

Richard Kimblin KC

Planning and Environment



Year of Call: 1998 | Year of Silk: 2016

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Richard Kimblin KC is described in the Legal 500 as a 'Tier 1' silk: "An exceptional talent with a formidable intellect." His skill set is in:

- Vigorously and forensically testing and clarifying technically and legally complex issues and resolving them in order to advance the client's objectives;
- Assimilating and marshalling large amounts of material for inquiries and trials, leading the project team to deliver value;
- Exchanging experience between areas of work: inquiry to court; court to inquiry; one jurisdiction to another, having a very wide range of experience of cases of the most substantial kind and wider significance

He believes very strongly in truly independent advice and fearless advocacy for any client, no matter what their role or interest.

Richard's environmental and minerals/waste experience and expertise is well known, and is separately summarised in his [Environmental CV](#).

Notable work during 2023 includes:

- Supreme Court - (Wolverhampton v Persons Unknown) infrastructure; injunctions; protest; persons unknown

- Court of Appeal -(Cuciurean) human rights; fair trial; contempt
- Planning Court - (Cameron) quashing a consent for major development on [six grounds](#); defending important infrastructure to support an allocation for 6000 dwellings
- Appeals - (Yorkshire/Oxfordshire) a very tall industrial building; contentious amenity issues linked to strong economic and public benefit cases such as Jeremy Clarkson's appeals in respect of [Diddly Squat Farm and shop](#)
- Advisory - significant minerals planning, minerals rights, habitats regulations, EIA, noise, flood risk
- Environmental - water industry, permitting, statutory undertakers powers, offences

STRATEGIC SCALE RESIDENTIAL DEVELOPMENT

Richard has advised and appeared at examination in respect of many strategic sites in the bracket of 2,000 to 10,000 homes, in the urban area, the open countryside and the Green Belt. He has advised and appeared for promoters and local authorities in a wide variety of planning circumstances throughout England, eg: South Oxfordshire, Brentwood, Stockton, Gloucestershire, Guildford, Solihull.

PUBLIC INQUIRIES AND HEARINGS

Richard thrives on working with and guiding teams through the strategic, evidential, practical and presentational stages of planning appeals, call-in inquiries and determination of objections to highways and CPO orders. That is why he wrote "[Planning Appeals – Practice and Materials](#)" ([Bloomsbury 2020](#)) which is an essential practical text for those engaged in planning appeals, hearings and inquiries.

Richard has appeared at all scales of appeal: from events stretching over a year, to a very rare inquiry of such sensitivity that it was heard in private, to one-day hearings for particularly valuable residential proposals.

HIGH COURT AND APPELLATE WORK

Before taking silk, he was appointed Junior Counsel to the Crown (London C, B and A Panels), appearing in many cases which are now leading cases in their area. Over thirty of his appearances have been in the Court of Appeal. He is presently instructed: on behalf of an interested party on housing requirement issues; on behalf of HS2 in the Court of Appeal's consideration of injunctive relief against persons unknown; nutrient/SAC issues; Water Framework Regulations issues.

INFRASTRUCTURE, HIGHWAYS AND ENERGY

Richard has long experience of infrastructure schemes promoted through planning applications, specific statutory schemes such as the Electricity and Highways Acts and DCOS: the largest NSIP solar farm proposed to date; the year-long Mid-Wales windfarm inquiries: M42 Jnc 14; Mynydd y Gwynt DCO; Lancaster/Heysham – the first JR of a DCO; Dudgeon offshore grid connection; Ordsall Chord – light rail scheme for Manchester with associated heritage issues; the East-West Rail public inquiry; and a couple of canals.

MINERALS AND WASTE

Richard's minerals work is predominantly in advising and appearing at inquiry for contentious schemes. This is accompanied by complex advisory work on ROMPs, highways, EIA, and Mines Working Facilities and Support Act cases (MWFSA). Many of his cases have been concerned with

National Parks. He has advised and appeared at public inquiry in respect of EfW and landfill cases where the issues have been Green Belt impacts, odour, air quality and need.

