



Environmental
Law Foundation

Thanking Celebrating Rallying

After over 25 years of connecting those in need of environmental justice with professionals willing to help, the need is greater than ever.



www.elflaw.org

ELF PRESIDENT & PATRONS

Photo credit: Hugo Burmand.



HRH The Prince of Wales
President

HRH The Prince of Wales has been a constant and highly valued supporter of ELF and its work. In assuming its Presidency in 2011, His Royal Highness gave the charity an authoritative role in recognising the environmental concerns of local communities and the country at large. These remain no less acute than in the early years of the charity and we are both grateful for and honoured by his continuing presence in our commitment to our part in seeking to preserve and sustain that which is of great meaning to us all now, as well as alive to the needs of the generations to come.

Photo credit: Chris McAndrew



Hon Lord Woolf of Barnes
ELF Patron

We should all celebrate the Environmental Law Foundation's 25th anniversary in any way we can. It performs most valuable roles in protecting the environment and deserves to be supported by everyone.

Photo credit: David Levinson



Dame Fiona Reynolds CBE
ELF Patron

Many congratulations to ELF on its 25th birthday! The original idea – to offer advice, support and wisdom to people trying to protect the environment – remains as valid as ever; indeed more so, as the pressures on our environment are still growing. ELF has experts on tap who are committed to helping local people and groups, and also works within universities to create environmental law networks that spread the word and encourage young lawyers to enter the field. The stories of those whom ELF has helped over 25 years is both impressive and inspiring. This is a brilliant idea brilliantly executed, and future generations, as well as countless local groups and individuals, will thank ELF members for their excellent advice, given with skill and generosity. Thank you and here's to the next 25 years!



Sir Jonathon Porritt CBE
ELF Patron

Our planning and economic development systems are still fixated on generating economic growth through new building and infrastructure projects – and the destruction of the natural world is still seen as an acceptable price to pay for that growth – despite everything we now know. ELF was set up to support communities and individuals intent on preventing that endless trail of damage. With the support of a wonderful network of lawyers, offering their time and expertise on a pro bono basis, it's enjoyed many significant triumphs over the years – and I've seen for myself just how massive a contribution this can make.

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Front cover image:
M4 relief road - see page 14.

The United Kingdom Without Incineration Network (UKWIN) will remain forever grateful to ELF for the advice we have received as a network, and for the tremendous support provided to UKWIN members by ELF over the past two decades. UKWIN sees ELF as a vital ally in helping our members who face a multitude of challenges, such as: a planning system skewed in favour of waste companies; a systemic pro-developer bias across local and national government; a huge disparity of resources available to communities relative to those available to waste companies; and a barrage of misinformation, in the form of greenwash, that is directed towards honest, trusting and vulnerable communities. There are many complex legal issues that arise in relation to proposals for waste incineration plants, and there are circumstances where only a legal professional - such as those associated with ELF - can help cut through these injustices and give hope to campaigners through the provision of essential guidance to, and advocacy on behalf of, those seeking environmental justice.

Shlomo Downen, ELF enquirer
United Kingdom Without Incineration Network (UKWIN)

Among the legal professionals that ELF has amongst their advisors, there are fully committed professionals who are quite frankly beyond compare. To quote one of our group (Friends of George Street Woods) they are 'remarkable' and as far as I'm concerned, that's an understatement. Their assistance and advice gave us a confidence and knowledge to take our case forward; it is on-going, and the help we have had from ELF has enabled us to make considerable progress which would not otherwise have been possible.

Michael Bowkunowicz, ELF enquirer
Friends of George Street Woods (FOGSW)



CHAIRMAN'S UPDATE: DAVID HART QC

The Environmental Law Foundation (ELF) was established to support local people by giving them access to some of the best environmental lawyers and technical experts. These professional teams act, free of charge, for communities and individuals facing threats to their environment who want their voices heard and who find it difficult to do so given the complexity of environmental and planning law and the ample resources of many they face.

ELF is able to tap into the huge reservoir of talent through its professional pro bono network, which includes both environmentalists, lawyers and scientists, keen to make their contribution to public interest work. This enables local people access to talented professionals. Communities with expert advice are better able to have their voice heard. This network has been the bedrock of ELF since its inception, over 25 years ago.

In providing access to justice, ELF has always involved law

student volunteers working under supervision, giving them vital experience in community pro bono work, with hard and emotional lessons sometimes learnt. Working with ELF is an established route for young environmental lawyers to gain high profile experience.

25 years on, ELF can look back on several thousand cases in which it has given communities, large and small, the chance to have their say, to participate in decisions directly affecting their environment and thus their future. In so doing, ELF has also encouraged and informed a whole new generation of environmental lawyers and continues to do so.

More importantly though, ELF must look ahead to the future. In an industrialised economy, access to justice is as central to a healthy democracy, as legal protection is to a healthy environment. Both are under greater threat now than for many years. We are a small organisation, but we believe we punch well above our weight. We would like to do more if our

resources allowed. ELF is every bit as necessary and in demand now, as it was 25 years ago.

The Isleworth Society was in despair at the time that it was alerted to the existence of ELF. ELF's quick action in providing support of pro bono barrister advice enabled the Society, for the first time in its 60-year existence, to take Rule 6 and play a full part in opposition to an appeal by the Northumberland Estate against refusal to build properties on allotment land in use since 1917, and to relocate allotments within Grade I listed Syon Park, designed by Capability Brown. This led to the happy result, by no means a foregone conclusion, that the Inspector upheld the appeal and we are indebted to ELF for its assistance.

Christine Diwell, The Isleworth Society

THE BEGINNING: HOW ELF STARTED

The evolution of ELF came from what initially seemed an unlikely collaboration between an environmentalist and a generalist solicitor in private practice.

The collaboration was between Diana Schumacher, a long-established and internationally known environmentalist, and the solicitor Martin Polden. In early 1989, Diana consulted Martin regarding a book on energy she had written. The manuscript contained words wholly new to him: 'ecology', the significance of the 'ozone layer' and so on. In explaining these concepts, Diana made the point that corporate bodies and government agencies, who showed increasing disregard for the environment, were well supported by the professions, while local communities at the receiving end of decisions and their consequential impact had nothing equivalent.

Discussions and ideas about how to fill this gap resulted in the emergence of the Environmental Law Foundation. Charitable status followed. Diana brought in David Hall, Professor of Biology at King's College, London, and Chair of the Parliamentary All-party Environment Group, and Martin introduced Victor Moore, Professor of Planning Law at Reading University. Thereafter, Diana approached key environmentalists, Martin lawyers and other practitioners. The very novelty of such combinations joining forces and collaborating, while commonplace today, was a totally new and untested prospect at the time. An Advisory Board was established and ELF was honoured by its first Patrons, Sir Yehudi Menuhin (as he was then), a warm connection of Diana's, and, via Martin, Lord Alexander of Weedon QC, Chairman of the National Westminster Bank.



Diana Schumacher, Vice President and Co-Founder
Martin Polden, Vice President and Co-Founder

Such respected 'names' gave the charity a sense of authoritative standing and, after its long gestation, ELF was officially launched in January 1992. The positive response of professional bodies, other NGOs and the media was very encouraging. Gradually, a national network of specialists willing to participate on the required pro bono basis emerged. For those of us so long connected with ELF, its growth and continued presence are a remarkable testimony to the goodwill of those inspired enough and brave enough to be part of what started from uncertain beginnings as an experiment and is now an established force in community well-being. Long may that continue.

As Diana comments, 'That the identifying of the need for something such as ELF emerged into the creation of the ELF we know today speaks to the time and energy of all connected with its work, so much provided on a voluntary basis. The value of ELF in giving local people a meaningful voice, its spread of activities through outreach programmes and the important postgraduate university ties, are a testament to those working within as well as outside ELF. Given all achieved so far, I look forward to ELF's next 25 years of vital service.'

