

Southlands Solar – Legal Cases

| CD Ref | Case Name | Issue | Explanation |
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| 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) |

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| | 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. |

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| 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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