His work has included the full spectrum of minerals proposals: hard rock; sand and gravel; chalk; cement; high PSV sites; solution mining; precious metal; polyhalite; energy minerals including coal, fracking, onshore oil and gas, offshore gas; gas storage.

He is presently instructed in public inquiries in England and Wales where the issues include highways impacts, blasting, noise and air quality.

In the High Court, he has brought and defended judicial reviews in minerals cases. He was instructed to obtain a rare order under the MWFSa: Re York Potash Ltd [2018] EWHC 3114 (Ch) and has advised over many years in this particular niche of minerals work.

Recommendations

“Richard has a calm and measured style with the clients and in court. He can distil information to clients in a reassuring way. He is very commercial and creative with challenges.”

Legal 500 2024 – Planning and Environment

Ranked as a Tier 1 Silk in Planning and Environment.

Legal 500 2023 - Planning and Environment

“He’s absolutely top-class and is one of the best planning silks, not just in terms of his advocacy but also case management and strategy.” “He is a very clear thinker, gives sound advice and is a fantastic advocate.”

Chambers UK 2022 - Planning

“He is an exceptional talent and he is in a league of his own. He always gets to the heart of a matter quickly and delivers concise reasoned opinions and advice.” “In terms of a KC who I would want for any knotty areas of law, I would think of him immediately to unpick and explain them succinctly.”

Chambers UK 2022 - Environment

“An extremely clever advocate with a very succinct academic style.” “A thoughtful advocate.”

Chambers UK 2021 - Planning

“He is a very focused advocate and very committed to his clients.” “He is approachable and he really looks after the client and he takes time to understand them.”

Chambers UK 2021 - Environment

“A well-rounded and commercially astute barrister.”

Legal 500 2021 - Planning and Environment

“Razor-sharp mind.” “An excellent advocate.” “He is measured and calm and his opinions are well thought out.”

Chambers UK 2020 - Planning

“He is a go-to silk – absolutely first class.” “His work in the courtroom is fantastic, but it is his work outside the courtroom that makes him one of the best – it is his attention to detail and the fact that he always keeps an eye on how to achieve the overall result.”

Chambers UK 2020 - Environment

Notable Cases

Planning Policy and Decision Making

He has appeared in many of the leading cases which clarify and define important planning policy areas, and indeed the principal decision making framework. Some of those are:

Watton and Cameron v The Cornwall Council [2023] EWHC 2436

R (Llandaff North Residents’ Association) v Cardiff City Council [2023] EWHC 1731

R (Whitley Parish Council) v North Yorkshire CC [2023] EWCA Civ 92

Cuciurean v Secretary of State for Transport [2022] EWCA Civ 1519

Ipswich BC v Fairview Hotels (Ipswich) Ltd [2022] EWHC 2868

High Speed Two Ltd v Persons Unknown [2022] EWHC 2364

Buckinghamshire Council v Secretary of State for Transport [2022] EWHC 1923

Haytop Country Park Ltd v Secretary of State for Housing Communities and Local Government [2022] EWHC 1848

Gladman Developments Ltd v Secretary of State for Housing, Communities and Local Government [2021] EWCA Civ 104

Gladman Developments Ltd v Secretary of State for Housing, Communities and Local Government [2019] EWHC 2001

Appropriate assessment; People over Wind; meaning of policy in the Framework of policy intention

Friends of the Earth Ltd v Secretary of State for Housing, Communities and Local Government [2019] EWHC 518

Strategic environmental assessment; National Planning Policy Framework

Central Bedfordshire Council v Secretary of State for Housing, Communities and Local Government [2018] EWHC 2077

Maximum Networks Ltd v Secretary of State for Communities and Local Government [2018] EWHC 1933

What is a valid application and appeal, and what is the discretion which PINS enjoys in determining validity?

