictional dispute concerning contracts for the exploitation of mineral resources in China (2016-2019).
- Case T-715/14 ***NK Rosneft a.o. v. European Council*** ELCI:EU:T:2018:544 & Joined Cases T-735/14 & T-799/15 ***Gazprom Neft v. European Council*** ELCI:EU:T:2018:548 – proceedings before the EU General Court in which the Russian energy companies Rosneft and Gazprom sought the annulment of EU sanctions targeted at the Russian oil sector in the light of Russia's actions destabilising the situation in Ukraine (Council Decision 2014/659/CFSP as amended and Council Regulation (EU) 833/2014 as amended). Sole counsel for the United Kingdom, whose submissions were endorsed by the General Court. The issues included whether the sanctions were in breach of the EU's obligations under GATT and GATS.

"He is extremely enthusiastic and proactive and has amassed considerable experience."

- Advising the UK Office of Financial Sanctions Implementation on issues relating to the financial sanctions imposed on the former President of Ukraine, Viktor Yanukovych (2017-2018).
- ***R (Ezz) v. HM Treasury*** [2016] EWHC 1470 (Admin) concerning the 'reasonable legal fees' exemption to the standard form of EU financial sanctions.
- ***Minerva (Wandsworth) Ltd v. Greenland Ram (London) Ltd*** [2017] EWHC 1457 (Ch) – acting for the Greenland Group in the 13-day Chancery Division trial of a high value claim relating to overage provisions in a contract for the £135m purchase of the Ram Brewery development site in Wandsworth.
- ***Manchester Ship Canal Company Ltd. v. Environment Agency*** [2017] EWHC 1340 (QB) – a £13 million claim against the Environment Agency under a contract agreed in 1963 by the Manchester Ship Canal Company and the Mersey River Board (a predecessor of the EA) and subsequently confirmed in Schedule 2 of the Mersey River Board Act 1964. MSCC claimed damages under the contract in respect of flood damage caused to the Manchester Ship Canal during the high profile, extreme Boxing Day Floods of 2015. Acted for the EA in its successful application for summary judgment.

Competition, State Aid & EU Law

Charles has considerable experience of competition law under Arts.101-106 TFEU and the Competition Act 1998. This includes:

- **R (Heathrow Hub Ltd) v. Secretary of State for Transport** [2020] EWCA Civ 213, concerning a claim that the Secretary of State's request that Heathrow Hub obtained a guarantee from Heathrow Airport Ltd that HAL would implement Hub's 'Extended Northern Runway' scheme for Heathrow expansion, if that scheme were selected ahead of HAL's 'North West Runway' scheme, meant that the subsequent Airports National Policy Statement, which endorsed the NWR scheme, was unlawful on competition law grounds. The issues included (i) whether the request for a guarantee breached Article 106 TFEU taken with Article 102 TFEU, on the basis that it was a 'state measure' with potential anti-competitive consequences, (ii) whether HAL had a dominant position in the relevant market (airport operation and associated services), and (iii) whether HAL had 'special or exclusive rights' so as to fall within the scope of Article 106.
- A substantial and vigorously contested Chancery Division claim between the Arora Group (which has 6 hotels and substantial land interests at London Heathrow Airport) and Heathrow Airport Ltd (the operator of Heathrow Airport) concerning real estate, planning and competition issues regarding Arora's proposed 9 storey multi storey passenger car park at Heathrow. The main issues are whether HAL is right to say that under Condition A85 of the planning permission for Heathrow Terminal 5, new passenger car parks at Heathrow Airport must be on specified HAL owned land or substituted land that HAL alone can notify to the London Borough of Hillingdon (the local planning authority) – and if so whether Condition A85 is a state measure with anti-competitive consequences contrary to Article 106 TFEU taken together with Article 4(3) TEU and/or Article 102 TFEU.

- ***Arora Management Services Ltd v. Heathrow Airport Ltd*** [2019] 5 C.M.L.R. 24 (Ch) – an interlocutory dispute in the above proceedings, concerning which division of the High Court is appropriate for determination of competition disputes between private parties.
- Advising the Secretary of State for Transport concerning competition issues relating to the provision of ground-handling services at a major UK airport.
- Regularly advising a well known firm in the automotive industry on competition law issues over a period of several years.
- Advising a sports professional on competition issues in the context of a dispute with his sporting association.
- Whilst on secondment as Judicial Assistant to the Law Lords, he worked on the seminal case of ***Crehan v. Inntrepreneur Pub Co.*** [2007] A.C. 333 regarding beer ties in pubs.

He also has considerable experience of advising both public and private sector clients on state aid issues. He has particular expertise on the provisions of the General Block Exemption Regulation relating to aid measures aimed at environmental protection and the Commission Guidelines on State Aid for the Environment, as well as state aid issues relating to the sale of land interests by public authorities to the private sector. He has recently advised on the state aid implications of the proposed financing of the redevelopment of a well known sports venue, of funding the remediation of a former mine, of central Government funding for a new relief road that will enable the development of a large scale urban extension, and of granting relief from the Community Infrastructure Levy to registered charities.

He has career-long experience of EU-derived law more generally, including 13 appearances in the EU Courts (CJEU and General Courts) on EU law issues as diverse as:

- Environmental Regulation (T-226/18 ***Global Silicones Council v. European Commission***; Case C-528/16 ***Confédération Paysanne v. Premier Ministre***; C-461/17 ***Holohan v. An Bord Pleanála***);
- Economic Sanctions (T-715/14 ***NK Rosneft a.o. v. European Council***; T-735/14 & T-799/15 ***Gazprom Neft v. European Council***);
- Employees' rights (C-214/16 ***King v. The Sash Window Workshop Ltd*** [2018] 2 C.M.L.R. 10);
- Free Movement of Persons (C-507/12 ***St Prix***; C-186/10 ***Oguz***); and
- Refugee protection (C-490/16 ***AS v. Republic of Slovenia***; C-150/15 N; C-542/13 ***M'Bodj v. État Belge***; C-562/13 ***Abdida***).

From 2017-2020 he was the UK Member of the EU Fundamental Rights Agency's Management Board (a Ministerial appointment by the Lord Chancellor and Secretary of State for Justice). He has published and lectured widely on EU law issues and was a College Lecturer in EU Law at Oxford University from 2010 to 2015, holding undergraduate classes at weekends (at Lincoln, Oriel and Regents Park Colleges).

He is recommended as a leading KC in EU law by Chambers & Partners UK Bar 2020 and Legal 500 UK Bar 2020 (having been recommended as a leading junior for many years previously). Comments in these directories include that he "has an incredibly detailed knowledge of EU law and shows real skill in applying it", is "extremely knowledgeable on EU law and equally passionate about its application", "is particularly adept at advising on cases involving questions of European law", "his recent work has demonstrated his ability to handle cases involving the interpretation of European legislation and the subsequent impact in areas such as social security and benefit rights" and that "he has been active in a range of EU matters of late, including cases concerning fundamental rights and environment issues."

"Very versatile, an excellent planning practice and also a very good EU and public lawyer".

Energy & Natural Resources

Charles' practice covers a wide range of issues affecting the energy and natural resources sector, both within the UK and internationally, including planning & environmental regulation of new energy infrastructure, energy markets regulation, contractual disputes, international

trade & investment law (including the Energy Charter Treaty), project finance and public procurement. He is recommended as a leading KC in Energy-related work by Legal 500 UK Bar 2020.

Significant work includes:

• Litigation in the English High Court concerning 'nutrient neutrality' and the effect of new development on protected watercourses (2023-ongoing).

• Litigation in the Northern Ireland High Court concerning the Arc 21 Energy From Waste Project in Co. Antrim – a £240m strategic Energy From Waste facility. The case raises significant constitutional, public law, environmental law and planning law issues (2022-ongoing).

• Acting for a consortium of residents affected by National Grid's East Anglia Green project which would involve the construction of 180km of new pylons in the East of England (2022-ongoing).

• Minister for Infrastructure v. Safe Electricity A&T Ltd [2022] NICA 61 – judicial review challenge to the Northern Ireland Minister for Infrastructure's grant of planning permission for the North-South Interconnector - Northern Ireland Electricity's proposed 400kv strategic interconnector between Tyrone in Northern Ireland and Cavan in the Republic of Ireland, regarded as Northern Ireland's most significant energy infrastructure project to date. Previously acted for the Department for Infrastructure concerning the project for several years since 2013, including at a high profile public inquiry and in various High Court proceedings.

• Advising the UK Government on the EU energy law and international trade & investment law implications of Brexit for the All-Ireland Single Electricity Market (including in relation to GATT, GATS and the Energy Charter Treaty).

• Arbitration concerning a high value contractual dispute between a statutory water undertaker and a high profile public body (2019-2021).

• Case T-715/14 ***NK Rosneft a.o. v. European Council*** ELCI:EU:T:2018:544 & Joined Cases T-735/14 & T-799/15 ***Gazprom Neft v. European Council*** ELCI:EU:T:2018:548 – proceedings before the EU General Court in which the Russian energy companies Rosneft and Gazprom sought the annulment of EU sanctions targeted at the Russian oil sector in the light of Russia's actions destabilising the situation in Ukraine. The issues included whether the sanctions were in breach of the EU's obligations under GATT and GATS.

• A multi-jurisdictional dispute concerning contracts for the exploitation of mineral resources in China (2016-2019).

• Acting for the UK Government (leading a 3-counsel team) successfully defending a heavyweight commercial judicial review claim concerning changes to the rules relating to energy markets: ***R (Eider Reserve Power Ltd) v. Secretary of State for Business, Energy & Industrial Strategy*** (CO/393/2018).

• Promoting nationally significant energy infrastructure through the development consent process in England, including: the Keuper Gas Storage Project Development Consent Order (a joint venture between Ineos and the Solvay Group for a 19-cavity underground gas storage facility in Cheshire); the Norfolk Vanguard Development Consent Order (one of the UK's largest offshore windfarms, with an approximate capacity of 1.8GW which would meet the electricity needs of 1.3m homes); Runcorn Energy From Waste for Ineos and Viridor).

• Proceedings before the UNECE Aarhus Convention Compliance Committee in Geneva relating to an open-cast coal mine in Merthyr Tydfil which is to extract several million tonnes of coal over c.15 years as part of the Ffos-y-Fran Land Reclamation Scheme (sole counsel for the operator).

"He has outstanding intellect and charm. He is very good with clients and easy to work with. He is a very good example of a 21st century member of the Bar and is an exceptional, commercial barrister."

Environmental Law

Charles undertakes a wide range of environmental litigation and advisory work in the domestic, EU and international law spheres. His is recommended as leading KC in environmental law by the latest editions of both Chambers & Partners UK Bar and Legal 500 UK Bar. His environmental law practice is evenly split between commercial clients, private clients, environmental NGOs and public authorities including the Environment Agency and the Northern Ireland Department for Infrastructure.