From Martin, 'The pioneering nature of ELF itself, the collaborative approach between those hitherto not recognising a commonality of interest and purpose, has been an exciting discovery, as much for those working with ELF as it has been for those communities benefitting from such a partnership. One sadness is that the work and support ELF provides is as much needed now as it was those 25-plus years ago. I share with Diana, however, in sending good wishes to all connected in the continuing good and important work of ELF.'

Diana Schumacher OBE and Martin Polden OBE
Co-Founders and Vice Presidents of ELF

PURPOSES AND AIMS

ELF SUPPORTS THE FUNDAMENTAL AND URGENT REQUIREMENT THAT EVERY COMMUNITY, AND GENERATIONS TO COME, SHOULD LIVE WITHOUT HARM TO OTHER LIVING THINGS, OR DAMAGE TO THE ECOLOGICAL BALANCE OF THE PLANET.

ELF's contribution is the empowerment of communities and individuals by providing cross-disciplinary means of action, giving people have a voice in protecting their environment.

ELF's purpose is to secure environmental justice for all, contributing to social justice by:

- ensuring that communities and individuals are aware of their rights and the means to enforce them
- empowering local people and communities in protecting and improving their quality of life
- increasing awareness of how the law may be used to meet environmental problems
- sharing & developing expertise in environmental law, with emphasis on sustainability and human rights
- improving the law to help secure sustainable development

Working with ELF has exposed me to a wide range of topical and novel matters. I often cover such topics that I might not otherwise encounter in my day-to-day job. The opportunity to provide clients with succinct and timely legal advice within what can seem a daunting process is highly rewarding. The enthusiasm of the clients is infectious and the impact that the cases has and will have on those individuals is a potent catalyst to ensure that their voices are heard and their cases put across with maximum impact. Sometimes those arguments succeed. Other times they do not. Irrespective of the end outcome, being given the opportunity to present their case clearly and logically is key. I am proud to be involved with ELF and look forward to future cases with relish.

Polly Reynolds, Partner, Temple Bright

Our profession does a great deal of unsung pro bono work and it was a pleasure during my time as President of the Law Society to meet many solicitors involved in helping society in this way. Many communities face threats to their environment coming from corporate giants, often with political backing. So it was wonderful to learn of the work of ELF. It not only raises awareness of environmental rights but also helps people who might otherwise feel powerless to protect their habitats from the impact of poorly thought-out schemes.

ELF provides a vital public service championing the provision of free legal advice. It makes quality advice available to those facing environmental threats. Just

reading the examples of those helped by ELF and the threats avoided as a result warms the heart.

As a profession, we are often portrayed unfavourably in the media; the work that our members do along with barristers and other experts to safeguard communities is to be applauded. Long may it continue.

Joe Egan, President, The Law Society of England and Wales (2017/2018)

I was introduced to ELF before it officially existed, whilst part of a team on an ELF-like (ELFin?) case in the early 1990s. This was a class action on behalf of residents near a highly polluting factory, which denied responsibility for any health effects allegedly caused by its emissions. Since the factory had recently ceased operation, there was no smoking gun – or smoking anything. We had to estimate the impact of exposures indirectly, combining the contributions of mechanical engineering, mathematical modelling and toxicology. Our labours were funded by Legal Aid, which of course is no longer available. I doubt if any law firm would have risked a conditional fee arrangement in a case based wholly on expensively obtained, theoretical evidence.

With the playing field where the public face the polluters becoming increasingly uneven, as much regarding technical as legal information and know-how, the role of ELF has never been more important. It has been an honour to be part of it all these years.

Dr Ivan Vince, ASK Consultants

EMMA MONTLAKE: ELF CASE DIRECTOR

I started as an ELF intern in 2007, having made a miserable commercial lawyer, and have remained at ELF since then. The ELF internship, in operation until 2010, was a well-known foundation stone of environmental law education in the UK. Interns were taken on to assist with the Advice and Referral service, ELF's core activity. Acting under training and supervision, interns undertook the day-to-day operation, dealing with the environmental concerns of the public. ELF took on approximately 40 law or environmental science students each year, giving them their first exposure to the practice of environmental and public law. We know the internship is missed; we would like to restore it. With improved funding, we will. The ELF clinic pro bono network, with our university partners, takes up a large part of the space vacated by the internship. Through the clinics, ELF continues to expose, shape and educate young lawyers in environmental community law work, highlighting the important role played by pro-bono public interest lawyers.

A&R would not exist without the professional membership. So many lawyers, barristers and environmental consultants make themselves available for pro bono work in order to help communities to protect what they love. They

bring their expertise to complex legal matters and address the resource and expertise deficit facing communities. This pro-bono professional membership has been at the heart of ELF since its inception. It would be impossible to count the hours of pro-bono time given over the years. It must run to many hundreds of thousands.

Among the key constants with ELF is its interaction with those members of the public that we assist and the relationships that develop. While helping communities to protect their local environment, ELF gets to know the protagonists. Over the years it has worked with so many remarkable people, who go on to develop the skills needed to participate in decision making with confidence, supported by ELF. The legacy from the cases with which it assists can be profound and lasting for communities.

The range of environmental cases that come to ELF each year is wide, fascinating and challenging and includes such things as major road construction, super pylons in protected landscapes, protecting green spaces and wildlife and keeping abreast of topical issues. With its finger on the pulse through the enquiries it receives, ELF is a vital barometer for the environmental issues of the day.

ELF now stands at an exciting crossroads. As our core financial strength improves, so too does our confidence and ability to be more ambitious, to build on our small core team and to redirect energies. We are developing an exciting new Outreach Programme with Tom Brenan, in conjunction with the university clinics. Different ways of working with new partners are being explored, with Corporates and trainee solicitors. Opportunities grow with our increasing confidence.

At a time when our environmental future appears precarious, I look around at this amazing industry and the remarkable people with whom ELF works, who care so much about the environment: community groups, environmental law professionals and academics, funders and other wonderful friends in the NGO world. They are all doing what they can to protect our environmental future. As a past CEO of ELF once said to me: "It is time for the environmental lawyers to step up." It certainly is time, and as ELF continues to occupy a unique space in the NGO world as the only grassroots environmental law charity, assisting grassroots communities directly, we look to strengthening our ties and networks so that we can all work towards a better future for the nature we love.



THE RANGE OF ENVIRONMENTAL CASES THAT COME TO ELF EACH YEAR IS WIDE, FASCINATING AND CHALLENGING

ADVICE AND REFERRAL

The A&R service has always been central to ELF's environmental community function, and over the period of a quarter of a century it has inevitably seen changes.

The service of A&R and ELF continues to provide the only grassroots charitable access to professional environmental and planning advice. A&R has been the route by which communities contacting ELF are able to gain access to environmental advice from ELF's pro bono membership network. This remains unchanged but the method by which such advice is accessed has evolved.

Each year ELF helps over 250 community groups and individuals around the UK to participate in environmental decision making. We estimate that behind each enquiry hundreds of local community members can benefit from this service, impacting close to half a million people a year. The needs and challenges, along with pressures on our environmental heritage, mean that we are now at crisis point. ELF is part of a wider community of interested environmental organisations, but we remain the only grassroots charity committed to assisting communities wanting to protect their local environment.

ELF's A&R telephone helpline used to be run by ELF interns and was, for many budding environmental lawyers, their first taste of real-life environmental law cases. At that time, the concept of clinical education did not exist, and for many young people ELF was the springboard for an environmental legal career. It is a testament to the ELF internship programme that many of the young solicitors and barristers with whom ELF works today started their environmental careers as interns at the ELF.