R (Holder) Gedling BC [2018] EWCA Civ 214

Onshore wind - the meaning of national policy on acceptability.

R (oao) Watermead Parish Council v Aylesbury Vale DC [2017]

In which he appeared for the Claimant in a case dealing with flood risk policy and the presumption in favour of sustainable development.

Save Britain's Heritage v Liverpool CC and Neptune Developments [2016] EWCA Civ 806

World Heritage Sites; National Planning Practice Guidance; successfully appearing for the interested party, the developer.

BDW v Secretary of State for Communities and Local Government [2016]

An important Court of Appeal summary and explanation of the practical application of s38(6) Planning and Compulsory Purchase Act 2004

Redhill Aerodrome Ltd v Secretary of State for Communities and Local Government [2014] EWCA Civ 1386; [2015] JPL 416

A key Court of Appeal judgment on Green Belt policy, particularly as to very special circumstances

Turner v Secretary of State for Communities and Local Government [2016]

Another key Court of Appeal judgment on Green Belt policy, particularly as to the definition and assessment of 'openness'

Timmins v Gedling BC [2015] EWCA Civ 10; [2015] 2 P and CR 12

A further key Court of Appeal judgment on the scope of exceptions to inappropriate development; a judgment which has now been acknowledged by amendment to the NPPF to add material changes of use of land to the list at s.146.

Daventry District Council v Secretary of State for Communities and Local Government and Gladman Developments [2016]

In which he appeared for the interested party in a case on the weight to be given to policies for the supply of housing land; para 215 NPPF; paras 47 and 49 NPPF.

R(oao) Hampton Bishop Parish Council v Herefordshire Council and Bloor Homes Limited [2014] EWCA Civ 878

A leading case in the Court of Appeal on the application of Section 38(6) of the 2004 Act in which he appeared for the local authority.

Vicente v Secretary of State for Communities and Local Government [2014] EWCA Civ 1555

Local planning authorities; Local plans; Planning inspectors; Planning permission; Procedural irregularity; Unfair conduct

San Vicente v Secretary of State for Communities and Local Government [2012] EWHC 3585; [2013] EWHC 2713; [2013] EWCA Civ 817

Procedure in appeals by hearing; amendment of statements of case; civil procedure rules

Distinctive Properties v Secretary of State for Communities and Local Government [2016]

Tree Replacement Notices, meaning of 'tree' – in which he appeared for the Secretary of State at first instance and in the Court of Appeal

Infrastructure/DCOs/CPD

Re York Potash Ltd [2018] EWHC 3114 (Ch)

Application under the Mines Working Facilities and Support Act 1966 - a novel application, securing subsurface rights in connection with the winning of potash

JS Bloor (Wilmslow) Ltd v Homes and Communities Agency [2017] UKSC 12; [2018] 1 All ER 817

Richard Kimblin has long experience of major infrastructure schemes from canals to motorways, including significant DCO work and Parliamentary drafting: Power stations; Wind farms and related infrastructure (onshore and offshore); Gas storage; Minerals schemes including ROMPS, extensions.

