Environmental Risk & Liability

Examining Key Legal Changes, Cases & Outcomes to Achieve Maximum Protection of Brownfield & Development Projects

About this event

On-going changes to environmental regulation, as well as laws governing the use of data and contracts for infrastructure and development projects, mean there is an increasing need for environmental business professionals to have an awareness of their environmental responsibilities.

Finding yourself in breach of regulations, and the resulting liabilities, can bring huge reputational, project or financial risks, with the impact being both complex and costly.

By having a thorough understanding of developments in environmental legislation, relevant examples of case law, and how best to mitigate your risks and liabilities, you are better placed to ensure that you have the right technical, insurance and environmental safeguards in place to protect yourself, your business, and the work you are involved in.

This updated and relevant conference, produced jointly by Brownfield Briefing and Environment OnSite, brings together a number of expert lawyers and environmental regulators who will provide you with up-to-date information on recent legal updates and case law, as well as providing practical guidance on minimising and protecting against the potential risks to your business and brownfield, infrastructure and development projects.

Key topics include:

- Assessing the implications of recent changes to the Planning Regime and the risks associated with developing brownfield or contaminated sites
- An update on legal requirements and responsibilities affecting brownfield development in 3 key areas – Waste, Air Quality and Flooding
- A look at Environmental Enforcement & Prosecutions and how companies can best protect themselves from the risk of financial penalties
- Getting the wording right: Protecting yourself through effective contract management
- Clarifying the legalities regarding the collection, use and sharing of environmental and site assessment data

Why attend?

Expert panel
This conference brings together a balanced panel of expert lawyers and environmental regulators all ready to provide up-to-date legal cases and outcomes to help you ensure you fully understand the associated relevant risks and liabilities.

Current thinking
Written to focus specifically on the most pertinent regulations affecting your business, this event provides valuable insight into legal updates and changes and the responsibilities they bring.

Time efficiency & focus
Remove yourself from day-to-day distractions for a day and benefit from a series of focused presentations designed to tackle key issues and impart practical advice and guidance.

Q&A panel discussions
In addition to expert-led presentations, there will also be a number of Q&A sessions throughout the day giving you the opportunity to address your specific questions and challenges.

Networking
Meet and mingle with senior professionals in your sector - an invaluable networking and knowledge-sharing opportunity.

Who should attend?

Those with Environmental, Technical, Legal & Compliance Responsibility from:
- Environmental and Technical Consultants
- Contractors
- Environmental Lawyers
- Developers
- Local Authorities
- Insurers & Underwriters
- Regulators

14 September 2016 | London


orders@brownfieldbriefing.com
Wednesday 14 September 2016

9.00 Registration and refreshments

9.30 Opening remarks from the Chairman:

Andrew Wiseman OBE, Partner, Harrison Grant

9.40 Assessing the legal implications of Brexit

• Exploring how the UK leaving the EU might affect our national environmental legal regime: Planning; Environmental Liabilities Directive, Water Framework Directive; Air Quality Directive and Climate Change; Habitats Directive; Environmental Impact Assessment

• To what extent might confusion over directly and indirectly applicable law affect the litigation process and undermine enforcement?

Andrew Wiseman OBE, Partner, Harrison Grant

10.05 Assessing the implications of recent changes to the Planning Regime and the risks associated with developing brownfield or contaminated sites

• Exploring key changes outlined in the Technical Consultation on Implementation of Planning Changes in the Housing and Planning Bill and the Consultation on Changes to England’s NPPF

• Clarifying key definitions such as “deliverable”, “developable” and “viable”

• Examining how the brownfield registers will work in practice and how “permission in principle” will be granted and implemented:
  • assessing where contaminated land fits within this - what safeguards will be put in place?
  • where do responsibilities and liabilities lie with regards to identifying, assessing and developing contaminated sites?

• How will PiP and sites on brownfield registers interact with the requirements of the Environmental Impact Assessment Directive, Habitats Directive and sites classed to be of “high environmental value”?

Sarah Fitzpatrick, Partner, Berwin Leighton Paisner LLP

Aidan Thomson, Partner, Planning & Environment, Berwin Leighton Paisner LLP

10.30 Assessing the difficulties and legal implications of determining a site under Part 2A of the Environmental Protection Act

• Assessing the legal definition of SPOSH and the extent to which this can be determined and proved

• Exploring the likely risks and benefits of determining a site under Part 2A: understanding the responsibilities of LAs, consultants and land owners in making such a decision

• What impact has the updated technical guidance had on brownfield site remediation and development?