He has acted in some of the most important environmental cases in the English High Court and appellate courts in the 2000s, including the first Supreme Court case to consider the application of the Aarhus Convention within the UK (***Edwards***), the Supreme Court's landmark judgment on strategic environmental assessment and environmental impact assessment in the context of a Parliamentary development consent process (***HS2 Action Alliance No. 1***), important Court of Appeal judgments on climate change (***Plan B Earth*** concerning Heathrow Expansion), the scope of the 'project' for the purposes of environmental impact assessment (***Larkfleet***) and the distinction in EU law between 'waste recovery' and 'waste disposal' (***Tarmac***) as well as most of the other principal authorities on strategic environmental assessment (***Save Historic Newmarket***, ***Ashdown Forest***, ***HS2 Action Alliance No. 2*** and ***Larkfleet Homes***). He has also acted in one of the most significant cases in the Northern Ireland High Court regarding Environmental Impact Assessment and habitats (***Newry Chamber of Commerce***).

Internationally, he has appeared on multiple occasions before the UNECE Aarhus Convention Compliance Committee in Geneva, in a series of cases before the CJEU regarding EU environmental legislation (including most recently a challenge by the silicones industry to the high profile ban on 'microbeads' in wash-off cosmetic products, as well as the groundbreaking ***Holohan*** case on habitats protection) and in the European Court of Human Rights in App. No. 39714/15 ***Austin v. UK*** (2017) 65 E.H.R.R. SE16 (concerning the circumstances in which Article 8 ECHR applies in cases of alleged environmental pollution and whether protection against adverse costs orders is required to achieve compliance with the right to an effective remedy under Article 13 ECHR).

He is the Editor of *The Aarhus Convention – A Guide for UK Lawyers* (Hart Publishing, 2015), the first book to be published concerning the implementation of the Aarhus Convention in the UK, and co-author of the chapter on strategic environmental assessment in Garner's Environmental Law.

In 2017, Charles was awarded 'Environment and Planning Junior of the Year' at the Chambers UK Bar Awards. In the same year, he was shortlisted for 'Real Estate, Environment and Planning Junior of the Year' at the Legal 500 UK Bar Awards.

From 2016 until 2020 he was a Trustee and Council Member of the UK Environmental Law Association. In 2017, he was appointed by the Secretary of State for Environment, Food and Rural Affairs as an independent member of the Joint Nature Conservation Committee, of which he has been Deputy Chair since 2021.

His most significant environmental cases include the following:

Aarhus Convention

- Nine cases before the UNECE Aarhus Convention Compliance Committee in Geneva. This includes an ongoing communication (ACCC/C/2017/156 ***RSPB & others v. UK***) raising the fundamental question of whether the application by the UK courts, in environmental judicial and statutory review proceedings of the Wednesbury standard of review is consistent with Article 9(2) of the Aarhus Convention in relation to the review of the substantive legality of certain environmental decisions, acts and omissions.
- Advising DEFRA, DECC and the Ministry of Justice on Aarhus Convention compliance in the light of recent Compliance Committee and CJEU findings about the costs regime in environmental judicial review proceedings in the UK.
- ***R (Edwards & Pallikaropoulos) v. Environment Agency*** [2011] Env. L.R. 13, concerning the approach to be taken in considering whether the costs of environmental litigation are "prohibitively expensive" contrary to Article 9(4) of the Aarhus Convention, as implemented into EU law by Article 10a of the EIA Directive.

Environmental Cases Before the EU courts

- Case T-226/18 ***Global Silicones Council & others v. European Commission*** ELCI:EU:T:2021:403: (awaiting a hearing before the EU General Court): application to the General Court to annul Commission Regulation (EU) 2018/35 which introduces an EU-wide ban, effective 31st January 2020, on silicone 'microbeads' in wash-off cosmetic products, due to their polluting effect on river and marine ecosystems.

- Case C-528/16 ***Confédération Paysanne v. Premier Ministre*** ELCI:EU:C:2018:53 (CJEU Grand Chamber): a reference from the French Conseil d'État regarding the scope and interpretation of the provisions of EU environmental legislation regulating to genetically modified organisms.
- Case C-461/17 ***Holohan v. An Bord Pleanála*** ECLI:EU:C:2018:649 (CJEU), a reference from Ireland's High Court concerning the required content of an appropriate assessment under the Habitats Directive and the consideration that an environmental statement under the EIA Directive needs to give to alternatives to the proposed development.

Climate Change

- ***R (Plan B Earth & Friends of the Earth) v. Secretary of State for Transport*** [2020] P.T.S.R. 1446, the high profile environmental law challenge to the Airports National Policy Statement endorsing the principle of a 3rd runway and associated infrastructure at London Heathrow Airport, in which the Court of Appeal held that the APNS was unlawful because the Secretary of State for Transport had not had regard to the Paris Agreement on climate change, subsequently reversed by the Supreme Court.

Strategic Environmental Assessment

- ***R (Plan B Earth and others) v. Secretary of State for Transport*** [2020] P.T.S.R. 1446: one of two counsel credited in the judgment as persuading the Court of Appeal that the Wednesbury standard of review is sufficient in relation to challenges to evaluative decisions in the context of strategic environmental assessment and sustainability appraisal.
- ***R (HS2 Action Alliance Ltd.) v. Secretary of State for Transport*** [2014] 1 W.L.R. 324 (Supreme Court), the high profile legal challenge to the Government's White Paper HS2 – Decisions and Next Steps (Jan 2012) on the grounds (inter alia) that the White Paper should have been and was not subject to SEA pursuant to the Strategic Environmental Assessment Directive.

- The two leading cases regarding the duty for the Environmental Report / Sustainability Appraisal accompanying a draft plan or programme to explain what reasonable alternatives to the proposed plan policies have been considered and why they were rejected: **Save Historic Newmarket Ltd v. Forest Heath District Council** [2011] J.P.L. 1233 and **Ashdown Forest Economic Development LLP v. Wealden District Council [**2016] Env. L.R. 2.

Environmental Impact Assessment

- Abbotskerswell Parish Council v. Secretary of State for Housing, Communities and Local Government [2021] EWHC 555 (Admin), concerning the level of detail needed in an Environmental Statement at the outline planning stage in circumstances where further details of the development and its environmental effects will be provided at the reserved matters stage.
- Case C-461/17 ***Holohan v. An Bord Pleanála*** [2019] P.T.S.R. 1045, a reference from Ireland's High Court concerning the consideration that an environmental statement under the EIA Directive needs to give to alternatives to the proposed development.
- ***R (Larkfleet Limited) v. South Kesteven DC*** [2016] Env. L.R. 4 (Court of Appeal), a judicial review challenge to the grant of a relief road to enable a large-scale urban extension on the grounds that the road and the urban extension should have been assessed as a single 'project' under the EIA Directive or alternatively that the cumulative environmental effects of the road taken together with the urban extension were not assessed in accordance with the requirements of the Directive. One of the lead domestic authorities on the scope of the 'project' for the purposes of EIA and the approach to be taken to assessing in-combination effects.
- ***R (Bucks CC & others) v. Secretary of State for Transport*** [2014] 1 W.L.R. 324 (Supreme Court), on whether the proposed Hybrid Bill procedure for obtaining development consent for HS2 from Parliament was incompatible with the requirements of the EIA Directive having regard to the conditional exemption under the Directive where development consent is to be granted by a legislature.

Habitats

- Litigation in the English High Court concerning 'nutrient neutrality' and the effect of new development on protected watercourses (2023-ongoing).
- **Mooreland and Owenvarragh Residents Association's Application for Judicial Review** [2022] NIQB 40 – successfully defended a JR brought on EIA, habitats and other grounds challenging the grant of planning permission for the grant of a new stadium at Casement Park, Belfast.

- **Abbotskerswell Parish Council v. Secretary of State for Housing, Communities and Local Government** [2021] Env. L.R. 28, concerning the level of detail needed in an Appropriate Assessment at the outline planning stage in circumstances where further details of the development and its environmental effects will be provided at the reserved matters stage.
- ***R (Plan B Earth and others) v. Secretary of State for Transport*** [2020] P.T.S.R. 1446: one of two counsel credited in the judgment as persuading the Court of Appeal that the Wednesbury standard of review is sufficient in relation to challenges to evaluative decisions in the context of the Habitats Regulations/Directive.
- Case C-461/17 ***Holohan v. An Bord Pleanála*** ECLI:EU:C:2018:649 (CJEU), a reference from Ireland's High Court concerning the required content of an appropriate assessment under the Habitats Directive.
- 3 week inquiry in April – June 2019 regarding a proposed 1210 dwelling urban extension at Newton Abbot, Devon, where the main issue was Natural England's objection concerning the alleged impact of the development on Greater Horseshoe Bats and the consequent impact on the South Hams Special Area of Conservation. Substantial ecology evidence was called and cross-examined.
- Two 3 week public inquiries concerning environmental permit applications for water abstraction, which had been refused by the Environment Agency on habitats grounds (commercial agricultural abstraction near Catfield Fen, Norfolk, and public water supply abstraction from the Rivers Test and Itchen).
- ***Newry Chamber of Commerce's Application for Judicial Review*** [2015] NIQB 65, concerning the assessment of cumulative effects under the Habitats Directive and Habitats Regulations and the Court's discretion not to quash in circumstances where even if there had been a technical breach of the Directive and Regulations there was no evidence that there was a real rather than hypothetical risk of harm to the designated habitat(s) which should have been considered. One of the leading Northern Ireland authorities on EIA.

"He shows undoubted intellectual insight into quickly understanding a problem and being able to offer solutions without an over legalistic approach."

Waste

- Litigation in the Northern Ireland High Court concerning the Arc 21 Energy From Waste Project in Co. Antrim – a £240m strategic Energy From Waste facility. The case raises significant constitutional, public law, environmental law and planning law issues (2022-ongoing).
- ***R (Tarmac Aggregates Ltd) v. (1) Secretary of State for Environment, Food and Rural Affairs and (2) Environment Agency*** [2016] Env. L.R. 15, concerning the approach to determining whether an activity is "waste recovery" under Article 3(15) of the Waste Framework Directive as opposed to "waste disposal".
- Acting for the Environment Agency at public inquiries into appeals against the refusal of environmental permit applications relating to (1) a proposed landfill at Birks Quarry, Oldham, and (2) a proposed quarry restoration scheme involving the use of inert waste at Methley Quarry, Leeds.
- ***R (Residents Against Waste Site Ltd) v. Lancashire CC*** [2008] Env. L.R. 27, on the meaning and application of the "relevant objectives" under the Waste Framework Directive for considering proposals for the disposal or recovery of waste.

