



AUTHOR / KEY CONTACT

Planning Full Steam Ahead: Legal Challenges



Matt Gilks
Partner

✉ matt.gilks@LA-law.com
☎ 023 8082 7462

The trinity of interrelated objectives comprising diversification and growth, new infrastructure needs and climate change means the port and marine sector is grappling with planning and environmental law as never before. Delivering onshore infrastructure is throwing up new and unexpected legal challenges.

In *R. (on the application of Parkes) v Dorset Council* [2024] EWHC 1253 (Admin), the claimant sought judicial review of a local planning authority's decision that a long-term mooring of a barge below the low water mark in [Portland Port](#), meaning that the seabed under the barge was never exposed, which was accommodating asylum seekers, was not subject to planning control. The local planning authority decided not to take enforcement action in relation to the barge on the basis of its powers as the local planning authority did not extend to the sea beyond the mean low water mark.

In the Planning Court, the claimant sought judicial review of that decision on five grounds. These included that the local authority's administrative area encompassed the seabed within the harbour and that the seabed was "land" for the purposes of s.336(1) of the [Town and Country Planning Act 1990](#). A related ground was that the barge was subject to planning control as an "accretion from the sea" within the meaning of the [Local Government Act 1972](#). In summary, the court held that Parliament would generally expressly indicate functions to be exercisable beyond the low water mark and had not done so in the 1990 Act. Moreover, a site beyond the low water mark was not "land" as defined by s.336(1) of the 1990 Act. The Planning Court also held that the barge could not become an accretion of the sea, since it was a chattel and could be moved. The claim for judicial review was dismissed, and the full judgment can be read by [clicking this link](#).

[LA Marine](#) advise *Portland Port Limited* in relation to many aspects of port operation, which includes, but is not limited to, the purchasing and leasing of property, planning and development, the purchase of workboats, mooring advice, ports and harbour regulation and general commercial advice.

About the author

[Matt Gilks](#) is a Partner in the [Planning & Environment](#) team at Lester Aldridge. Matt is a highly experienced planning and environment solicitor advising on applications, appeals, judicial reviews and transactional work. Contact Matt at matt.gilks@LA-law.com or 023 8082 7462. Matt is a part of the [Ports and Harbour team](#) within LA Marine, which provides advice in relation to the regulatory background for Ports and Harbours, Contact

Helen Whitaker of LA Marine on helen.whitaker@la-law.com or 02380 827484.