- Whitby v Secretary of State for Transport [2016] EWCA Civ 444 – Northern Hub, Transport and Works Act Orders; Ordsall Chord between Manchester Stations; heritage effects;
- Mid-Wales - a 27 turbine scheme in the context of conjoined s36 Electricity Act inquiries in respect of 5 sites and related grid connection works. This was the largest and longest such inquiry for many years
- R (oao) Gate v Secretary of State for Transport [2013] EWHC 2973 – the first JR re an NSIP consent; the M6-Heysham link road: development consent orders; highways; nationally significant infrastructure; habitats; protected species; alternatives
- MYG – a DCO in Wales, with a positive recommendation from the Inspector, refusal from the Secretary of State and subsequent judicial review on habitats regulations issues; Hemswell - the first scheme dismissed on the basis of the WMS on onshore wind
- Dorset wind farm (Silton) - 4 turbines in the setting of an AONB; 4 week inquiry covering significant landscape, cultural heritage, noise and socio-economic evidence (APP/N1215/A/11/2160839)
- Dugeon grid connection - onshore 45 km cable route and substation inquiries for 560 MW of renewable energy (APP/Y2620/A/12/2170245) – see also Dudgeon Offshore Wind v Secretary of State for Energy and Climate Change and Secretary of State for Communities and Local Government (infrastructure; wind energy; alternatives) [2012] EWHC 861
- FCC Environment v Secretary of State for Communities and Local Government [2014] EWHC 2035 (Admin) Error of fact; Local authorities; Planning inspectors; Planning permission; Wind turbines
- R (oao) Holder v Gedling Borough Council [2014] EWCA Civ 599 - material considerations in energy proposals
- Jarrett v Secretary of State for Communities and Local Government [2012] EWHC 3642 - onshore wind energy; development plan policies for renewable energy
- R (oao) Webb v Herefordshire Council [2013] EWHC 1850 - onshore wind energy; protected species; EIA

Environmental Litigation

Richard has been instructed in more than 100 environmental and planning prosecutions. He advises on all aspects of litigation in planning, environmental and regulatory contexts. He is also called upon to advise in several niche areas

- Mines working facilities and support act matters
- Part IIA EPA
- WIA 1991 infrastructure issues for developers and undertakers. Prior to his call to the bar, Richard researched the use of groundwater storage for London (which is now an operational

scheme and the basis of his PhD thesis), undertook EIA work on schemes such as the channel tunnel rail link and did comparative study of domestic European laws for the European Commission.

- Friends of the Earth v DEFRA [2015] – neonicotinoids; bees; Commission Regulations on plant protection products
- Seiont etc Anglers v Natural Resources Wales [2015] – Environmental Liability Directive, waste water discharge
- Ashdown Forest LLP v Secretary of State for Communities and Local Government and Wealden DC [2014] EWHC 406 (Admin) - lawfulness of development plans affected by SAC/SPA and the uncertainty in assessing those impacts
- Abbottskerswell PC v Teignbrudge DC and SSCLG [2014] EWHC 4166 (Admin).
- Walker and Son (Hauliers) Ltd v Environment Agency Court of Appeal (Criminal Division) [2014] EWCA Crim 100 [2014] 4 All E.R. 825; [2014] P.T.S.R. 929; [2014] 1 Cr. App. R. 30; [2014] Env. L.R. 22; [2014] L.L.R. 625 Criminal law; Environment; Burden of proof; Environmental offences; Environmental permits; Knowledge; Sufficiency of evidence
- R (oao) Gilbert v Secretary of State for Communities and Local Government [2014] EWHC 1952 (Admin) Environmental impact assessments; Noise; Precautionary principle; Screening directions
- R (oao) Enstone Society v West Oxon District Council [2009] EWCA Civ 1555 (noise; motor sport; Court of Appeal)
- R (oao) Wye Valley Action Group ex p Herefordshire Council [2010] Env LR 18 (polytunnels EIA; Habitats Regulations) [2009] Court of Appeal [2011] EWCA Civ 20

Memberships

PEBA

UKELA (Elected Council Member for 10 years; Chair for 2 years)

Qualifications

BSc

PhD

Royal Society Western European Fellow

Publications

Publications and Podcasts

Richard is the author of “Planning Appeals – Practice and Materials” (Bloomsbury 2020) which is an essential practical text for those engaged in Planning Appeals, Hearings and Inquiries.

Richard also hosts the regular “Planning Podcast”.

The Interpretation of Planning Policy after Tesco [2012], 9, 1045 – 1052, - Journal of Planning and Environmental Law (Richard Kimblin KC, Ian Dove KC, Kaitlin Davies)