Access to Environmental Information

- Acted for Heathrow West Ltd (an Arora Group Company) in Environmental Information Regulations proceedings concerning whether Heathrow Airport Ltd (the operator of London Heathrow Airport) is a 'public authority' subject to the Regulations' information disclosure obligations (2019-2020).

Infrastructure & Utilities

Charles has considerable experience of providing advice and representation in relation to large-scale infrastructure projects in a range of legal contexts, both within the UK and internationally, including the development consent order ('DCO') process, environmental regulation and other regulatory issues, contractual disputes, project finance, public procurement. He has particular experience of infrastructure work in the transport, energy and natural resources sectors.

The breadth of his practice means he is unusually well placed to assist clients over the lifetime of their project, from environmental and planning consenting, to public procurement, regulatory and project finance issues, to commercial disputes arising during or after the construction of the project.

His experience includes being integrally involved in proceedings relating to arguably the three most significant infrastructure projects in the UK in recent years: High Speed 2 ('HS2'), the proposed 3rd runway and associated expansion at London Heathrow Airport, and the North-South Ireland Electricity Interconnector. He has also acted in litigation in Northern Ireland in 2022-23 concerning the three most significant recent infrastructure projects in that jurisdiction: the aforementioned Interconnector, Casement Park stadium, and the Arc21 Energy from Waste project.

In Planning Magazine's Planning Law Survey 2020 he was ranked in the top 7 of all QCs at the Bar of England & Wales practising in the field of infrastructure (after just one year in silk).

He is a member of the UK National Infrastructure Planning Association.

Significant infrastructure work includes the following:

Transport Infrastructure

- Advising a local highway authority in relation to a new junction on the M5 (2022-ongoing).
- **High Speed Two**: acted for HS2 Action Alliance and affected landowners in the Parliamentary Select Committee proceedings established to consider objections to the proposed route and details of Phase 1 of HS2; prior to that, appeared in the high profile and long running litigation relating to HS2 including two Supreme Court proceedings and acting for HS2 Action Alliance in the Supreme Court in their challenge to the Government's strategy for HS2 (see ***R (HS2 Action Alliance Ltd) v. Secretary of State for Transport*** and R (Heathrow Hub Ltd) v. Secretary of State for Transport [2014] 1 W.L.R. 324) proceedings before the UNECE Aarhus Convention Compliance Committee in Geneva (Communication ACCC/C/2014/100).
- **London Heathrow Airport 3rd Runway** and associated expansion: acting since 2015 for the Arora Group, one of the principal landowners at and around Heathrow Airport and the promoter of the 'Heathrow West' proposal pursuant to which, as part of the North-West Runway scheme supported by the Airports National Policy Statement, it seeks to construct and operate a new terminal at Heathrow in competition with the existing terminals operated by Heathrow Airport Limited.
- **London Heathrow Airport passenger car parking**: a substantial and vigorously contested Chancery Division claim between the Arora Group (which has 6 hotels and substantial land interests at London Heathrow Airport) and Heathrow Airport Ltd (the operator of Heathrow Airport) concerning real estate, planning and competition issues regarding Arora's proposed 9 storey multi storey passenger car park at Heathrow. The trial is awaiting listing but the case has already produced two reported judgments from contested interim applications: ***Arora Management Services Ltd v. Heathrow Airport Ltd*** [2019] 5 C.M.L.R. 24 and A***rora Management Services Ltd. Heathrow Airport Ltd*** [2020] EWHC 79 (Ch).
- **London Stansted Airport expansion**: acted for the Secretary of State for Transport in defence of a judicial review brought by Stop Stansted Expansion contending that a proposal to construct additional infrastructure at London Stansted Airport and to raise the annual cap on passenger transport movements at the airport by 8million passengers per annum should have been subjected to the DCO regime under the Planning Act 2008 as a nationally significant infrastructure project, rather than being left to the local planning authority to determine pursuant to the conventional planning regime under the Town and Country Planning Act 1990. See ***R (Ross & Sanders acting on behalf of Stop Stansted Expansion) v. Secretary of State for Transport*** [2020] EWHC 226 (Admin).
- **Bristol Airport expansion**: providing extensive advice to North Somerset Council in relation to its consideration of an application for planning permission for significant expansion of Bristol Airport to enable a throughput of 12 million passengers per annum (2019-2020).
- **London Southend Airport**: long-standing advisory role for London Stansted Airport Limited, part of the Stobart Group, in relation to their plans for the future of London Southend Airport.

- **Manston Airport DCO**: advised the Secretary of State and the Planning Inspectorate on legal and procedural issues relating to the DCO application concerning the proposed development of Manston Airport into an airfreight hub with complimentary passenger and engineering services.
- **A5036 Port of Liverpool Access Scheme**: acted for Highways England in defence of a judicial review challenge to the decision on its decision on a preferred route for an improved road link to the Port of Liverpool, following non statutory pre-DCO consultation: ***R (Sefton MBC) v. Highways England*** [2018] EWHC 3059 (Admin).
- **Arbitration concerning the ownership of London's main roads** (and in particular the valuable rights in relation to land above, below and adjacent to the road surface), which following an appeal under s.69 of the Arbitration Act 1996 proceeded to the UK Supreme Court: ***Southwark LBC v. Transport for London*** [2018] 3 W.L.R. 2059.
- Promoted one of four competing proposals for a new **Motorway Service Area** on the A1(M) in North Yorkshire at a three month 'beauty parade' public inquiry and in subsequent High Court proceedings (2010-2012).
- Defended the Secretary of State for Transport in the High Court against a judicial review challenge to his decision to grant c.£53 million of funding towards a new link road between Bexhill and Hastings.

Energy & Natural Resources Infrastructure

- Litigation in the Northern Ireland High Court concerning **the Arc 21 Energy From Waste Project** in Co. Antrim – a £240m strategic Energy From Waste facility. The case raises significant constitutional, public law, environmental law and planning law issues (2022-ongoing).
- Acting for a consortium of residents affected by **National Grid's East Anglia Green** project which would involve the construction of 180km of new pylons in the East of England (2022-ongoing).
- *Minister for Infrastructure v. Safe Electricity A&T Ltd* [2022] NICA 61 – judicial review challenge to the Northern Ireland Minister for Infrastructure's grant of planning permission for the **North-South Ireland Electricity Interconnector** - Northern Ireland Electricity's proposed 400kv strategic interconnector between Tyrone in Northern Ireland and Cavan in the Republic of Ireland, regarded as Northern Ireland's most significant energy infrastructure project to date. Previously acted for the Department for Infrastructure concerning the project for several years since 2013, including at a high profile public inquiry and in various High Court proceedings.
- **Keuper Gas Storage Project DCO**: concerning a joint venture between Ineos and the Solvay Group for a 19-cavity underground gas storage facility in Cheshire. Sole counsel for the promoter.
- **Norfolk Vanguard DCO** – one of the UK's largest offshore windfarms, with an approximate capacity of 1.8GW which would meet the electricity needs of 1.3m homes.
- **Runcorn Energy From Waste** – 2 week public inquiry for Ineos and Viridor concerning their EfW plant which treats c.850,000 Tonnes of refuse derived fuel per year, generating c.130MW p.a.
- Advising the Northern Ireland Department for Infrastructure in relation to the **Curraghinalt Gold Project**, an underground gold mine estimated to produce approximately 1.36Moz of gold and 0.38Moz of silver over an initial mine life of 10.5 years.
- **Shale gas 'fracking' and exploration**: advising the UK Government on fracking regulation; advising Nottinghamshire County Council in connection with its determination in November 2016 of a high profile application by IGas Energy for consent to undertake shale gas exploration at Mission Springs; ***Europa Oil & Gas v. SSCLG*** [2014] J.P.L. 21 on whether exploration for hydrocarbons constitutes "extraction" for the purposes of national planning policy relating to development in the green belt.
- Proceedings before the UNECE Aarhus Convention Compliance Committee in Geneva relating to an open-cast coal mine in Merthyr Tydfil which is to extract several million tonnes of coal over c.15 years as part of the **Ffos-y-Fran Land Reclamation Scheme** (sole counsel for the operator).
- A multi-jurisdictional dispute concerning contracts for the exploitation of mineral resources in China.

Port and Harbour Infrastructure

- Providing planning & environmental legal and strategic advice to the owners of one of the Freeports announced in the Chancellor's March 2021 budget.

- Arbitration concerning the interpretation of a contract concerning the maintenance and repair of the tidal defence gates at a major UK harbour (2017-2019).
- Acting as sole counsel for the Secretary of State in ***Grafton Group Ltd v. Secretary of State for Transport & Port of London Authority*** [2017] 1 W.L.R. 373, a challenge to the confirmation of a compulsory purchase order made by the Port of London Authority of Orchard Wharf on the River Thames in order to secure its reactivation for wharf use. This was the first case examining the PLA's powers of compulsory acquisition associated with its port and harbour functions.

Sports Infrastructure

- **Mooreland and Owenvarragh Residents Association's Application for Judicial Review** [2022] NIQB 40 – successfully defended a JR brought on EIA, habitats and constitutional grounds challenging the grant of planning permission for the grant of a new stadium at Casement Park, Belfast.

Utilities Infrastructure

- Arbitration concerning a high value contractual dispute between a statutory water undertaker and a high profile public body (2019-ongoing).
- Acting for a consortium of affected landowners in opposition to Thames Water's proposal for the 16-mile Thames Tunnel "Super Sewer", including successfully achieving the narrowing of the safeguarding direction issued to protect the proposed route.

"A real jewel in the planning Bar crown: very sharp intellect with a lot of common sense."

Planning

Charles is widely recognised as one of the UK's most effective and influential planning KCs. He is ranked as one of the country's Top 4 planning silks in Planning Magazine's Planning Law Survey 2021 (based upon a poll of several hundred development & infrastructure industry professionals), as well as being recommended as a leading planning silk in Legal 500 UK Bar 2022 and Chambers UK Bar 2022. Prior to taking silk, he was unanimously rated as the No.1 planning junior in all three publications. Commentary in the directories includes: **"a real jewel in the planning Bar crown", "tremendously respected", "a match for any silk"** and **"one of the best court advocates I've seen".**

He was awarded 'UK Planning Barrister of the Year' at the Lawyer Monthly Legal Awards in 2018 and 'Environment and Planning Junior of the Year' at the Chambers UK Bar Awards in 2017. He was also shortlisted for 'Real Estate, Environment and Planning Junior of the Year' at the Legal 500 UK Bar Awards in 2017. He is a Committee Member of the Planning and Environment Bar Association, elected by fellow members of the planning bar.

