

CRIMINAL DEFENCES & 10 YEAR RULE

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Criminal Defence

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- Section 179 Town and Country Planning Act 1990 creates 2 offences
 - . Owner
 - . Person in control
- Defence under section 179 (3)
 - . Done everything could be expected to secure compliance.



Interpretation of the Defence Pre HRA

- Leading case R v Beard [1997] 1PLR 64
 - No defence if can comply by own unaided powers
 - The defence is only concerned with capacity and not the defendant's wishes.
 - No inconsistency with legislation and convention.



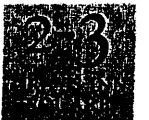
Personal circumstances

- Kent County Council v Brockman [1996] 1 PLR 1
 - . Held that personal circumstances could be relevant to defence.
- R v Wood [2002] JPL 219.



Human Rights Challenge

- R v Clarke [2002] EWCA Crim 753
- Crown Court.
- Court of Appeal.
- Effect of court of appeal is that cannot raise Article 8 points and proportionality by using this defence.
- Abuse of process??



10 YEAR RULE DORMANT USES

- Introduction
- The basics
 - Section 171B
 - 4 year rule od
 - 10 year rule other breaches
 - Saving for purported uses
 - Section 191 and lawful



DORMANT USES

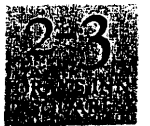
➤ *Thurrock v SSE & Terry Holding* [2001]
EWCA 226

➤ Facts

➤ Relevance of abandonment

➤ Test of being able to enforce for 10 years

➤ The future



ABANDONMENT

➤ When are rights lost?

- . MCU
- . Abandonment

➤ Abandonment

- Hughes v Secretary of State for the Environment
Transport and the Regions [2000] JPL 826
- 4 tests but objective test