As a local campaign group we have found the help and guidance from ELF to be very helpful. In our lengthy battle to salvage what we can of rare chalk downland meadows from large scale housing development, ELF discovered that earlier scoping had highlighted the need for an Environmental Impact Assessment despite the local planning authority ignoring this requirement. ELF successfully helped us to argue for the need for an EIA before full planning was given. As I write the developer is still working on their EIA and a detailed ecology management plan. Without ELF's help none of this would have happened.

Ginny Boxall, Preserve Treloar Meadows Campaign

The support from ELF has been fantastic. They understood our complex case and found us an amazing barrister, who has helped us to challenge the secrecy of the county council and expose their environmental, financial and legal malpractice and wrongdoing. We are now taking the council to court for breaking procurement law, and we hope to win back tens of millions of illegal state aid for the public purse and fatally undermine the council's terrible waste incinerator contract. Without ELF support we would have had to give up years ago, and the council would not have been held to account.

Sue Oppenheimer, Community R4C



THE SUPPORT PROVIDED BY ELF HAS MADE ALL THE DIFFERENCE. EVEN WHEN WE HAD DOUBTS ABOUT WHETHER OUR CLAIM FOR A JUDICIAL REVIEW WAS STRONG ENOUGH, EMMA PERSEVERED. SHE FOUND AND WORKED WITH A BARRISTER TO PUT TOGETHER WHAT FEELS LIKE A REALLY STRONG CASE IN JUST A FEW WEEKS. AN AMAZING EFFORT

Paul O'Driscoll, Friends of Firs Farm

MY ELF ROOTS: JAMES CORBET BURCHER

I first worked with ELF as an Advice & Referral Volunteer in 2008, assisting members of the public to get written advice and representation in environmental matters: often judicial reviews to planning decisions raising EIA and varied public law grounds.

Looking back, the legal landscape was somewhat different: there was no Aarhus costs protection (only the Sullivan Report), there were few arguments over national and local policy interpretation, and the major focus on points of European law.

However, many of those access to justice issues remain today: limited resource, masses of documentation, ticking-clock time limits and a need to explain the surgical/forensic procedures adopted by the High Court, forbidding the re-run of the merits.

Using the ELF internship as a central plank of my application, I then secured a place on the UCL LLM Programme specialising in Environmental Law, arguably the leading programme in the country and on a personal level the most enjoyable year that I spent in education. Many alumni of the Environmental Law specialism are in full-time practice, specialising in environmental law matters, both in the UK and internationally. A significant number of those have worked with ELF.

The ELF experience proved a hugely important grounding to my studies, enabling me to set such topics as public participation and consultation and compliance with EIA/SEA issues in a real-world scenario, consequently inspiring a dissertation on the future of judicial review to major infrastructure decisions under the Planning Act 2008.

Having been called to the Bar in 2011, I now pursue a specialist planning and environmental law practice from No5 Chambers.

I have assisted on ELF's current scheme in four cases, alongside colleagues from No5. Although I will not cite specifics, each has involved very similar issues to those I first encountered as an ELF intern.

Like many junior barristers, I secured valuable experience working for public interest Claimants. For example, I was fortunate to have the opportunity to appear in the first case to be heard before the Planning Court: *Jones v English Heritage*, a permission decision heard on the inaugural date, on behalf of a claimant

who wished to preserve a 1066 battlefield site. The dynamics of running a claimant-based case for an ordinary member of the public cannot be taught, only learnt from experience. I was fortunate to have secured that in abundance with ELF.

At the same time, pro bono work teaches one hugely important practical lessons when acting for a Defendant or Interested Party. Some are purely self-defensive, including how to head off an emerging legal challenge. But above all, one appreciates the broader context within which the disputes arise, and the courts' recognition of the importance of access to justice for all.

In summary, ELF is a unique institution within public interest environmental law practice in the UK. It has been a milestone in many junior barristers' careers and long may it do so.

James Corbet Burcher, No5 Barristers Chambers



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ELF UNIVERSITY CLINICS AND COMMUNITY OUTREACH

In order to broaden its reach, in 2014 ELF piloted a new network of free environmental legal advice clinics, in partnership with universities and law schools around the country. With law students working on cases under the supervision of qualified lawyers, we now have clinics in Nottingham, Birmingham, Exeter, Cardiff and London.

We are helping to develop the next generation of public interest environmental lawyers, working alongside ELF referral members, providing help to marginalised communities with nowhere else to turn for advice. These clinics work within a larger network of local environmental legal and technical advice hubs. These provide both reactive help via the advice clinics and proactive support for example through the provision of outreach 'community training' events on local issues of environmental concern arising from enquiries to ELF, to educate and empower marginalised communities.

ELF has hosted two University Clinic Convergence events over recent years, one at a University College London, the other at Birmingham University. These events bring together law students, ELF lawyers and community members. With a diverse range of speakers and much information sharing, they are a great opportunity for the ELF community to come together. These events have informed new plans for Community Outreach.

The University of Law is delighted to continue its long – standing working partnership with ELF. During the academic year we host a number of ELF clinics, which give our students the opportunity to develop key legal skills that will greatly assist them going forward in their career as solicitors and barristers. Some of the key skills, such as drafting and interviewing, are taught at the vocational stage of training but it is the opportunity to work on projects such as ELF clinics that bring these skills to life, all the while assisting members of the community to access often crucial legal advice.

Our students take an active interest in our ELF clinics and have been thoroughly engaged in the clinic sessions. Our students have enjoyed a large variety of cases and no two clinics or clients are the same.

The students value contact with our ELF clients, which gives them an opportunity to enhance their legal professional skills in assisting members of the community who may not otherwise be in a position to access legal advice. Our students are delighted to be part of a network of professionals undertaking meaningful pro-bono activity with ELF.

The University of Law looks forward to continuing our partnership with ELF for many years to come.

Joanne Russell, Clinic co-ordinator, University of Law London

Below: Emma and David addressing delegates at an ELF conference at the University of Birmingham.



An important development for ELF's Advice & Referral service was the introduction of ELF Advice clinics in partnership with universities around the country. Learning from ELF's earlier Sustainable Communities Project, a three-year community outreach project working across the regions, and our longstanding internship programme the clinics involve university students providing advice on real cases under the supervision of qualified lawyers. We now have a growing network of clinics around the country and feedback from participating students, universities and assisted clients has been positive and appreciative.

While the clinics provide a welcome addition to ELF's advice capacity and a fertile training ground for the next generation of environmental lawyers, they have also extended ELF's reach into the regions. Outreach has always been a key component of ELF's work, equipping communities with the knowledge and tools to make their voices heard on issues concerning their local environment through educational events and training.

At a time of increasing environmental awareness and calls for action from schools and communities across the country, outreach will play a key role in the next stage of the clinic network's development. Working with our university partners, we plan to introduce a new programme of community outreach events alongside the clinic work, involving students, lawyers and other professionals, evolving our clinics into local ELF hubs of information, guidance and support.

Tom Brennan, ELF Outreach and University Clinic Consultant

'Elves are a race of semi-divine beings of human stature who are friendly with nature and animals.' ELF has been helping me since the 1980s when I became more aware of EU Environmental Laws which included Directives. I decided to concentrate on these laws in all shapes and sizes so I could use this 'sword' against the establishment when the situation occurred that I needed to act on my own volition and/or other parties requests for help. But there were, and still are, times that I need legal help and ELF usually come to my aid. I decided, in thanks, to join ELF. I suppose that all members could therefore be ELFs. I could not count the times I have had help from ELF. May ELF be able to help the environmental protectors who cannot do so because of lack of funds; thus then may Grandmother Earth live for ever.

Klaus Armstrong-Braun, Campaigner

My case involved a client who lodged a noise complaint against their neighbour to their local council, but after weeks of waiting and complaining to the council about their lack of action, felt it was going nowhere. The task itself involved lots of skills that are very useful in practice, from interviewing, practical research and time management and to drafting for a lay client. These are skills that a solicitor needs, and they only come about from experience. ELF was able to provide this opportunity, and I am very thankful to them for that

Clinic student, University of Law London

I am a final year undergraduate student who participated in the ELF Clinic for two years. This year I was appointed clinic leader. I work with a team of eleven other students and three members of staff. Most students are undergraduates, but not all. One is doing their BVTC and another the Graduate Diploma in Law.