His practice covers the full range of advisory, inquiry and High Court work in the planning field. He has acted in some of the most significant planning court cases and inquiries over the last 15 years, including the Supreme Court appeals in **Hillside** (on the relationship between multiple planning permissions for development on the same site) **Sainsbury's Supermakets** (on material considerations in planning and CPO decision-making) and **HS2** (on EIA and SEA).

He is the creator and co-presenter of the high profile cross-chambers planning themed weekly discussion show, 'Have We Got Planning News For You', featuring guest appearances from some of the UK's most well known figures in planning, architecture and government and was nominated for 'Best Use of Social Media' at the Legal Cheek Awards 2021.

Regularly commended in the legal directories for his personable and approachable manner, and for the energy with which he commits himself to each client's cause, he relishes the team-work that is central to planning practice. He is just at home cross-examining on complex technical issues at an inquiry as he is making submissions on difficult legal issues in the High Court and appellate courts, or providing strategic advice as a part of a multi-disciplinary team.

His planning practice is international. He has worked on various planning matters in Hong Kong, including on a 3 month secondment to Mayer Brown JSM in 2008, and has acted in relation to planning related disputes in the Bahamas and Gibraltar.

Listed below are examples of his most significant work arranged sector-by-sector in the following order: (1) Major urban development; (2) residential; (3) specialist older persons' accommodation (4) commercial, industrial, retail and regeneration; (5) sports, tourism and leisure; (6) private client work; (7) enforcement; (8) heritage assets; (9) Green Belt development; (10) Planning procedure and practice. Please scroll down to see each sector. See the separate Energy & Natural Resources and Infrastructure pages for his planning work in these fields.

Major urban development

• Promoted **Prime London residential developments** at the former US Embassy Building in Lees Place (for the USA Government and Hammerspur Ltd), Duke's Lodge adjacent to Holland Park (for Christian Candy's CPC Group), Chester Gate adjacent to Regent's Park (also for the CPC Group), the former Harrods Depository at 60 Sloane Avenue, South Kensington (a complex land use swap involving the relocation of existing offices to new bespoke office development in Kensal Green), 1 Campden Hill & 69 Campden Hill Road (a substantial Grade II listed property near Kensington High Street), Fulham Riverside (463 waterfront dwellings near Hurlingham Park) and Sotheron Place off the New King's Road (mixed commercial/residential scheme).

• Promoting the relocation of the leading private preparatory school, Thomas' Kensington, to a consolidated site in Kensington (2022-ongoing).

• Acting for Homes England at 3 week inquiry concerning its proposed 260 dwelling development at Brislington, Bristol (2023).

• Acting at inquiry for Taylor Wimpey promoting a 250 dwelling development at the former Homebase site in Finchley, north London (2022).

• Acting for the developers of the former US Embassy site at Lees Place, Mayfair (2022-ongoing).

• Promoting two major developments in Bath Spa – the former Dick Lovett site for Watkin Jones Group (BTR scheme granted permission in September 2021) and Frome House for the Crossman Group (PSBA scheme considered at a hearing in November 2022, decision awaited).

• Acting for Persimmon and Taylor Wimpey for several years in relation to their development of Newcastle Great Park (continuing into 2023).

• Extensive advice over several years on planning strategy in relation to a 500,000 sqft **mixed use** scheme at 15-16 Minories & 62 Aldgate in the City of London.

• **Tall buildings –** recent casework includes promoting tall building schemes in Basildon (Eastgate Shopping Centre), Ealing (Dylon 2) and Harrow (Catalyst Housing), and advising in relation to a proposed 29-33 storey development in the London Borough of Hackney. Previous experience includes litigation over the 36-storey tower at Greenland's Ram Brewery site in Wandsworth; providing extensive strategic advice in relation to tall buildings in Bedminster, Bristol; successfully defending the London Borough of Southwark's refusal of permission for a 12 storey tower at 6 Paris Garden & 20-21 Hatfields, Southwark, SE1; acting for the successful objectors to a proposed tower on the site of Mildmay Hospital, Shoreditch.

• **Urban regeneration –** acting at a 4-week inquiry in August 2022 for the promoters of the Eastgate Shopping Centre redevelopment in Basildon comprising up to 2800 residential units, new retail and commercial floorspace and reconfigured car parking (appeal allowed); advising the promoters of the refurbishment and redevelopment of the Martlets Centre in Burgess Hill (2021-2022); advising on an urban regeneration compulsory purchase order in Gibraltar (2021); acting for the SSCLG in the litigation concerning the compulsory purchase order for the intended to facilitate the makeover of Shepherds Bush Market (Horada v. Secretary of State for Communities and Local Government [2016] EWCA Civ 169); advising the Greater London Authority on strategic planning issues relating to the regeneration of Old Oak Common; successfully promoting a compulsory purchase order by Westminster City Council to deliver the comprehensive re-development of the Tollgate Gardens Estate in Kilburn in order to improve the quality and quantity of the Council's housing stock (a flagship project of the Council's Housing Renewal Strategy).

• **Build to rent / Private Rented Sector:** acted on multiple large scale BTR/PRS schemes in London, Newcastle, Bristol and Bath Spa – typically in relation to issues concerning building heights, design and alleged heritage impacts

Residential

• **Promoting numerous residential developments at planning appeals,** including very extensive experience of interrogating evidence on housing land supply. Recent and current planning appeals (2020-2023) include promoting 2800 new homes in Basildon city centre

(for Infrared); 1210 dwellings at Wolborough Barton, Teignbridge District (for the landowner consortium); 391 dwellings in the Green Belt at Chiswell Green, St Albans (for a consortium including CALA, Taylor Wimpey and Redington Capital); 300 dwellings at Heol-y-Cefn, Blackwood, Caerphilly Borough (for Persimmon); 260 dwellings at Brislington, Bristol (for Homes England); 250 dwellings in the London Borough of Barnet (for Taylor Wimpey); 175 dwellings at Soham, East Cambridgeshire District (for Persimmon); 165 dwellings in Glen Parva, Blaby District (for Vistry); 140 dwellings in Badshot Lea, Waverley (for Bewley Homes); 140 dwellings in Bramley, Basingstoke (for Wates); 105 dwellings at Cullompton, Mid-Devon District (for Taylor Wimpey); 100 dwellings at Earnley, Chichester District (for Seaward Properties); 100 dwellings at Yatton, North Somerset District (for the Mead Group); 100 dwellings at Topsham, Exeter (for Waddeton Park Ltd); 87 dwellings in the Green Belt at Sarratt, Three Rivers District (for Burlington Property Group); 80 dwellings at Burbage, Hinckley & Bosworth District (for Persimmon); 75 dwellings at Lynchmead Farm, Weston super Mare (for the Mead Group); 71 dwellings in the AONB in Hawkhurst, Tonbridge Wells (for Dandara); 61 dwellings in Exeter (for Waddeton Park Ltd); 60 dwellings at Yatton, North Somerset District (for Persimmon); 44 dwellings in Bagshot, Surrey Heath District (for CALA); and 40 homes in Falmouth, Cornwall (for Persimmon).

• **Influential court cases** on wide-reaching issues of law and policy affecting residential development including the reworded presumption in favour of sustainable development in para. 11 of 2018/2019 NPPF (Monkhill Ltd. v. SSHCLG [2021] P.T.S.R. 1432), the NPPF definition of "Previously Developed Land" (Dartford BC v. SSCLG [2017] P.T.S.R. 737, the 'second homes ban' in the St Ives Neighbourhood Plan (R (RLT Built Environment Ltd) v. Cornwall Council [2017] J.P.L. 378); whether student accommodation can be included in a LPA's 5 year housing land supply (Exeter City Council v. SSCLG [2015] EWHC 1663 (Admin)), the duty to give reasons in relation to 5 year housing land supply (East Riding of Yorkshire Council v. Secretary of State for Levelling Up, Housing and Communities [2022] J.P.L. 742) and whether neighbourhood plans can allocate sites for residential development (R (Larkfleet Homes Ltd) v. Rutland County Council [2015] P.T.S.R. 1369).

• **Promoting major allocations through the local Plan EiP process** including a career total of over 60,000 dwellings. Recent examples (2019-2022) include promoting allocations for Monkhill Ltd in Waverley District, Taylor Wimpey in Basildon District, Wates Developments in Hart District, Royal Borough of Windsor & Maidenhead and Waverley District, for Estates & Agency Strategic Land in Brentwood District, for L&Q in North Essex, and for Merton College in Cherwell District.

• **Defending challenges to local plans:** Charles acted for Avant Homes in the challenge to the Leeds Site Allocations DPD (Aireborough Parish Council v. Leeds City Council [2020] EWHC 1461 (Admin)) and for Wates in the challenge to the Royal Borough of Windsor and Maidhead Local Plan (Hill v. RBWM [2022] EWHC Admin).

• **Acting for the promoters/landowners of new settlements, including Garden Communities, at concept stage, Local Plan Examination, at the planning application stage and in relation to implementation thereafter.** Examples include: Oxfordshire Garden Village aka Salt Cross (acting for the promoter, Grosvenor, at the Area Action Plan EIP in June-July 2021), High Leigh Garden Village, Fawley Power Station (Fawley Waterside), Deenethorpe Airfield (Tresham Garden Village), West Tey, Dunsfold Aerodrome, West Horndon and Barton le Clay.

• **Promoting custom and self build schemes** including successfully acting for the appellant in the first inquiry into a major custom/self build scheme, at Great Dunmow, Uttlesford District; and acting for the successful appellant in relation to a custom/self build scheme at Dunsfold, Waverley, at a hearing in November 2022 (extensive evidence called in relation to assessing custom and self build need and supply, with favourable findings by the Inspector).

• **Extensive experience of financial viability issues in the planning context –** including handling the in-depth interrogation at EIP of the viability of some of the allocations mentioned above, as well as viability issues on appeal including most recently in relation to Holburne Park, Bath (March 2021) and the former Homebase Site, Finchley (December 2022). Charles is a member of the RICS Standards & Regulation Board that approved the 2019 Financial Viability Planning Professional Statement and subsequent 2021 FVP Guidance Note.

• **Successfully defending East Riding of Yorkshire Council's 5 year housing land supply** in 4 high profile appeals in 2017-2019 relating to proposed residential developments in South Cave, Holm on Spalding Moor, Pocklington and Hutton Cranswick – the Council successfully resisted each of the appeals, including two with costs awards in their favour.

