



## Scott Stemp

### Planning and Environment

Scott is a nationally recognised practitioner in Planning Law, and heads the Planning team in Chambers. Scott regularly advises and represents developers and Local Planning Authorities on a broad range of planning matters and at all stages from pre-application advice, through any appeal processes and to the Court of Appeal. He is regularly invited to speak at a range of RTPI (Royal Town Planning Institute) and related events; each year the RTPI hosts their eight highest rated papers (as rated by delegates). Scott's seminar on 'planning and the proceeds of crime' has been rated by delegates as being within the eight highest rate of each season since 2014/15.

**Year of Call: 2000**

#### Clerks

**Senior Practice Manager**

Andrew Bisbey

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#### **Recent Instructions to Scott have included:**

- A number of multi-week Inquiries on sizeable residential developments (including sheltered accommodation) and the interaction with five year housing land supply considerations and heritage impacts (including Listed Buildings, Conservation Areas and non-designated heritage assets);
- No.94 dwellings and 60-bed care home appeal centred on the legal basis for financial contributions and CIL compliance of the same;
- A number of Inquiries concerning the interaction of protective 'loss of employment' land plan policies and viability;
- No.90 residential units converted under GPDO Class O and associated matters;
- Advisory work on and representation at Inquiry on conversions under GPDO Class Q (agriculture to residential) and associated matters;
- Matters concerning the Habitats Regulations;
- Residential development within National Parks, AONBs, Green Belts, gypsy and traveller matters and Listed Building/Conservation Area controls;
- Advising on the redrawing of CIL Regulation 123 lists and enforceability of contributions sought under previous and revised Regulation 123 lists.

Scott also advises on and acts in matters (pre-application through to appeal and beyond) concerning County planning matters on waste or minerals developments and appeals.

## **Planning Enforcement, Injunctions and Regulatory Prosecutions**

Scott advises on and acts in various planning enforcement matters including current and prospective enforcement appeals, planning injunctions (and breaches of the same) and other enforcement controls such as tree preservation orders, s215 Notices and Breach of Condition Notices. Scott is regularly invited to speak and give workshops as NAPE (the National Association for Planning Enforcement) and SEOG (the Southern Enforcement Officers Group) and has done so for many consecutive years now. Recent successful enforcement matters and planning prosecutions include:

- Successfully resisting an attempt by a planning authority to obtain a Planning Enforcement Order to extend the time for taking enforcement action, including costs;
- *R. v. DB and LB*: successful prosecution of multiple count charges of breach of enforcement notices by running unauthorised businesses;
- *R. v. FA, FY, QQ and MK*: a four-defendant, six-week trial (leading Jonathan Underhill of Chambers) which commenced as a 'beds-in-sheds' enforcement investigation – acceptable guilty pleas entered, restraint and confiscation orders made;
- Obtaining a planning injunction to restrain the unauthorised residential use of sites within a National Park and enforcement in relation to breach of the same;
- Representing a County planning authority pursuing multiple breaches of a planning injunction prohibiting the importation of waste materials on to land (second breach of Order).

With a strong background in criminal law and advocacy, Scott has a thorough grasp of matters relating to confiscation and restraint orders under the Proceeds of Crime Act 2002, having acted in many cases (and appeared in the Court of Appeal on the same) and delivered many seminars on the same and having helped develop training and awareness programmes on the subject of planning and proceeds of crime.

## **Highways, Rights of Way, boundaries and land disputes**

Scott advises and represents parties in relation to all matters pertaining to highways and rights of way, including the implications of these on development potential and rights of way modification. Recent instructions have included:

- The seeking of injunctions to enforce highways rights and ensure the safety of the highway for users;
- Multi-day hearings before the Tribunal (Property Chamber) on disputed ownership of land and erroneous Land Registry entries;
- Advisory work on potential challenges to private rights of way and the effects of easements on land

## **Assets of Community Value and Village Greens**

Advice and representation in relation to the listing of Assets of Community Value under the Localism Act 2011, including strategic advice on listing of ACVs, representation at Review Hearings and further challenge where needed and the interaction of ACVs and Compulsory Purchase powers. Scott also advises on all matters pertaining to applications for registration including evidential sufficiency and legal restrictions arising from registration – recent instructions include defending a claim for Village Green status over land with residential development; also the effects of Village Green registration on the ability of a Local Authority to provide or improve equipped areas of play.

## **Direct Access**

Scott is qualified to receive Direct Access instructions and is often instructed directly by individuals, businesses or groups without the need for a solicitor or other intermediary on the full spectrum of work he undertakes (see above) including advisory work and (where appropriate) representation before courts or tribunals.

## **QUALIFICATIONS**

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LLB Hons (First Class) Southampton

## **MEMBERSHIPS**

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Western Circuit  
Criminal Bar Association  
UK Environmental Law Association

## **NOTABLE CASES**

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*Kestrel Hydro v. Secretary of State CLG and Spelthorne Borough Council* [2016] EWCA Civ 784 (leading Leanne Buckley-Thomson of Chambers) – successful defence on appeal of the Local Planning Authority’s pursuit of enforcement action; the juridical basis for *Murfitt* and *Somak Travel*; the extent of *Bowring* and also compliance of ground (F) appeals with Article 1 Protocol 1;

*Wellington Pub Company v Royal Borough of Kensington and Chelsea and The Norland Conservation Society* 2015 WL 10321737 (First Tier Tribunal General Regulatory Chamber) – representing The Norland Conservation Society on the applicability of ‘planning units’ to Assets of Community Value, definition of a ‘building’ for the same;

*Atkins (and others) v Tandridge District Council (and others)* [2015] EWHC 1947 (Admin) – successful defence of the Local Planning Authority’s enforcement and planning position on two claims for judicial review, against the Council’s failure to enforce and against the Council’s grant of planning permission for motocross activities;

*Tandridge District Council v Secretary of State CLG and Syrett* [2015] EWHC 2503 (Admin) – representing the Local Planning Authority on interpretation of the ‘replacement building’ exception to Green Belt development in the NPPF;

*Elmbridge Borough Council v Secretary of State CLG and Giggs Hill Green Homes Ltd* [2015] EWHC 1367 (Admin) – the limits of a ground (F) appeal against an enforcement notice in the absence of a ground (A) appeal, considering *Ahmed* and *Ioannou*.

Scott additionally has a broad background practicing in fraud, regulatory criminal and quasi-criminal matters including matters under:

- Fraud Act and Theft Acts
- Environment Protection Act;
- Food Safety Act (and regulations thereunder)
- Trading Standards (including copyright/trademarks matters, the Enterprise Act and Consumer Protection from Unfair Trading Regulations)
- Animal Welfare Act (including animal by-products regulations); and
- Health and Safety at Work Act (and associated regulations).