Peter Witherington, Deputy Chairman, RSK

10.55 Q&A

11.00 Morning refreshments & Networking

11.30 Air Quality: Assessing the impact of air quality legislation on brownfield development

• Assessing the impact of air quality requirements on planning applications and what information is required

• Detailing the outcome and implications of the Client Earth air quality case for neighbourhood planning and development and environmental obligations

Stephen Moorcroft, Director, Air Quality Consultants

11.50 Flooding: Update on the legal responsibility for flooding and flood risk management

• Detailing the requirements of revised planning guidance in relation to flood risk and sustainable drainage systems (SuDS)

• Clarifying when a Flood Defence Permit is required under the revised Environmental Permitting Regulations:
  • exemptions and exclusions
  • enforcement

• Exploring how legal liability is determined in cases of flooding:
  • the legal implications of awarding planning permission on higher risk sites
  • examining recent legal cases where flooding has occurred and the resulting action / compensation

Vincent Fraser QC, Barrister, Planning & Environment, Kings Chambers

12.10 Waste: Detailing key legal considerations to minimise your liability in waste management

• Assessing the implications of recent changes to waste regulations in England, Scotland & Wales

• Detailing the key legal considerations relating to waste definition and applying waste acceptance criteria (WAC)

• Examining the current landfill tax regime in England, Scotland and Wales and the associated risks of non-compliance

• Examining legal liabilities under the revised Duty of Care and how you can mitigate your risks (with particular reference to recycling practice)

• Identifying the legal barriers to achieving a circular economy and how they can be overcome

Helen Bowdren, Senior Associate, Environmental and Natural Resources, Dentons

Laura Tainsh, Partner, Davidson Chalmers LLP

12.50 Q&A

13.00 Lunch
Environmental Risk & Liability

**Environmental Enforcement & Prosecutions**

14.00 Assessing the implications of the Sentencing Council Guidelines for Environmental Offences and exploring how companies can best protect themselves from the risk of financial penalties

- Highlighting the key changes to Environmental Damage (Prevention and Remediation) (England) Regulations since July 2015 and the implications of these
- Examining what types of environmental breach the amended Environmental Permitting Regulations apply to and their enforcement:
  - exploring possible changes to Waste law compliance and enforcement
- Detailing the different criteria used by the Sentencing Council (SC) to determine penalties for environmental offences:
  - how might this change following the current SC Guidelines Review?
- Exploring the lessons to be learned from recent significant cases since the introduction of a definitive guideline for environmental offences:
  - what steps can be taken by companies to minimise and protect against the financial penalties a Court can impose?

*Simon Colvin, Partner and National Head of Environment Team, Weightmans LLP*

14.25 Scotland: Highlighting the key differences in environmental enforcement in Scotland and an update on the Environmental Enforcement Framework in practice

*Jeremy Warner-Mackintosh, Solicitor, SEPA*

14.50 Wales: Update on the Environment (Wales) Act 2016 and its legal requirements

*Annabel Graham Paul, Barrister, Francis Taylor Building*

15.15 Detailing the current IMPEL Project: Financial Provision – Protecting the Environment and the Public Purse

- Detailing the project aims and objectives
- Examining the tools and measures of financial provision being considered:
  - availability and suitability of financial tools
  - developing an effective decision making tool
- Presenting key findings so far and next steps

*Kim Bradley, IMPEL Project Manager & Environmental Liability Specialist, SEPA*

15.40 Q&A

15.50 Afternoon refreshments

**Protecting Yourself Through Effective Contract & Data Management**

16.10 Getting the wording right: Effective contract management to ensure maximum protection

- The usefulness of clear and express contractual protection from environmental liability arising from both contract and tort
- The court’s current approach to construing limitation/exclusion of environmental liability clauses, as seen in Persimmon Homes Ltd v Ove Arup & Partners Ltd [2015] EWHC 3573 (TCC) and other recent case law
- The benefits of identifying clearly the type(s) of contamination, type(s) of loss and type(s) of liability limited/excluded by a contractual clause
- The need to consider the reasonableness of limitation/exclusion clauses for the purposes of the Unfair Contract Terms Act 1977

*Mathias Cheung, Pupil Barrister, Atkins Chambers*

16.35 Data Management: Clarifying the legalities regarding the collection, use and sharing of environmental and site assessment data

- Detailing the key legal responsibilities and obligations in data collection and use:
  - how is this enforced?
- Managing the balance between competitive advantage and legal liabilities when making data available to clients and projects:
  - understanding and effectively quantifying the value of data
- Examining solutions to protect yourself when 3rd parties are using and relying on your data

*Roger Bickerstaff, Partner, Bird & Bird*

17.00 Q&A

17.10 Closing remarks from the Chairman and close of conference
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Location

Cavendish conference Centre
22 Duchess Mews
London
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Event times

Wednesday 14 September 2016
09:00 - 17:00

Three ways to register


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Brownfield Briefing Awards 2016

The twelfth annual Brownfield Briefing Awards return to London on Thursday 13 October. Acknowledged as one of the highest industry accolades that a company can receive, the awards recognise technical and conceptual excellence in projects that have been underway over a specified 12 month time period, and are judged by an expert panel consisting of industry specialists across a range of disciplines.

★ The awards are now open for entries, download your entry form from: www.brownfieldbriefing.com/awards-2016

★ The closing date for entries is 22 July 2016

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