• **Successfully defending High Court challenges** to major residential planning permissions including (1) the Secretary of State's grant of planning permission 1200 dwellings on appeal at Wolborough Barton in Teignbridge District (Abbotskwerswell Parish Council v. Secretary of State for Housing, Communities and Local Government [2021] Env. L.R. 28; (2) a 1200 dwelling phase of Newcastle Great Park, jointly instructed by Taylor Wimpey and Persimmon,

(3) a 55 dwelling Taylor Wimpey development at Pool in Wharfedale Leeds; (4) Stroud BC v. SSCLG [2017] EWHC Admin (LPA's challenge to an Inspector's decision to allow an appeal by Persimmon Homes relating to a 188 dwelling scheme in Berkeley); (5) Exeter City Council v. SSCLG [2015] EWHC 1663 (Admin) (LPA's challenge to 120 dwellings near Exeter); (6) R (Leicestershire Police and Crime Commissioner) v. Blaby DC [2014] EWHC 1719 (Admin) (a challenge by Leicestershire Police to a 4,250 dwelling Lubbesthorpe Urban Extension in Blaby District).

• **Promoting several custom/self build housing proposals** including securing a seminal inquiry appeal decision in favour of one of the first major custom build schemes to go thorough the planning system at Great Dunmow, Uttlesford District.

• **Regularly advising on option agreements** and development agreements relating to residential proposals, and where necessary acting in associated expert determination or arbitration proceedings.

Specialist older persons' accommodation

• Obtained permission on appeal for Lifestory for 44 retirement apartments in Lymington, New Forest District following a 2 week planning appeal inquiry in May 2021 (main issue: townscape, design and heritage).

• Obtained permission on appeal for Porthaven Planning for a proposed care home in Harpenden, St Albans District following a hearing in May 2021 (main issues: alleged conflict with local plan policy safeguarding B class land, design, landscaping and occupier amenity).

• Acting for Care UK in relation to proposed care homes in Stafford, Corsham, and High Wycombe (2021-2023, ongoing).

• Acting for Lifestory in a planning appeal concerning a 54-unit sheltered housing scheme in Solihull (2 week inquiry in May 2022).

• Acted for Elmbridge Borough Council at a 2 week inquiry appeal in March 2021 in relation to a c.220 unit extra care scheme in Walton-on-Thames, concerning issues of general importance to extra care proposals including the use of prevalence rates in needs assessment and the contribution such a scheme would make to the vitality and viability of the town centre.

• 4 day inquiry in January 2019 for New Forest District council relating to Churchill Retirement Living's proposal for 43 retirement apartments in Hythe (main issues: design and heritage).

• Obtained permission on appeal for a 60 bed residential care home, 47 assisted living apartments and 55 age restricted dwellings at Exeter Road, Topsham for Waddeton Park Ltd following a 2 week appeal in 2016 (together with an award of costs); acted for the same client at a further inquiry, also resulting in the grant of permission, in December 2018 relating to a proposed 64-bedroom residential care home and 155 market housing units.

• 5 day inquiry for Henley Healthcare Ltd in 2014 regarding its proposal for a community mental hospital at its residential care home premises at Apple Hill, near Maidenhead, and in an associated appeal against the enforcement of a condition restricting the age of occupants of the care home to "the elderly".

Commercial, industrial, retail and regeneration

• Promoting an electric vehicle charging station combined with eco-lodge accommodation adjacent to the A3 at Buriton, in the South Downs National Park (2 week inquiry in 2023).

• Advising the promoters of Thames Enterprise Park (a joint venture between Greenergy and iSec, part of the Marcol Group), which would be the UK's first truly multi-modal superhub, creating c. 4,500 jobs (2019-2021, ongoing).

• Acting for Pinewood Studios in relation to its proposals for Screen Hub UK, a global growth hub for the screen industries including 350,000sqft of new production facilities, an educational training and skills hub, a creative industries growth hub and a green campus in the Buckinghamshire Green Belt (2021).

• Acting for Peking HSBC Business School promoting the extension and upgrading of its UK Campus in the Oxfordshire Green Belt (2021-2022).

• Acting for Whitstable Oyster Company in an enforcement appeal relating to alleged breaches of planning control associated with trestles on Whitstable Beach which it uses for commercial oyster farming (2018-2021; 3 week inquiry in July-August 2021 resulting in the company's appeal being comprehensively allowed).

• Securing planning permission on appeal an extension to Liverton Business Park, in Teignbridge District (hearing in May 2021).

• Acting for the successful appellant in the first English planning appeal concerning a proposed all-electric vehicle charging station, at Lower Slaughter in Cotswold District (November 2020).

• Promoting a concrete batching plant and associated development at Waterside Way industrial estate, Wimbledon (for Express Concrete); advising London Concrete & Aggregate Industries on planning issues relating to another London concrete batching plant (both 2019).

• Securing a favourable planning policy framework for Jaguar Land Rover's long-term business plans in the UK.

• Successfully promoting Porsche Cars (Great Britain) Ltd's proposals for the remodelling and extension of the flagship Porsche Sales Centre on the A4 in Chiswick.

• Several High Court planning challenges to planning permissions and compulsory purchase orders for retail and commercial development including R (Sainsbury's Supermarkets Ltd.) v. Wolverhampton City Council [2011] 1 A.C. 437 (for Sainsbury's in its successful Supreme Court challenge to the grant of a CPO to facilitate a large Tesco store in Wolverhampton on the basis that the Council took into account immaterial considerations), R (Midlands Co-Operative) v. Birmingham City Council [2012] B.L.G.R. 393 (successfully defending Birmingham City Council's decision to make a CPO to facilitate proposals by Tesco for the retail-led regeneration of Stirchley), Newry Chamber of Commerce's Application for Judicial Review [2015] NIQB 65 (appearing for the developers of a 80,000sqft convenience goods scheme in Newry, Northern Ireland, successfully resisting a JR challenge by rival retailers), Re Ellen Doyle's Application for Leave to Apply for Judicial Review [2014] NIQB 82 (for the Northern Ireland Planning Appeals Commission successfully defending the grant of permission to the University of Ulster for a key element of a £300m mixed use regeneration scheme described in the decision as "the most important regeneration in North Belfast over the next 5-10 years"), Horada v. Secretary of State for Communities and Local Government [2016] EWCA Civ 169 (appearing for the SSCLG in a challenge to the CPO made by the London Borough of Hammersmith and Fulham to facilitate the multi-million pound makeover of Shepherds Bush Market).

Sports, tourism and leisure

• Acted for the Northern Ireland Department for Communities, successfully defending a judicial review challenge to the grant of a new GAA stadium at Casement Park, Belfast, which was brought on constitutional, EIA, habitats and planning law grounds: Mooreland and Owenvarragh Residents Association's Application for Judicial Review [2022] NIQB 40.

• Advising on plans for a new Center Parcs (2022-23, ongoing).

• Promoting an electric vehicle charging station combined with eco-lodge accommodation adjacent to the A3 at Buriton, in the South Downs National Park (2 week inquiry in 2023).

Private client work

• Several cases for HNW & UHNW individuals and well known personalities in relation to planning matters they encounter, typically in relation to their own domestic development proposals or objecting to proposals in the vicinity of their homes. The majority of these cases concern basement developments in prime London, heritage issues, permitted development, demolish & rebuild schemes or paragraph 79 exceptional quality homes in the countryside. Most of these have ended up being resolved without the need for an appeal or litigation. Due to the sensitive subject matter it is not possible to give specific details of examples.

"An exceptionally talented lawyer with very good cross-examination and presentation skills, he really knows how to get projects through the planning process."

Enforcement

• Acting for Whitstable Oyster Company in an enforcement appeal relating to alleged breaches of planning control associated with trestles on Whitstable Beach which it uses for commercial oyster farming (2018-2021; 3 week inquiry in July-August 2021).

• Lignacite Ltd v. Secretary of State for Communities & Local Government Ltd (2021-22, settled) – concerning principles applicable to establishing whether a breach of condition is immune from enforcement action due to expiration of time.

• Ioannou v. SSCLG [2015] 1 P.& C.R. 10, the leading authority on the scope of the powers on an appeal against an enforcement notice to grant permission for a different or modified development to that enforced against, and on the scope of the deemed planning permission in cases of under-enforcement under s.173(11) of the Town and Country Planning Act 1990.

• Bowring v. SSCLG [2013] J.P.L. 1417, concerning the scope of requirements that can lawfully be contained in an enforcement notice against an unauthorised change of use.

Heritage assets

• Obtained planning permission on appeal for Persimmon / Charles Church for a 188 dwelling scheme in Berkeley in close proximity to the Grade I listed Berkeley Castle and several other listed buildings, and partially within the Berkeley Conservation Area – despite forceful objections from Heritage England and the owner of Berkeley Castle. Two week public inquiry in 2016; successfully defended a High Court challenge in 2017.

• Dozens of other planning appeals in a range of urban and rural contexts in which one of the main issues was alleged impact on one or more heritage assets.

• Mordue v. Secretary of State for Communities and Local Government [2015] EWHC 539 (Admin), concerning the burden of proof in planning claims alleging that the decision-maker has failed to comply with the duty under s.66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the preservation and enhancement of listed buildings and their settings.

Green Belt development

• Currently (2023-ongoing) instructed in relation to planning appeals for significant green belt residential development at Sarratt, Three Rivers District (87 dwellings) and Chiswell Green, St Albans District (391 dwellings).

• Helped secure favourable local decisions in relation to significant green belt proposals for Pinewood Studios in Buckinghamshire and Peking HSBC Business School in Vale of White Horse District (2020-2022).

• Acted in a series of influential High Court cases over many years concerning the interpretation of Green Belt policy: R (Heath & Hampstead Society) v. Camden LBC [2008] All E.R. 80 (interpretation of PPG2 para 3.6 on replacement dwellings), West Lancashire BC. v. SSCLG [2010] J.P.L. 810 (interpretation of PPG2 para. 3.12 regarding material changes of use in the Green Belt), Knight v. SSCLG [2009] EWHC 3808 (Admin) (application of PPG2 in relation to previously developed land in the Green Belt), Hayden-Cook v SSCLG [2011] J.P.L. 90 (relevance of alternative, more acceptable forms of development in considering the 'very special circumstances' test), Europa Oil & Gas Ltd. v. SSCLG [2014] 1 P. & C.R. 3 (whether exploration for oil and gas constitutes "mineral extraction" under NPPF para. 90 and is thus capable of being appropriate development in the Green Belt), R (Privett) v. Gravesham BC [2016] EWHC 1276 (Admin) (regarding NPPF para. 89 on redevelopment of previously developed sites in the Green Belt) and Aireborough Development Forum v. Leeds City Council [2020] EWHC 1461 (concerning the 'exceptional circumstances' test for Green Belt release in Local Plans, and the standard of reasons required by Local Plan Inspectors in this context).

Planning procedure and practice

• Hillside Parks Ltd. v. Snowdonia National Park Authority [2022] 1. W.L.R. 5077 – leading for Hillside in this seminal case about the Pilkington principle concerning successive planning permissions on the same site.