Perhaps our biggest case is an ongoing one concerning the absence of an environmental impact assessment for the disposal of waste sludge from the Hinckley Point C nuclear power station expansion, in Bridgewater Bay. The sludge is being dumped off Cardiff Bay, but this activity has recently stopped. We would like to think this has something to do with our work. On behalf of our client, Tim Deere Jones, we have brought a citizen complaint to the attention of the European Commission. The Commission has acknowledged this. I am excited by what happens next. Ideally, the Commission will write to the British Government, who will advise that the dumping activity is at last subject to a proper assessment of environmental impacts. The danger is that the sludge contains waste that goes back to the early days of nuclear power, when safety levels may have been more lax. An environmental impact assessment will give peace of mind.

It's a great privilege to be involved in ELF in its 25th Anniversary Year. I plan to work as a solicitor in this field if I get the chance, and if so, would like to continue to assist ELF.

Marina Soares Ingles, Clinic leader, Cardiff University

PROFESSOR ROBERT LEE

Director of the Centre for Legal Education and Research, University of Birmingham

Having spent six years as a Trustee of ELF, I now find myself back working with the charity as I oversee students on an environmental pro bono scheme at Birmingham Law School. ELF referrals have allowed our students to learn of the complexities of environmental law while offering them some insight into why access to justice is such a crucial issue, and even more pressing now than when ELF was formed in the early 1990s. To illustrate this, I would like to share some data which students helped me to collect over several weeks at Birmingham Civil Justice Centre from litigants representing themselves in this busy court, who kindly answered our questions.

Of the 193 respondents there was an equal split of men and women (50.7% male) from a young population of respondents, one third of whom were under 30 with only 14% over the age of 50. Over half (51.7%) of our sample were single and only just over one quarter in a permanent relationship (married, 21%, or co-habiting, 6%). In terms of educational attainment, almost two thirds (63%) of respondents declared either no formal qualification (25%) or a pre-A level qualification. Just less than one third (32%) of respondents declared some issue of mental health with half of these choosing the box covering depression. Just 29% of the sample declared as being in full time work, with a further 14% returned as self-employed, whereas 35% stated that they were unemployed. This was reflected in income levels with 85% declaring an income less than £30,000 (52% of whom earned less than £14,000). Only two questionnaire responses disclosed a salary of more than

£50,000 while more than half (53%) of the sample population were in receipt of some form of benefit. The profile then is of one of potential vulnerability with low income people, less likely to be in a stable relationship, coming to court unable to afford representation but with relatively little educational background to equip them for the task ahead.

Few if any of the cases would have involved environmental issues; many were family disputes or housing possession proceedings. Yet they disclose just why, particularly in complex areas of law such as those involving environmental harms, access to advice and assistance remains so vital. Over the 25 years of ELF's work, sadly, pressures in areas such as climate change and biodiversity loss have grown, and environmental injustices are even more deeply entrenched. The environment has no voice. It needs someone to speak on its behalf. Concerned citizens would frequently like to do so but they too worry whether their voice will be heard. ELF speaks up for them and for the environment. In the next 25 years we will need ELF to shout out our message loudly and relentlessly.



ELF REFERRALS HAVE ALLOWED OUR STUDENTS TO LEARN OF THE COMPLEXITIES OF ENVIRONMENTAL LAW WHILE OFFERING THEM SOME INSIGHT INTO WHY ACCESS TO JUSTICE IS SUCH A CRUCIAL ISSUE

JUDY LING WONG OBE CBE

Honorary President, Black Environment Network
Founding Trustee, National Park City Foundation

After over 30 years of working to engage multicultural communities in environmental action, I came to the conclusion that the whole process can be summed up in one sentence with two short phrases: We love what we enjoy and we protect what we love. This powerful human process explains why the middle classes were destined to create the environmental movement. They came out fighting for what they were privileged to access and love. Research has shown that simply educating people about the threat to nature does not result in action for its protection. It is the heart, supplemented by information, that drives environmental protection. To protect nature and people, we have to enable access to the enjoyment of nature across the whole population, get the message of the devastating threat to the planet out, and have an effective framework for action on offer. Impassioned motivation must be consolidated with sound science and all the other frameworks of knowledge and power in the context of protection. Here, the Environmental Law Foundation plays a crucial role in promoting and enabling action through the use of the processes of the law.

I have been privileged to work with the Environmental Law Foundation in the area of diversity and equality for many years, and recently, on the Environmental Justice Project, a student-led project with ELF working in a supportive role. This project was started by students from multicultural backgrounds to facilitate the creation of activist groups, raising awareness of equality issues and the necessity to address day-to-day environmental justice issues for the range of disadvantaged groups. At one ELF facilitated interactive workshop, I introduced the need for the integration of social, cultural and environmental concerns. Working alongside me were ELF member Barristers Rose Grogan, who acted for TFL in the Client Earth Air Quality case, and Stephanie David presenting the Marine Park Case, representing the Chagos Islanders, expelled decades ago from their homes on the Indian Ocean archipelago. The university activists then undertook their own programme to reach out to schools and educate local children on the health and social impacts of environmental issues across the urban areas of London and the UK.

Such projects bring the challenges of the real world into university life and lays down the basis for lifelong

commitment and informed leadership. These projects are not easy. They break vital new ground within the highly pressurized atmosphere of overstressed universities and overworked students, often holding jobs to make their studies possible. The reality and visibility of multicultural university students, giving of their own time, leading the way within local communities is a vital contribution to building an equal, diverse, aware, confident and effective future generation to protect nature and people. Such initiatives demonstrate for me the enormous value of ELF in meeting the challenges of an increasingly global world, and I am very proud to be associated with its work.



I REALLY ENJOY WORKING WITH THE TEAM AT ELF AND BEING AWARDED THE OPPORTUNITY AND PLEASURE TO ATTEND THEIR EVENTS AND CONFERENCES. I HOPE OUR RELATIONSHIP CONTINUES, AS DOES THE SUCCESS AND GROWTH OF THE ENVIRONMENTAL JUSTICE PROJECT AT UCL

Samira Abdalla, Co-Founder of the Environmental Justice Project

ELF AS INNOVATOR

ELF wrote three reports on Barriers to Access to Environmental Justice, the last of which was launched in Parliament by Lord Woolf in 2010 and was referenced in the important legacy case in 2017 by RSPB (and others) v the Ministry of Justice, challenging the new Aarhus cost rules.

It still has relevance today. As ELF receives over 250 enquiries a year on all matters of environmental justice, we have a wealth of data to be analysed, which will form the basis for a new report. Changes to the costs rules once again affect access to the environmental justice landscape.

The David Hall Lectures

The lectures in memory of ELF Co-Founder David Hall ran for ten years and saw some of the leading public figures from the world of law, the environment and science deliver contemporary environmental lectures. The first of these was presented by the then Lord Chief Justice, Lord Woolf, in which he advanced the desirability of establishing Environmental Courts attracting significant press interest.

That set the course for the next ten years as ELF alternated between the law, environmental issues and science, covering matters as diverse as 'Climate Change: A crisis of collective denial?' in 2005, delivered by George Monbiot, and former Lord Justice of Appeal Sir Henry Brooke on 'The Costs Barriers to Environmental Access to Justice' in 2006. It is worth noting that ELF hosted many pioneering public speakers whose ideas are even more relevant and pressing today.

Cronwall PC v Sec of State has reaffirmed that Aarhus costs protection apply to Parish Council's. We see this as a key decision to local environmental democracy and participation.

