

Southlands Solar – Legal Cases

CD Ref	Case Name	Issue	Explanation
CD 6.1	Catesby Estates ltd v. Steer, EWCA Civ 1697, 2018	Heritage	Whilst issues of visibility are important when assessing setting of heritage assets, visibility does not necessarily confer a contribution to significance and factors other than visibility should also be considered (§§25-26)
CD 6.2	Bedford Council v Secretary of State and Nuon Ltd [2013] EWHC 2847 (Admin)	Heritage	<p><i>“Substantial”</i> harm is harm that would <i>“have such a serious impact on the significance of the asset that its significance was either vitiated altogether or very much reduced”</i> (§25)</p> <p><i>“Special regard may lead to the giving of special weight, but it does not necessarily do so.”</i> (§36)</p>
CD 6.3	Palmer v Herefordshire Council Anr, EWCA Civ 1061 [2016]	Heritage	<i>“[the] duty to accord “considerable weight” to the desirability of avoiding harm [to a heritage asset] does not mean that any harm, however slight, must outweigh any benefit, however great, or that all harms must be treated as having equal weight. The desirability of avoiding a great harm must be greater than that of avoiding a small one.”</i> (§31)
CD 6.5	Jones v. Mordue and Secretary of State and South Northamptonshire Council, EWCA Civ 1243 (2015)	Heritage	The Inspector can discharge the duty to give reasons in relation to heritage by following the stepped approach to consideration of heritage assets set out in the NPPF (§§26 & 28)
CD 6.6	Barnwell v. East Northamptonshire DC, English Heritage, National Trust and	Heritage	Decision makers should give any harm to heritage assets <i>“considerable importance and weight”</i> (§29)

	Secretary of State, EWCA Civ 137 (2014)		
CD 6.7	The Queen (on the application of The Forge Field Society, Martin Barraud, and Robert Rees v. Sevenoaks DC, EWHC 1895 (Admin) (2014)	Heritage	Assessment of harm to a listed building is a matter of planning judgment, and the requirement to give harm “ <i>considerable importance and weight</i> ” does not mean the weight to harm that would be limited or less than substantial should be the same as harm that is substantial (§49)
CD 6.8	R. (on the application of William Corbett) v The Cornwall Council [2020] EWCA Civ 508	Planning	The development plan should be read as a whole, and conflict with one policy need not mean conflict with the plan as a whole (§41)
CD 6.35	Mead Realisations Limited v Secretary of State for Levelling Up, Housing and Communities [2024] EWHC 279 (Admin)	Flood Risk	Deals with the correct approach to assessing “reasonably available sites” for the purposes of the flood risk sequential test. Key aspects include: <ul style="list-style-type: none"> - §99 the type of development is relevant to assessing what is “reasonably available”, with some types of developments having specific requirements as to site, form, scale etc. - §106 ownership is relevant to whether a site can be “reasonably available” - §110 the PPG refers to a “series of smaller sites.” The word “series” connotes a relationship between sites appropriate for accommodating the type of development which the decision-maker judges should form the basis for the sequential assessment. A proposal should not automatically fail the sequential test because of the availability of multiple, disconnected sites.

CD 6.38	R. (on the application of Ian Galloway) v Durham County Council [2024] EWHC 367 (Admin)	Overplanting	The fact that the appeal scheme was “overplanted” such that it could in theory produce more energy than the 50MW statutory threshold was a material consideration that should have been taken into account in the decision.
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