• R (Stonewater) (2) Ltd v. Wealden District Council [2022] P.T.S.R. 455 concerning the interpretation of Regulation 49 of the CIL Regulations 2010 concerning mandatory social housing relief from Community Infrastructure Levy, as well as the relevance of s.106 planning obligations to claims for social housing relief, and the approach to interpreting such obligations.

• R (Plan B Earth) v. Secretary of State for Transport [2020] P.T.S.R. 1446 concerning the relevance of the Paris Agreement on climate change to National Policy Statements under the Planning Act 2008.

• R (Gleeson Homes Ltd) v. SSCLG [2014] P.T.S.R. 1226 concerning the time when a recovery direction takes effect and whether the Secretary of State has implied powers under the Town and Country Planning Act 1990 to correct obvious errors in appeal decisions (with Jonathan Swift QC).

• Garlick v. Secretary of State for Communities and Local Government [2013] EWHC 1126 (Admin) on the requirements of procedural fairness in the context of planning appeals under the written representations procedure.

• Various proceedings relating to the enforcement, modification and discharge of planning obligations, including the leading case of R (Renaissance Habitat Ltd) v. West Berkshire DC [2011] J.P.L. 1209 on the interpretation of the requirement under s.106A of the Town and Country Planning Act 1990 that in order for a planning obligation to be discharged the applicant must show that it "no longer serves a useful purpose".

"He is massively personable and a pleasure to work with. He has a very good eye for spotting key details in a case, he is strong on analysis of complex facts to produce a coherent narrative and he is very clear in how to structure the case to bring out its strongest points."

Public Procurement

Charles has substantial experience of both advisory and contentious public procurement work in both England & Wales and Northern Ireland. He is recommended as a leading KC in public procurement by Legal 500 UK Bar 2024 (having been recommended in a succession of previous editions as a leading junior), which comments that he "clearly absorbs masses of information and identifies concisely the main points" and has "excellent commercial awareness.' He is also ranked as a Global Leader and National Leader in Government Contracts by Who's Who Legal 2024, which comments that he "excels in the government contracts arena for his expert handling of development agreements and regeneration projects" and "is singled out by peers as "an excellent all-rounder"." He is an active member of the Procurement Lawyers' Association.

Much of his public procurement work has been in the context of regeneration projects and development agreements. This has included the two leading cases on the circumstances in which such agreements trigger the need for procurement: most recently, he acted for the successful appellant in the ground-breaking case of ***R (Faraday Development Limited) v. West Berkshire Council*** [2019] P.T.S.R. 1346 in which, in addition to holding that a development agreement structured around an option to purchase the land in question was a public works contract requiring procurement, the Court of Appeal made the first ever declaration of ineffectiveness by an English court as well as imposing a civil financial penalty; prior to that, he acted for the successful defendant authority in ***R (Midlands Co-Operative) v. Birmingham City Council*** [2012] Eu L.R. 640 (defending a challenge to a development agreement for a retail-led regeneration scheme in Stirchley). He has advised on similar issues in the contexts of (amongst other things) the expansion of a world famous football stadium, the relocation of a municipal sports facility, retail-led regeneration proposals, and the construction of extensions to a well known London Underground station (project costs in excess of £100m). He has also lectured and published extensively on this subject, including an influential article cited in Prof. Sue Arrowsmith's leading book Law of Public and Utilities Procurement.

His practice also includes procurement issues more broadly. His experience includes:

• ***River Ridge Recycling (Portadown) Ltd v. Arc 21*** [2023] NIKB 86 – acting for the defendant in litigation in the Northern Ireland High Court concerning a challenge to the award of a contract to Regen Waste Ltd for the provision of services for the haulage, treatment, recovery and disposal of Belfast's municipal waste. Successfully resisted an application for an interim injunction (the contract having been entered into without a standstill period pursuant to the Dynamic Purchasing System Procedure) in June 2023; trial in October 2023.

- Advising the Cabinet Office on public procurement issues relating to the outsourced administration of civil service pensions (2019-2020).
- Litigation in the High Court of Northern Ireland in which the applicant contended that the award of a waste disposal contract was in breach of public procurement law (2019, settled).
- ***R (Wylde) v. Waverley Borough Council*** [2017] P.T.S.R. 1245 – on the extent to which persons other than 'economic operators' as defined in the Public Contracts Regulations have standing to bring a judicial claim alleging that a contracting authority has breached the Regulations.
- Advising a local authority in relation to the procurement of management services for its entire leisure and culture portfolio.
- Advising the Skills Funding Agency on procurement issues relating to services contracts awarded by it to skills training organisations.
- A dispute relating to the applicability of the Public Contracts Regulations to the Government's Start-Up Loans scheme set up to boost youth enterprise.
- Advising a housing association on procurement of housing stock from developers with planning permission for affordable housing.

"An exceptional barrister – fantastically bright, hardworking and accessible. Can handle anything you or the other side can throw at him."

Regulatory & Public Law and Human Rights

Charles is recommended as a leading KC in administrative & public law in the latest editions of both Legal 500 UK Bar and Chambers & Partners UK Bar (having been ranked as a leading junior in both directories for many years previously). He is also recommended as a leading QC in local government law in Chambers & Partners UK Bar (2021). He has considerable experience across the whole spectrum of public law, including all aspects of central and local government, constitutional issues, freedom of information, immigration, community care, healthcare, mental health, prisons, public procurement, regulation, social security and transport.

He has worked on numerous cases before the Administrative Court in England & Wales and before the Judicial Review Court in Northern Ireland. His well-known appellate practice includes some of the leading public law appeals of the 2000s before the Supreme Court (where he has appeared 18 times) concerning issues such as the territorial application of UK Acts of Parliament (***Al-Skeini***), the circumstances in which the High Court's judicial review jurisdiction can be restricted by legislation or judicial policy (***Cart***) and the Court's jurisdiction to review the Parliamentary procedure for Hybrid Bills for compatibility with EU law (***HS2***).

Prior to taking silk, he was a member of the Attorney General's A Panel of Junior Counsel to the Crown. He was also member of the Treasury Solicitor's Freedom of Information Panel until its incorporation within the Attorney General's main panels. For many years he was a contributor to the *Administrative Court Digest* and on the editorial team of the 'International Developments' section of the journal *Public Law*. He has published and spoken widely on court systems and the judiciary, and has given expert evidence on the issue to the House of Lords Constitution Committee.

His recent leading public law cases include:

- Advising the UK Government on constitutional issues relating to a Bill before Parliament (2022-ongoing).
- Advising the Trindad and Tobago Government on constitutional issues (2022).
- R (Fratila & Tanase) v. Secretary of State for the Home Department [2022] P.T.S.R. 448 (Supreme Court), concerning the legality of the UK Regulations that, post-Brexit, disentitle EU citizens with Pre-Settled Status from access to means tested benefits.
- Two cases in Northern Ireland concerning the power-sharing arrangements under the Northern Ireland Act 1998 as amended, and specifically whether and if so in what

circumstances the Minister for Infrastructure is required to refer major planning decisions to the Executive Committee: Minister for Infrastructure v. Safe Electricity A&T Ltd [2022] NICA 61 and Mooreland and Owenvarragh Residents Association's Application for Judicial Review [2022] NIQB 40.

- R (Plan B Earth and others) v. Secretary of State for Transport [2020] P.T.S.R. 1446, multiple judicial review challenges to the Airports National Policy Statement which endorsed the principle of expansion of London Heathrow Airport including a 3rd runway and 6th terminal.
- Appearing for the UK Government before the UNECE Aarhus Convention Compliance Committee in RSPB, Friends of the Earth and Leigh Day v. United Kingdom (ACCC/C/2017/156, heard on 5th November 2019) in which it is alleged that the Wednesbury standard of review of administrative decisions is insufficiently effective to secure compliance with the provisions of Article 9 of the Aarhus Convention regarding access to justice in relation to environmental decision making.
- A series of high profile cases concerning the lawfulness of restrictions on access to social security benefits by economically inactive EU migrants: Patmalniece v. Secretary of State for Work and Pensions [2011] 1 W.L.R 783, St Prix v. Secretary of State for Work and Pensions [2013] 1 All E.R. 752, Mirga v. Secretary of State for Work and Pensions [2016] 1 W.L.R. 481, R (HC) v. Secretary of State for Work and Pensions [2017] 3 W.L.R. 1486.
- Two of the principal domestic cases on the duty under s.123 of the Local Government Act 1972 to obtain best consideration for the disposal of land interests and associated state aid issues: ***R (Faraday Development Ltd) v. West Berkshire Council*** [2016] EWHC 2166 (Admin) & [2018] EWCA Civ 2532 and ***R (Midlands Co-Operative) v. Birmingham City Council*** [2012] B.L.G.R. 393.
- A high profile challenge to Ofcom's decision not to uphold a complaint that Channel 4 had breached broadcasting standards in relation to the TV programmes My Big Fat Gypsy Wedding and Thelma's Gypsy Girls, a case raising important issues about the legality of Ofcom's procedures for determining complaints: ***R (Traveller Movement) v. Office of Communications*** [2015] EWHC 406 (Admin).
- Two of the most significant recent cases on standing to bring a judicial review claim in England & Wales (***R (Wylde v. Waverley Borough Council*** [2017] P.T.S.R. 125) and Northern Ireland (Doyle's application for judicial review [2014] NIQB 82).

"He has a very clear way of communicating and an excellent professional approach. He is sharp and clearly has an excellent grasp of the legal matters at hand."

Charles is also recommended as a leading KC in Civil Liberties & Human in Legal 500 UK. Much of his public law work involves issues under the Human Rights Act 1998 and/or the ECHR. He has experience of applications for declarations of incompatibility under s.4 of the Human Rights Act, judicial review of public authority acts on human rights grounds, damages claims under s.8 of the Human Rights Act and proceedings before the European Court of Human Rights. From 2017-2020 he was the UK Member of the EU Fundamental Rights Agency's Management Board (a Ministerial appointment by the Lord Chancellor and Secretary of State for Justice). Significant human rights cases include:

- Case C-542/13 ***M'Bodj v. État Belge*** [2015] C.M.L.R. 16 and Case C-562/13 Centre public d'action sociale d'Ottignies-Louvain-La-Neuve v. Abdida [2015] 2 C.M.L.R. 15, two references from the Belgian Cour Constitutionelle concerning the scope of humanitarian protection under the EU Charter of Fundamental Rights for non-EU citizens suffering from serious illness whose removal to their country of origin would amount to inhuman or degrading treatment.