The decision by the Welsh First Minister to refuse the M4 Motorway Relief Road proposals, thus saving the historic Gwent Levels, where a team of ELF barristers gave their time so generously during a year-long public inquiry, is perhaps our greatest contribution to an individual case, to date.

Berkeley v Secretary of State for the Environment and Others (2000) was a House of Lords case that established the law around the need for an Environmental Impact Assessment. July 2015 marked the 15th anniversary of the handing down of the landmark decision of the House of Lords in this case. Although the EIA Directive had been in force for some years previously, Berkeley really marks the starting point for modern law of EIA in the UK, and the Courts are still grappling with its implications.

ELF was very much involved in the fight by the local community in Redcar, Cleveland, and their ultimately successful application in having Coatham Common registered as a village green. In 2010 this Supreme Court case R(Lewis) v Redcar and Cleveland Borough Council decided that 'deference' by local people to the landowners use of the land (golf course) did not prevent their recreational use being as of right.

A more recent ELF case, Holborn Studios Ltd, R (On the Application Of) v London Borough of Hackney [2017] EWHC 2823, has reaffirmed the law on how proper re-

consultation should take place when amendments were made to a planning application.

I have huge admiration for the Environmental Law Foundation – working tirelessly to give a voice to people and communities who otherwise would not be heard. Your work is needed now more than ever to confront the increasing threats to the wellbeing of people and planet, and to bring hope for the future. My congratulations and thanks to you all for your first 25 years of vital work – here's to many more!

George Monbiot

PAUL STOOKES

Consultant Solicitor-Advocate, Richard Buxton Solicitors



I joined the Environmental Law Foundation as a member in 1996. It appeared a fresh and relevant organisation to a then young lawyer keen to commit to environmental protection. The notion of access to legal justice did not appear a critical concern at that time. The key purpose appeared to be a bringing together or an alliance of specialist practitioners. The point of access to environmental justice or limits to that was not so much that the legal justice system prohibited involvement as much as a lack of awareness about what to do and where to turn. Heading into the new millennium with the Woolf Reforms, and the enactment of the Aarhus Convention 1998, it started to appear that genuine access to environmental justice was going to be a possible; -probable within a few years. ELF's role would then be as a network to facilitate the use of the justice system. Not only could there be access to specialist advice and support but when received, people could effectively pursue a just cause, if need be through the courts. With ratification of the Aarhus Convention in 2005, this looked particularly evident. There would, of course, continue to be environmental incidents and problems. This would be likely in a social system where profit was placed before people and nature, but effective environmental rights of access to information, public participation and access to justice would help ensure that there was equality of arms in environmental protection and decision-making

Some 15 years on, things are worse not better; the need for ELF's network of environmental practitioners is called upon now more than ever. This is not through

want of trying to secure commitment to the rights that were ratified. Since 2003, ELF has produced a series of reports on access to justice highlighting the continuing concerns facing communities and individuals in trying to secure environmental rights. It has addressed government directly and sought to engage in collaboration. It has also taken more direct assertive action, prompting the United Nations Aarhus Compliance Committee to find that the UK was indeed non-compliant in its international obligations and a persistent failure to provide environmental rights.

Meanwhile, environmental harm, unlawful decision-making and actions that are simply bad for the environment continue – in 2019 and some 30 years on from ELF's start. See for example the shocking decisions to permit coal mining to continue in the face of overwhelming evidence that extraction and the use of fossil fuels must stop. See also the encouragement by government to concrete over natural, open land that should be nurturing nature and wildlife rather than killing it off. These decisions are, in fact, proving to be catastrophic for society with critical losses of key species and open spaces. Many communities and individuals see this happening before their very eyes and it is vital that they have somewhere or someone to turn to seek to address the madness.

It appears that society can't help itself, certainly not at the moment. It will persist in acting, failing to act and taking bad and unlawful decisions that will significantly adversely effect nature, society and the world at large. In these circumstances, the need for ELF and its members to seek to intervene is more urgent today than it's ever been.



**THE NEED FOR ELF AND
ITS MEMBERS TO SEEK TO
INTERVENE IS MORE URGENT
TODAY THAN IT'S EVER BEEN**

HORATIO WALLER: CRONDALL PARISH COUNCIL SECRETARY OF STATE FOR HOUSING, COMMUNITIES AND LOCAL GOVERNMENT AND OTHERS (2018)



I would like to outline the unique opportunities offered by ELF to young barristers to be instructed on interesting and challenging environmental cases by focusing on one such case in particular, on which I received instructions following referrals from ELF. It involved a legal challenge engaging with issues of access to environmental justice, sustainability, habitats regulations assessments and European law. I am delighted to say that Crondall Parish Council v Secretary of State for Housing, Communities and Local Government and Others (2018) SWHC3900 came to a successful conclusion in May 2019.

My client, Crondall Parish Council, applied for permission to legally challenge the decision of a planning inspector to permit residential redevelopment essentially on the basis that the inspector a) failed to recognise that the redevelopment was proposed in an area that both the local plan and emerging plan stated was inappropriate for residential development and b) failed to appropriately assess the potential of the redevelopment to cause adverse effects on the nearby Thames Basin Heaths Special Protection Area (SPA). The SPA includes the habitat of several protected bird species and is an area protected under European law. The Parish Council's point was that the residents of the proposed houses might use the SPA for recreation and thereby disturb the birds, the potential for which should have been appropriately assessed.

While argument a) is commonly run in environmental law cases, argument b) is of nationwide importance because success in the case carries the potential for knock-on effects on a wide range of residential development schemes, which might have to wait for more robust assessment of potentially adverse impacts on special protection areas. As a result, the case was labelled by the High Court as significant and listed before Mr Justice Dove, a highly experienced planning law judge. However, before substantive arguments were embarked upon, a dispute arose between the parties as to whether the parish council was entitled to rely on the Aarhus Convention, which makes provision for access to justice in environmental cases.

This led to several rounds of written submissions before the decision by the High Court to accept the council's argument that it was entitled to rely on the Aarhus Convention and as a result its potential costs liability to the defendants should be capped at £10,000. This judgement has potentially significant consequences and demonstrates why working with ELF provides unique opportunities for young barristers. It is uncommon for barristers as junior as me to be instructed in such significant cases, with much more senior opponents. The case tested me greatly and I highly recommend ELF to other young barristers wanting to expand and hone their skills.

Horatio Waller, Barrister, Francis Taylor Building

When Crondall Parish Council faced the unpalatable consequences of a surprising planning appeal decision that ran against local policies and expectations, the future looked bleak. Following a request to the CPRE for advice, the CPC was put in touch with ELF and within a few days ELF had given us hope. They quickly found us a sympathetic barrister and agreed to join an Extraordinary Council Meeting via Skype (a first!) and were able to guide councillors through the process and advise on the merits of the case, costs and the likelihood of a successful outcome. They provided clear guidance in drafting and filing our claim, in preparing case bundles and in offering helpful and positive assistance throughout the process. Tele-conferences with the barrister helped build understanding on all sides and ELF were on hand to facilitate the services of an experienced and respected QC to act for CPC and to lead an excellent junior, all on the basis of a much lower fee structure than would normally have applied.

Crondall Parish Council

Update: ELF was delighted with the news in May 2019 that the Parish Council had been successful in their JR and the decision quashed. The fact that the High Court accepted and reconfirmed that PC's could rely on Aarhus costs protection is of great significance. This was an important case for PC's and has the potential to inform government policy.

SATISH KUMAR

Editor Emeritus, Resurgence and Ecologist



Congratulations to the Environmental Law Foundation for supporting the needs of local communities to maintain their quality of life and that of generations to come and by doing so upholding the rights of nature. Humans have been clever in establishing their rights and at valuing nature only in terms of her usefulness to them. This has been an historic mistake and is founded on the belief that nature is only out there (the mountains, rivers, animals, forests and oceans) and that we humans are not nature, that we are somehow separate from nature. This dualism, disconnection and separation has been the fundamental cause of human exploitation of nature.