- ***AM (Zimbabwe) v. Secretary of State for the Home Department*** [2020] UKSC 17, concerning the circumstances in which the expulsion of a seriously ill foreign national who did not have leave to remain in the UK would amount to inhuman/degrading treatment contrary to Article 3 ECHR, having regard to the recent judgment of the Grand Chamber of the European Court of Human Rights on this issue in Paposhvili v. Belgium.
- **Fair trial rights**: acting for the Secretary of State for Justice in ***R (Bates) v. Independent Adjudicator*** [2011] EWHC 3236 (Admin), a challenge to a prison disciplinary adjudication alleging that the procedure was contrary to Article 6 ECHR.
- Acting for the United Kingdom in App. No. 39714/15 ***Austin v. United Kingdom*** (2017) 65 E.H.R.R. SE16 concerning the circumstances in which Article 8 ECHR applies in cases of environmental pollution;
- Case T-715/14 ***NK Rosneft a.o. v. European Council*** ELCI:EU:T:2018:544 & Joined Cases T-735/14 & T-799/15 **Gazprom Neft v. European Council** ELCI:EU:T:2018:548 – proceedings before the EU General Court in which the Russian energy companies Rosneft and Gazprom sought the annulment of EU sanctions targeted at the Russian oil sector in the light of Russia's actions destabilising the situation in Ukraine, including on fundamental rights grounds relating to alleged infringement of Article 17 of the Charter of Fundamental Rights (right to property).

"His ability to get on top of complex cases is very, very impressive and he has an attractive style of advocacy."

Northern Ireland

Charles was called to the Bar of Northern Ireland in 2010 and regularly provides advice and representation on matters within or relating to Northern Ireland, particularly in relation to planning and public procurement.

His most significant work in Northern Ireland includes the following:

High Court Cases and Court of Appeal cases

- River Ridge Recycling (Portadown) Ltd v. Arc 21 [2023] NIKB 86 – acting for the defendant in litigation concerning a challenge to the award of a contract to Regen Waste Ltd for the provision of services for the haulage, treatment, recovery and disposal of Belfast's municipal waste. Successfully resisted an application for an interim injunction (the contract having been entered into without a standstill period pursuant to the Dynamic Purchasing System Procedure) in June 2023; trial in October 2023.
- Successful judicial review application concerning the Arc 21 Energy From Waste Project in Co. Antrim – a £240m strategic Energy From Waste facility. The case raised significant constitutional, public law, environmental law and planning law issues. The defendant consented to judgment shortly before trial. (2022-2023).
- ***Mooreland and Owenvarragh Residents Association's Application for Judicial Review*** [2022] NIQB 40 – acted for the Department for Communities, successfully defending a judicial review challenge to the grant of a new GAA stadium at Casement Park, Belfast, which was brought on constitutional, EIA, habitats and planning law grounds.
- ***Minister for Infrastructure v. Safe Electricity A&T Ltd*** [2022] NICA 61 – judicial review challenge to the Northern Ireland Minister for Infrastructure's grant of planning permission for the North-South Interconnector - Northern Ireland Electricity's proposed 400kv strategic interconnector between Tyrone in Northern Ireland and Cavan in the Republic of Ireland, regarded as Northern Ireland's most significant energy infrastructure project to date. A test case concerning the power-sharing arrangements under the Northern Ireland Act 1998 as amended, and specifically whether and if so in what circumstances the Minister for Infrastructure is required to refer major planning decisions to the Executive Committee. Previously acted for the Department for Infrastructure concerning the project for several years since 2013, including at a high profile public inquiry and in various High Court proceedings.

- ***Buttercrane Centre Limited's Application for Judicial Review*** [2017] NIQB: challenge to planning permission for the extension of The Quays retail centre in Newry, concerning the compatibility with Article 6 ECHR of the 'promptness' requirement for JR.
- ***Kelvin Properties Limited's Application for Judicial Review*** [2016] NIQB: challenge to the Planning Appeal Commission's refusal of planning permission for a retail development in Coleraine (settled following leave hearing).
- ***Darren Crowe's Application for Judicial Review*** [2016] NIQB: challenge to the Planning Appeal Commission's refusal of planning permission for an onshore wind turbine development on the grounds of potential impact on species protected under the EU Habitats Directive (settled following leave hearing).
- ***Newry Chamber of Commerce's Application for Judicial Review*** [2015] NIQB 65: challenge to planning permission for a large scale retail-led redevelopment, raising issues under the Habitats Directive, EIA Directive and the Northern Ireland Act 1998.
- ***Doyle's Application for Judicial Review*** [2014] NIQB 82: challenge to the Planning Appeal Commission's grant of permission for a key element of the University of Ulster's £300m regeneration scheme in North Belfast, concerning standing for JR in the planning context.
- ***Department of Environment's Application for Judicial Review*** [2014] NIQB 4: challenge to Planning Appeal Commission's grant of permission for a large-scale airport car-park in the countryside, concerning the relationship between the different applicable Planning Policy Statements.

Planning Inquiries and Planning Appeal Hearings

- Appearing for the Department for Infrastructure at the two-stage public inquiry into the Northern Ireland element of the proposed North-South Ireland Electricity Interconnector, Northern Ireland's largest infrastructure project in recent years.
- Acting for Derry and Strabane District Council at an inquiry into a proposed 1,400 dwelling urban extension on the edge of Derry City.
- Several planning appeal hearings concerning appeals against enforcement notices served on operators of unauthorised airport car parks in the open countryside near Belfast International airport.

Advisory Work

- Advising on public procurement and environmental law issues in the context of municipal waste disposal in Northern Ireland (2021).
- Advising the Arc 21 consortium on constitutional and planning law issues relating to the redetermination of its application for a strategic Energy From Waste facility the permission for which was quashed by the Northern Ireland Court of Appeal in ***Buick's Application for Judicial Review*** [2018] NICA 26 on the basis that it had been outside the powers of the Permanent Secretary of the Department for Infrastructure to issue the permission in the absence of Ministerial Government.
- Advising the UK Government on the EU law and international trade law implications of Brexit for the all-Ireland Single Electricity Market.
- Advising the Department of Culture, Arts and Leisure on proposed restrictions to salmon fishing in the River Foyle on EU habitats grounds.
- Advising local planning authorities on planning applications for onshore wind turbine developments.

Supreme Court Cases

Hillside Parks Ltd. v. Snowdonia National Park Authority [2022] 1 W.L.R. 5077

Seminal planning case concerning the 'Pilkington principle' regarding the relationship between multiple planning permissions for development on the same site, and in particular whether the long standing industry practice of obtaining and implementing 'drop in' consents to alter elements of a wider development has the effect of precluding further reliance on the original planning permission for that wider development.

Fratila v. Secretary of State for Work & Pensions [2022] P.T.S.R. 448

Concerning the legality of the UK Regulations that, post-Brexit, disentitle EU citizens with Pre-Settled Status from access to means tested benefits.

AM Zimbabwe v. Secretary of State for the Home Department [2020] 2 W.L.R. 1152f

Concerning the circumstances in which the expulsion of a seriously ill foreign national who did not have leave to remain in the UK would amount to inhuman/degrading treatment contrary to Article 3 ECHR, having regard to the recent judgment of the Grand Chamber of the European Court of Human Rights on this issue in Paposhvili v. Belgium.

Patel & Shah v. Secretary of State for the Home Department [2020] 1 W.L.R. 228

Concerning the approach to determining whether a non-EU citizen carer of a dependant EU citizen (usually, but not always, a non-EU parent of an EU citizen child) has a 'Zambrano' right of residence under EU law in their host EU member state – in particular following the CJEU's recent decision in Case C-133/15 Chavez – Vilchez.

Transport for London v. London Borough of Southwark [2018] 3 W.L.R. 2059

Concerning the extent of interests in London's roads that were transferred from London local authorities to TfL upon the latter's creation by statute in 2000, an issue which turns on important issues of highway law.

R (HC) v. Secretary of State for Work and Pensions [2017] 3 W.L.R. 1486

Concerning whether and in what circumstances a non-EU citizen with a Zambrano right to reside in the UK as the primary carer of a dependant EU national is entitled under EU law to social benefits to which UK citizens and EU citizens with a right to reside in the UK are entitled.

Mirga v. Secretary of State for Work and Pensions [2016] 1 W.L.R. 481

Concerning the rights of EU nationals to claim benefits in the UK and whether a fact-specific proportionality assessment is required prior to refusing benefits to an EU national who does not otherwise qualify.

R (Cornwall Council) v. Secretary of State for Health [2016] A.C. 137

Concerning the assessment of a vulnerable person's ordinary residence for the purpose of identifying which authority is responsible for funding their long term residential care and support under ss.21 & 24 of the National Assistance Act 1948.

R (Heathrow Hub Ltd.) v. Secretary of State for Transport [2014] 1 W.L.R. 324

Challenge to the Government's strategy for the High Speed 2 railway line, contained in the January 2012 Command Paper "High Speed Two: Decisions and Next Steps", on the ground that the rejection of a through route via. Heathrow Airport in favour of connecting to Heathrow via a 'spur' link should have been and was not subject to strategic environmental assessment pursuant to the SEA Directive.

R (HS2 Action Alliance Ltd.) v. Secretary of State for Transport [2014] 1 W.L.R. 324

Challenge to the Government's January 2012 Command Paper "High Speed Two: Decisions and Next Steps" on the ground that it should have been and was not subject to SEA pursuant to the Strategic Environmental Assessment Directive or, alternatively, that if the terms of the SEA Directive exempted a document of this nature from the requirement for SEA those elements of the Directive are contrary to Art 7 of the Aarhus Convention and should be invalidated.

R (New London College Ltd.) v. Secretary of State for the Home Department [2013] 1 W.L.R. 2358

Challenge to the legality of the sponsor licensing regime set up by the Government to regulate educational institutions that admit students from non-EEA countries.

St Prix v Secretary of State for Work and Pensions [2013] 1 C.M.L.R. 38

Whether a woman from an EU Member State who, having worked in the UK, gives up work due to the demands of pregnancy remains a "worker" for the purposes of Article 7 of the Citizenship Directive and therefore retains a "right to reside", bringing with it rights to certain benefits.

R (Munir) v. Secretary of State for the Home Department [2012] 1 W.L.R. 2192

Whether the Secretary of State has power under the Royal Prerogative to regulate immigration control in ways not provided for by the Immigration Act 1971 or the Immigration Rules produced pursuant to it; and whether the Secretary of State may grant leave under the 1971 Act to a person whose application does not meet the requirements of the Immigration Rules.

R (Alvi) v. Secretary of State for the Home Department [2012] 1 W.L.R. 2208

Whether s.3(2) of the Immigration Act 1971, which requires that all changes to the Home Secretary's practice in the administration of immigration control should be laid in Immigration Rules before Parliament, precludes her from imposing new requirements for leave to enter and/or remain in policy statements that have not been laid before Parliament.

R (Cart) v. Upper Tribunal [2012] 1 A.C. 663

Seminal constitutional case concerning whether the Upper Tribunal is amenable to judicial review in cases where no statutory appeal is available, as was the case with the previous tribunals that the Upper Tribunal replaced.

R (Patmalniece) v. Secretary of State for Work and Pensions [2011] 1 W.L.R 783

Whether the imposition of a "right to reside" test for social security benefits within the scope of Council Regulation (EC) 1408/71 is compatible with EU anti-discrimination law.

R (Edwards) v. Environment Agency [2011] 1 W.L.R 79

Interpretation of the requirement of Article 9 of the Aarhus Convention, as implemented into EU environmental law by the Public Participation Directive 2003/355/EC, that environmental litigation should not be "prohibitively expensive" (referred to the Court of Justice of the European Union).

R (Sainsbury's Supermarkets Ltd) v. Wolverhampton City Council [2011] 1 A.C. 437

Concerning the scope of material considerations that may be taken into account by a local authority exercising compulsory purchase powers.

Cases before the Appellate Committee of the House of Lords:

R (Baiai) v. Secretary of State for the Home Department [2009] 1 A.C. 287

Test case regarding the compatibility with Article 12 ECHR (right to marry and found a family) to the legislative and policy scheme set up to restrict non-EU/EEA immigrants' ability to marry in the UK.

R (Al-Skeini) v. Secretary of State for Defence [2008] 1 A. C. 153

Concerning the extra-territorial effect of the ECHR and Human Rights Act 1998 in which the House of Lords ruled that the relatives of an Iraqi citizen who died whilst in British army custody in Basra in 2003 were entitled to bring proceedings in the English courts under the HRA.

Tribunal Appointments

Charles has a growing practice as a dispute resolver. He is a Fellow of the Chartered Institute of Arbitrators and a Fellow of the Hong Kong Institute of Arbitrators, with an Advanced Certificate in International Arbitration. He is on the Saudi Center for Commercial Arbitration roster of arbitrators. He is an ADR Group Accredited Mediator.

He also sits judicially on a part-time basis as a Justice of the Astana International Finance Centre Court in Nur-Sultan, Kazakhstan (appointed by decree of the President of the Republic of Kazakhstan in July 2019). He previously spent 12 months on secondment in 2005-06 as a Judicial Assistant to the Law Lords, assisting Lord Nicholls and Lord Rodger in relation to appeals to the Appellate Committee of the House of Lords (the predecessor to the UK Supreme Court) and to the Judicial Committee of the Privy Council. He also spent 6 weeks as a Judicial Assistant to Stock JA in the Hong Kong Court of Appeal and Litton NPJ in the HK Court of Final Appeal, as a Pegasus Scholar in 2008.

Appointments include:

• Judge in the first AIFC Court case to involve a hearing, Aliyev v. Proportunity Management Company Ltd (AIFC Court Case No. 2 of 2020), upheld on appeal (for the appeal decision click here). The judgment was subsequently cited with approval in a judgment by Sir Stephen Richards in further proceedings in the same dispute.

• Judge in Snab Invest Group LLP v. Peasant Farm Berkenov Ildar Zhambulovic (AIFC Court Case No. 6 of 2021). This was first case to be transferred from the AIFC Court from the domestic courts in Kazakhstan. It concerned damages for breach of a contract for the sale and purchase of plant protection chemicals.

• Other AIFC Court judgments include cases concerning construction contracts (Bastau Build Group LLP v Shegebaev and the supply of chemical goods (Kostanai Minerals JSC (Kazakhstan) v. Factory Dnepropetrovskaya Volna OJSC (Ukraine) and the principle of ostensible/apparent authority to enter into contractual obligations (Kozhabay Abdilda Alibekuly v. Qosil Limited).

• Member of a panel of 3 arbitrators in a DIFC-LCIA arbitration in Dubai concerning a contractual dispute in the financial services sector (2021-2023, ongoing).

• Appointed expert to determine a high value dispute concerning a development agreement (2021-23, ongoing).

• Expert in dispute relating to the provision of funding pursuant to a development aid agreement between the EU and a third country.

Selected Reported Cases

- A Recharge One' In The South Downs National Park Allowed On Appeal Appeal Ref: APP/Y9507/W/22/3308885
- Planning appeal decision against the decision of Waverley Borough Council Appeal Ref: APP/R3650/W/22/3300262
- R (Stonewater (2) Ltd) v. Wealden District Council [2021] EWHC 2750 (Admin)
- AM (Zimbabwe) v Secretary of State for the Home Department [2020] UKSC 17
- R (Fratila & Tanase) v Secretary of State for Work and Pensions [2020] EWHC 998 (Admin)
- R (Heathrow Hub Ltd) v. Secretary of State for Transport [2020] EWCA Civ 213
- R (Plan B Earth, Friends of the Earth, London Borough of Hillingdon & others) v. Secretary of State for Transport [2020] EWCA Civ 214
- R (Ross & Sanders acting on behalf of Stop Stansted Expansion) v. Secretary of State for Transport [2020] EWHC 226 (Admin)
- Arora Management Services Ltd. Heathrow Airport Ltd [2020] EWHC 79 (Ch)
- Patel & Shah v. Secretary of State for the Home Department [2020] 1 W.L.R. 228 (SC)
- RSPB, Friends of the Earth and Leigh Day v. United Kingdom (ACCC/C/2017/156)
- Arora Management Services Ltd v Heathrow Airport Ltd & Hillingdon LBC [2019] 5 C.M.L.R. 24 (ChD)
- Monkhill Ltd. v. Secretary of State for Housing, Communities and Local Government [2020] P.T.S.R. 240
- Leeds City Council v. Secretary of State for Communities and Local Government [2019] EWHC 682 (Admin)
- Southwark LBC v. Transport for London [2018] 3 W.L.R. 2059 (SC)
- Anixter Ltd. v. Secretary of State for Transport [2019] 1 P.&C.R. 16
- Faraday Development Ltd. v. West Berkshire Council [2019] P.T.S.R. 1346
- C-461/17 Holohan v. An Bord Pleanála [2019] P.T.S.R. 1045
- Thornhill Estates v. Secretary of State for Communities and Local Government [2018] EWHC 3663 (Admin)
- Case T-715/14 NK Rosneft a.o. v. Council ELCI:EU:T:2018:544 and Joined Cases T-735/14 & T-799/14 Gazprom Neft v. Council ELCI:EU:T:2018:548
- C-528/16 Confédération Paysanne v Premier Ministre ELCI:EU:C:2018:583
- Case C-214/16 King v Sash Window Company [2018] 2 C.M.L.R. 10
- R (HC) v Secretary of State for Work and Pensions [2017] 3 W.LR. 1486
- App. 39714/15 Austin v United Kingdom (2017) 65 E.H.R.R. SE16
- Southwark LBC v Transport for London [2018] P.T.S.R. 333
- London Borough of Southwark & City of London v. Transport for London [2017] EWCA Civ 1220
- Case C-490/16 AS v. Slovenia [2018] 1 W.L.R. 852 & Case C-466/16 Jafari [2018] 1 WLR 774
- Minerva (Wandsworth) Ltd v Greenland Ram (London) Ltd [2017] EWHC 1457 (Ch)
- Stroud District Council v SSCLG [2017] EWHC Admin
- Manchester Ship Canal Company Ltd v Environment Agency [2017] EWHC 1340 (QB)
- Dartford Borough Council v. Secretary of State for Communities and Local Government [2017] P.T.S.R. 737
- R (Wylde) v. Waverley BC [2017] EWHC 466 (Admin)
- R (RLT Built Environment Ltd) v Cornwall Council [2017] J.P.L. 378
- R (Faraday Development Ltd) v West Berkshire Council & Anor [2016] EWHC 2166 (Admin)
- R (Faraday Development Limited) v. West Berkshire Council [2016] Con. L.R. 131.

- R (Ezz) v HM Treasury [2016] EWHC 1470 (Admin)
- Grafton Group (UK) Plc v. Secretary of State for Transport [2017] 1 W.L.R. 373
- Horada v Secretary of State for Communities and Local Government [2016] P.T.S.R. 1271
- R (Privett) v Gravesham BC [2016] EWHC 1276 (Admin)
- ACCC/C/2014/100&101 HS2 Action Alliance v (1) United Kingdom (2) European Union
- Mirga v Secretary of State for Work and Pensions, Samin v Westminster City Council [2016] 1 W.L.R. 481
- Dartford BC v Secretary of State for Communities and Local Government [2016] EWHC 635 (Admin)
- Gallagher Properties Ltd v Secretary of State for Communities and Local Government [2016] EWHC 674 (Admin)
- R (Tarmac Aggregates Ltd) v Secretary of State for Environment, Food and Rural Affairs [2016] Env. L.R. 15
- R (Larkfleet Ltd) v. South Kesteven District Council [2016] Env L.R. 4
- De Souza v. Secretary of State for Communities and Local Government [2016] J.P.L. 85
- Ashdown Forest Economic Development LLP v Wealden District Council [2016] Env. L.R. 2
- R (Cornwall Council) v. Secretary of State for Health [2016] A.C. 137

Education & Professional Career

Fellow of the Hong Kong Institute of Arbitrators	2021
Keating Chambers	2020
Landmark Chambers	2004 - 2020
Justice of the Astana IFC Court (part-time)	2019
Appointed Queen's Counsel	2019
Full Registered Foreign Lawyer, Singapore International Commercial Court	2017
CIArb Advanced Certificate in International Arbitration	2016
Part II Registered Lawyer, Dubai IFC Court	2015
ADR Group Accredited Mediator	2015
Called to the Bar of Northern Ireland	2010
Pegasus Scholarship in Hong Kong (seconded to Mayer Brown JSM's planning, environment, real estate and construction team)	2008
Called to the Bar of England & Wales	2004
Postgraduate Diploma in EC Law, King's College London	2004
Postgraduate Diploma in Law, City University London	2003
BA(Hons) & MA(Oxon) Literae Humaniores, Oxford University	2002

Memberships

Administrative Law Bar Association

Bar European Group

Chancery Bar Association

COMBAR

Planning and Environment Bar Association

Procurement Lawyers' Association

UK Environmental Law Association (Trustee & Council Member, 2016-2020)

UK National Infrastructure Planning Association

UK State Aid Law Association

Languages

French (intermediate)

Russian (intermediate)

Additional Information

Charles enjoys running, travel, theatre, contemporary art, rock music and cars. He has run 11 London Marathons and has climbed two of the Seven Summits. He is a Fellow of the Royal Geographical Society. He skis badly but enthusiastically, much like his guitar playing.