Humans believe they are the superior species, that other species are inferior, and that we can treat nature as we wish. We can cut down the rainforests, poison the oceans with plastic and other waste materials, keep animals in the cruel conditions of factory farms, pollute the soil with chemicals, and so on.

It is this arrogance of humanism which has resulted

Friends of Riverside are a small local action group working with many other individuals and groups to protect Bournemouth's natural and cultural heritage. ELF has provided us with a considerable amount of advice and assistance over the last half year, in particular helping us to prepare for a judicial review case through which we now seek to quash the grant of planning permission by Bournemouth Borough Council - now part of Bournemouth Christchurch Poole (BCP) Council - for damaging, large-scale roads infrastructure. Whether or not we ultimately succeed, ELF has played a vital role in getting us this far. Many thanks.

Conor O' Luby, Campaigner, Friends of Riverside

I contacted ELF in June 2018 to ask for help in securing legal representation at our Village Green Inquiry. We are seeking to save beautiful green fields which have been used, and loved, for decades by local residents for recreation. Given the land owner was Welsh Government we knew we could not do the Inquiry alone and that we would need specialist assistance. We were also low on funds, having already raised and paid thousands on solicitor's fees to assist us to get to Inquiry stage.

We advised ELF of our situation and very quickly we were found a barrister to work on our behalf for a very low fee. The work done far surpassed our expectations and we were amazed the depth of knowledge of the case and associated complex legal issues. Whatever the outcome is for our case, we feel indebted to her for all the assistance she has given, and we extend those thanks to ELF which is doing very important work in assisting people gain access to specialist legal advice.

Sophie Seymour, ELF enquirer

in the demise of biodiversity, depletion of natural resources and destruction of natural capital, causing climate change, desertification of the land and, finally, a negative impact on human health, The Environmental Law Foundation has reminded us again and again that humans are nature too. We are made of the four basic elements. Earth, air, fire and water. Therefore, what we do to nature we do to ourselves. Nature is not merely a resource for the economy, nature is a source of life, and therefore it is the primary responsibility of humankind to care, protect and enhance the integrity of nature. From this point of view not only humans have rights but nature also has rights. The oceans have a right to remain clean in order to sustain marine life; the rainforests have rights to remain intact in order to maintain the fragile life-system within. This right should be recognised for all living species and this right should be enshrined in national and international law.

This is a holistic world view and the Environmental Law Foundation has tirelessly elucidated this world view.

May the work of ELF continue to flourish and inspire future generations so that humanity and nature can live in harmony with one another, based on the principle of the unity of life.

STEPHEN TROMANS QC: CONTAMINATED LAND

ELF's mission is to help individuals and community groups affected or concerned by environmental problems. One of these problems is historic contamination of soil and groundwater. The UK's long historic industrial legacy means that there are numerous sites which are so affected. This can impact on individuals and communities in various ways. Where housing or other sensitive uses have been built on contaminated land – sometimes at a time when the problem was not widely recognised – residents may be exposed to the risk of contact with harmful substances. This may cause real stress and long-term anxiety. The presence of contaminants may also affect families financially: their home may become unsaleable and unacceptable as security for lenders. In some cases, the problem may be that land in the neighbourhood which is contaminated may be redeveloped, disturbing contamination and giving rise to potential exposure to substances like asbestos, or to serious odours from chemicals.

The UK has what seems on its face a comprehensive and sophisticated body of law to address contamination. However, its complexity means that local authorities will often be wary of using it. Case law has established that in many cases, where contamination was caused by old utilities or local authorities which no longer exist, liability for clean-up does not pass to the privatised companies or new local authorities which have succeeded them: in such cases either the clean-up will have to take place at public expense or at the expense of individual landowners. Moreover, since 2008 the funding

available to local authorities to investigate and deal with contaminated sites has been progressively cut, to the point of non-existence. This has resulted in a loss of in-house expertise and capability to address the problem of contamination in an effective way.

This means that the support which ELF can offer to affected people and communities is of vital importance, through providing legal and technical advice. Often this has to be on a long-term basis, because contamination is often a long-term problem, which can leave affected individuals feeling extremely vulnerable, desperate and powerless. It is not an easy problem to tackle, and may involve both expertise in public law and in common law areas such as nuisance. Over ELF's 25 years there have been some notable examples of contaminated land cases where it has been able to help people faced with this serious environmental problem.



**ELF'S MISSION IS TO
HELP INDIVIDUALS AND
COMMUNITY GROUPS
AFFECTED OR CONCERNED BY
ENVIRONMENTAL PROBLEMS**



THANK YOU SO MUCH FOR YOUR HELP OVER THE PAST ALMOST 3 YEARS. YOU HAVE MADE ME STRONG AT TIMES WHEN I FELT LIKE GIVING UP. AT LEAST WE KNOW ABOUT OUR LANDFILLS; HOW MANY COMMUNITIES ARE FIGHTING DEVELOPMENT IN THEIR BACKYARDS WHO DO NOT HAVE A CLUE WHAT THEY LIVE NEXT TO? YOU HAVE BEEN INSTRUMENTAL IN OUR FIGHT AND I CAN ONLY THANK YOU FOR THAT

Kellie Judson, Somercotes Against Development Residents Action Group

CASE STUDIES

A tiny but indicative selection from the hundreds of enquiries we receive and help with, every year

Somercotes Against Development Residents Action Group

ELF has been assisting this group in their campaign against plans for 200 houses on a site in Derbyshire with a 70-year history of contamination, located next to another former landfill site. Back in June 2015, ELF was approached by Kellie Judson, who lives close to one of the sites known to have serious past contamination. This site is largely undocumented and of great concern to local people. This designated greenfield area has been opencast mined and quarried over many years. The resultant pits were used as waste tips throughout the 1960s, 70s and 80s. The tips were operated legally during the day with permitted materials, including asbestos, toxic metal compounds, mercury - contaminated compounds and vanadium compounds.

ELF assisted in finding a geo-environmental risk assessor to review the findings of the 1,000-page site investigation and the Inspectorate allowed an extension of 28 days to review the findings and write a report. He attended the hearing in July and took part in proceedings. On 18th August 2017, news came that the Inspectorate had dismissed the appeal, as the site

investigation was not comprehensive enough to ensure public safety. The following day the inspector awarded the group costs to cover fees of £8,000.

Welwyn Garden City Society (WGCS)

ELF was contacted last year by the Welwyn Garden City Society (WGCS) regarding their concerns about a proposed large housing development on land the local people did not want to see disturbed. The Welwyn Garden City Society, as the oldest civic society in the town, have long raised concerns about the unknown levels of contamination on the ground, under the ground and in the groundwater/aquifer.

Since about 2015 a huge new housing project has been proposed for 2,550 houses with 1,350 of them being very near to, perhaps on top of, a former landfill site. This landfill was touted as the biggest in Hertfordshire and operated from 1920 to 1990. It accepted all kinds of domestic and commercial waste by train and truck from London for decades.

ELF was able to assist with the assistance of a pupil barrister at 6 Pump Court.

CASE SOURCE: ADVICE AND REFERRAL

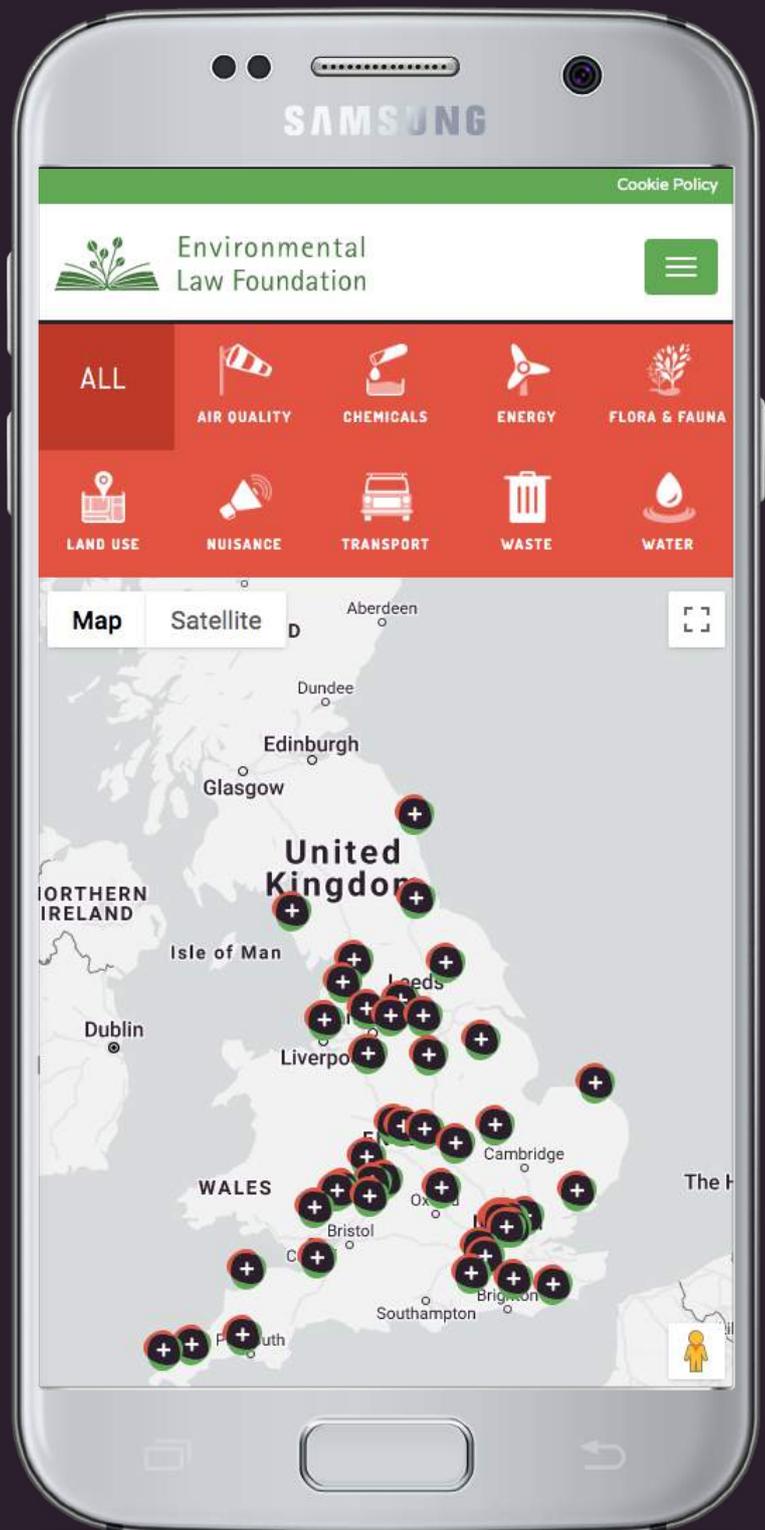
Total enquiries 2018: 256

Every month, via email and via the call centre service generously hosted by solicitors Irwin Mitchell, our advice and referral service receives twenty or more new, valid enquiries. Some of these require just a 'light touch', directing the enquirer to a particular department or ruling. Others demand tens, sometimes hundreds, of hours of work.

Land development always dominates these enquiries, though that encompasses loss of habitat, pollution increases and other threats. Those which have shown a marked increase of late include rural pollution from intensive farming and, in our cities, air pollution.

We are seeking funding to create an online hub to log and link all of our cases and encourage others to share the threats they face and support each other.

- 86 development/land use
- 24 bio trees hedgerows/woodland/wildlife
- 21 air pollution
- 13 other
- 11 traffic and roads
- 10 noise pollution
- 10 waste
- 8 intensive farming
- 7 quarry/mining
- 7 village green application
- 6 incinerator/ waste plant
- 5 contaminated land
- 5 flooding risk
- 4 telecommunications mast
- 4 public rights of way
- 3 fracking
- 2 power plants
- 2 water pollution



CASE STUDIES (CONTINUED)

The Horton-cum-Studley Expressway Group: an update from Tim Dixon

The proposed Oxford to Cambridge Expressway is a large, motorway-standard road connecting the two university cities and would enable one million new homes along the route. A local campaign group was established in April 2018 as we became aware of the plans for the first time. The group included members from surrounding Oxfordshire villages with the aim of raising awareness of the threats posed to Oxfordshire in general and to the nature sites, Otmoor and Bernwood Forest, in particular. Otmoor is a low-lying wetland area with a spectacular RSPB Reserve and associated Sites of Special Scientific Interest (SSSIs). The adjacent ancient woodlands of Bernwood Forest form a Living Landscape. Both sites are irreplaceable.

Highways England (HE), with responsibility for planning the expressway routes, identified three broad corridors, A, B and C, between Oxford and Cambridge (corridor B having the greatest impact). HE announced that it would select only one corridor for further study by autumn 2018, after which it would take a further two years to identify the precise route within the selected corridor. HE confirmed that there would be no public consultation until late 2019, by which time many important decisions will have been taken.

Having previous experience in government on environmental matters, I thought that a Strategic Environment Assessment (SEA) at an early stage was necessary, but correspondence with HE confirmed that they did not consider an SEA necessary until after the final corridor selection. We immediately sought help and advice from the Environmental Law Foundation (ELF) in June 2018.

ELF was quick to respond and extremely supportive, and soon instructed Merrow Golden, a barrister at FTB, acting pro bono for our Group under the ELF scheme. Merrow provided an excellent analysis of the arguments for an SEA. On this basis, ELF wrote a letter on our behalf to HE, the National Infrastructure Commission and the Department of Transport, putting forward our concerns about the lack of an SEA. ELF coordinated the letter, which had the endorsement of the RSPB, Berks, Bucks & Oxon Wildlife Trust (BBOWT) and the Wildlife Trust for Bedfordshire, Cambridgeshire and Northamptonshire (BCNWT).

Our small local group had become engaged with

some of the big names in nature conservation, and had provided information to George Monbiot prior to his Guardian article on the expressway proposals. On 12 September 2018, Jesse Norman, the Secretary of State for Transport, confirmed our worst fears and announced that a modified Corridor B had been selected for further route study. ELF acted quickly with BBOWT to decide on the next steps. Bringing together a coalition of local people and wildlife conservation charities, ELF approached Leigh Day, ELF solicitor member. On 27 September a pre-action protocol letter was sent to the Secretary of State for Transport on behalf of the BBOWT, supported by other wildlife charities, including the RSPB and our Horton cum Studley Expressway Group. In November BBOWT issued a claim in the High Court, challenging the government's failure to commission an SEA. The High Court initially refused BBOWT's written claim but at an oral hearing the High Court accepted BBOWT's claim that there were arguable grounds.

Sadly, on 11 July 2019 we learnt that the court did not agree with us that an SEA was required when choosing the corridors. Unless it is appealed, we will be left with a decision that has not considered all the options from an environmental perspective, and indeed the option chosen causes the greatest environmental damage. Despite this depressing result, and thanks to ELF, our small group's concerns were taken seriously, validated with sound legal advice and grew into a far larger community activity.



Right: Members of the Save Otmoor group running to raise awareness about the Oxford to Cambridge expressway.

FURTHER CASE STUDIES

Possession of local community woodland

The Friends of George Street Woods (FGSW) contacted ELF last year regarding a small woodland in Glossop used by locals since the 1940s. They were seeking to prevent a resident living adjacent to the woods claiming possession of it. The title to the land had been lost and no one knows who owns it.

The matter has been ongoing since 2009 when the first attempted enclosure took place. Since that time actions have included two unsuccessful planning applications by the resident for a caravan site, unauthorised felling of trees that led to the imposition of Tree Preservation Orders and an unsuccessful village green application by the community. Following the resident's flattening of one area with a mini digger in June 2017, the community took up occupation of the site.

When FGSW approached ELF for assistance, the Woodlings had been in occupation for a couple of months and had just received notice of eviction. ELF member barrister Constanze Bell at Kings Chambers provided advice to the group, who represented themselves. While there was not a full hearing and the group were evicted, their costs were limited to £500. This is just the latest stage in the fight for this woodland. ELF will continue to support and advise them.



The Old Mill Site 1958. Now - 2019 - George Street Woods.

Keighley Incinerator, Bradford

In Summer 2017, ELF advised Aire Valley Against Incineration (AVAID) on how to fight the decision by Bradford LPA to give the go-ahead for an incinerator in this semi-rural valley in West Yorkshire. ELF advised the group about the option of a Judicial Review and instructed barrister Duncan Sinclair of 39 Essex Chambers. They were able to supply a three-strong legal team who have been acting on behalf of the campaign committee.

There was a fantastic response from the local community and we raised over £40,000. We benefited from the ClientEarth/RSPB ruling and got the Aarhus cost cap, which was fiercely defended by Lisa when the developer, as IP, tried to apply to vary it. At Permission stage it was deemed a 'significant' case and allocated a two day hearing. Thank you so much for finding Duncan for us - he's been such a pleasure to work with. And we remember with real gratitude the help you gave us right at the start, answering our many questions and laying out the options clearly and honestly. We'll keep you posted!

The Ryes Aire Valley Against Incineration



**AND WE REMEMBER
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AND HONESTLY**

SUPPORT AND MEMBERSHIP

THE ENVIRONMENTAL LAW FOUNDATION WOULD LIKE TO THANK ALL THOSE WHO HAVE SUPPORTED US OVER THE YEARS AND THOSE WHO CONTINUE TO DO SO IN 2019 AND BEYOND.

Operating on a shoestring budget, typically of under £60,000 per year, ELF handles hundreds of cases at any one time. We rely entirely on donations from private individuals, communities and grant funders, plus subscriptions and often astonishing amounts of pro bono time from our professional members and university law school clinics.

We could not operate without generous pro bono support from Irwin Mitchell solicitors, whose call centre handles initial enquiries to our A&R service, or the branding agency Blue Moon Creative, which provides all creative and website services. We are hugely grateful to them and our many other supporters over the years.

Our current grant funders are the Tudor Trust, the Treebeard Trust and the deFreitas Family Trust. We also benefit greatly from the advice and connections of Roger deFreitas, whose breadth of experience is matched only by the generosity of his spirit.

Our current 'gold contribution' member law firms, all of whom pay higher subscriptions and give more time pro bono, include No5 Chambers, 1 Crown Office Row, Cornerstone, 39 Essex Chambers, Landmark and Francis Taylor Building.



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Emma Montlake
Claire Ward

The trustees liked the emphasis ELF places on giving voice to individuals and communities who would struggle to engage with environmental battles without support, given the massive power imbalances in play. They were interested in the range of ways in which you provide support and felt that it was very positive that you could draw on internal expertise, your network of professional members and the university clinic network, depending on the level of response needed.

Nicky Lappin, The Tudor Trust

We love what ELF does and that you are so effective on a lean budget.

Jessamy Gould, Treebeard Trust

LAWYERS ENVIRONMENTAL ACTION GROUP

1. There is an urgent need to establish an agency that will assist those suffering the consequences of attacks upon the environment to use all available procedures to resist such actions and, where appropriate, pursue remedies through the courts.
2. The difficulty that frequently arises is that embarking on such procedures generally involves the employment of lawyers, and other experts which can be a costly exercise. This paper argues the need for the establishment of a fund to which recourse can be made where issues that will otherwise pass unnoticed or unimpeded, (because of lack of finance) can be supported and argued with appropriate professional assistance.
3. (i) There is in being a highly commendable Environmental Law Association the aim of which is the advancement of public awareness and collaboration between those interested and concerned with environmental law and related issues.
(ii) The recommendation here is for the establishing of a parallel organisation that will provide a network of lawyers equipped to deal with and take on cases of an environmental nature.
4. The U.K. has not developed an identifiable and distinctive set of laws specifically referable to the environment. Environmental issues are buried in planning laws, laws relating to public health, nuisance in its various forms, trespass to property, protection of wildlife and the like. Recent Acts of Parliament dealing with privatisation, etc. have made additional stabs at aspects of environmental interest and with the 'greening' of Mrs. T. certain specific legislative proposals are emerging.
5. Given such background, practitioners have not identified with the practice of "environmental law" as such and academics have only in recent years sought to develop this particular field.
6. The practical consequence of this is that any endeavour to deal with issues of an environmental nature generally, means having to rummage through a series of Acts and Regulations as well as having to review a number of different case law precedents. Knowing the right procedures to adopt is also an art. All this is a time consuming and costly business as well as having attraction to few practitioners.
7. The gainers inevitably are governmental, institutional and large corporate organisations who by affording the best in the way of professional advisers (architects, town planners, engineers, surveyors, accountants as well as lawyers) have a substantial advantage over private individuals, local communities, small businesses, local interest groups as well as those seeking to ensure the very survival of the planet by arguing the need for recognition of the interplay between one Act and another, one activity and another.
8. The Americans have recognised that financial clout is needed to encourage opposition to negative activity as well as the promotion of

positive alternatives. There is in being in the U.S.A. the Environmental Defense Fund which was created in 1967 and which now operates a very substantial agency with a Board of Trustees and a considerable number of Attorneys, scientists, economists and other professionals available to it. It has by now an enormous income, available for use in taking on all manner of environmental concerns: it has the advantage of having started so long ago and being in America!

9. My proposal is for the formation of a U.K. organisation, whether in the form of a Trust or a company limited by guarantee with charitable status, to be set up here to perform in a manner similar to the E.D.F. It will need initial funding in order to establish itself but then will look for charitable covenants from interested parties.
10. I have not done a financial exercise, but that can be done once the principle is accepted. Initially the aim will be to identify a number of practicing lawyers prepared to participate. Their fees will be met out of the Trust on a negotiated basis but what is most important is that they have the skill as well as the interest and commitment to pursue such matters.
11. The organisation will have as its aim the following primary objectives:-
 - (i) To establish a team of practitioners capable of and willing to undertake representation of parties involved in disputes of an environmental nature.
 - (ii) To provide funding as well as representational facilities where individuals, businesses or small communities have insufficient resources to pursue or otherwise protect rights of an environmental nature and which the Trustees consider worthy of or appropriate to assist.
 - (iii) To provide educational facilities, research and availability of speakers equipped to argue issues of local, national and international concern.
 - (iv) To co-ordinate with the law departments of Universities and Polytechnics and other organisations with a like interest.
 - (v) To link-up and co-ordinate with environmental lawyers in the E.C. and other parts of the world.
 - (vi) To co-ordinate with other connected disciplines, e.g. architects, town planners, engineers.
12. There are a number of details still to be worked out: e.g. what is the agreed definition of "disputes of an environmental nature"; what criteria is to be employed in determining who should be assisted?
13. The first Trustees should provide a proper mix of environmentalists and lawyers, the Chairman should preferably be of national standing.
14. The name of the organisation needs to be discussed.

MARTIN FOLDEN
Raymond Buildings,
Gray's Inn, WCL

Above: The original paper proposing the establishment of the Environmental Law Foundation. Whilst environmental law has since become firmly identified as a distinct field of legal practice, barriers to environmental justice remain.



Environmental
Law Foundation