

# Richard Humphreys KC

Call: 1986 | Silk: 2006

Ranked as a leading Silk in Planning and Environment.

Legal 500 2024



Richard Humphreys KC is a leading Barrister in the fields of Planning, Environment and Local Government Law, with extensive experience in planning appeals and local plan examinations and litigation at all court levels.

## Expertise

### Planning

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Planning practice includes extensive experience in the following areas, acting for developers, landowners, local planning authorities and action groups:

- development plan preparation, local plans and neighbourhood development plans
- SA/SEA/HRA and EIA
- substantial regeneration and infrastructure projects, including highways and aviation, wind and solar energy and related NSIPs
- residential
- industrial/office/r&d and logistics
- retail
- heritage – listed buildings, conservation areas non-designated heritage assets,
- minerals and waste development
- agriculture
- leisure
- certificates of lawfulness
- enforcement notices
- common land
- town and village greens
- public rights of way

#### Birmingham

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## Plan-making

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Richard has been instructed to advise upon and appear at numerous Development plan examinations and has considerable experience both of promoting and opposing plans as well as representing clients in legal challenges to the adoption of local plans.

Recent instructions have related to Wiltshire Core Strategy, Lichfield Local Plan, Mendip Local Plan Part 1, West Lancashire Local Plan, Stafford Local Plan Parts 1 and 2, Hartlepool Local Plan, Cheltenham, Tewkesbury and Gloucester Plans, Harrogate Local Plan, North Essex Part 1 Local Plans, St Cuthbert's Garden Village (Carlisle) Plan and Charnwood Borough Local Plan.

## Residential

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Richard has advised and/or represented a large number of developers (including Bellway Homes, Bovis Homes, Crest Nicholson, Redrow Homes, Barratts/BDW, Galliard Homes, Linden Homes, Orbit Homes and Orchard Homes) and Local Authorities at many public inquiries and through subsequent legal challenges.

Richard therefore has a very good working knowledge of issues relating to OAN, 5 year supply, viability, Green Belt, heritage, landscape, EIA and Habitats Regulations, CIL-compliant planning obligations and CIL-liability.

Recent cases include:

- securing planning permission for 195 dwellings for North Warwickshire and Hinckley College (with costs awarded) (2021)
- securing planning permission for 180 residential units for Kelsworth Ltd/Galliard Homes Ltd at St Johns Road and St Johns Nursery, Clacton-on-Sea (with costs awarded) (2023)
- successfully resisting, on behalf of Nuneaton and Bedworth BC, 29 dwellings at Woodlands Lane, Bedworth, (2023)
- successfully resisting, on behalf of Save Coventry Speedway, 124 dwellings as part of a proposed redevelopment of Brandon (Coventry) Stadium (speedway and stock-car racing) (2023/4)
- successfully resisting, on behalf of Nuneaton and Bedworth BC, Richborough Estates Ltd and Mr Robert Jones' appeal for up to 650 dwellings on land west of Higham Lane, Nuneaton (2024)
- successfully resisting, on behalf of Nuneaton and Bedworth BC, Gladman Developments Ltd's appeal for up to 700 dwellings at Weddington Road, Weddington Nuneaton.

## Minerals & Waste

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- Richard has been involved in numerous cases involving mineral extraction (from tin to limestone, sand and gravel to gypsum and fullers earth; as well as waste development).
- He has represented some of the largest Quarry and Waste operators in the country, including Tarmac and Aggregate Industries.
- He has particular expertise in relation to issues concerning interpretation of permissions and conditions, review of minerals permissions, permitted development rights, environmental impact assessments requirements, viability of extraction, compatibility with residential development, sterilisation of minerals, assessment of reserves and resources, the sale of mineral product, the meaning of waste, waste delivery and the interpretation of supply agreements.
- More recent case examples include resisting proposed waste development at the Former Fullers' Earth site, Bath; securing on appeal a successful review of conditions on a minerals permission at Cornelly Quarry near Bridgend and advising in respect of proposed minerals development at Mepal Quarry, Cambridgeshire.

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## Highways

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Richard has advised and/or represented numerous clients in relation to numerous Highways matter.

Experience includes road improvement schemes, bypass inquiries, proposed Motorway Service Areas (Mobil Oil, Barn Hill, M40; and resisting MSA near Booker Airfield, M40), successfully representing the London Borough of Bexley in resisting the Thames Gateway Bridge and related toll order, promoting road bridges (e.g. Newtown, Powys) and footbridges (e.g. Leeds), stopping up/ diversion of highways orders (Wycombe DC).

He successfully represented DB Symmetry Ltd in the Supreme Court (Swindon BC v. DB Symmetry Ltd and Secretary of State (whether a planning condition does and can require a landowner to dedicate a right of way to the public) (2022).

Recent planning inquiries involving significant highways issues include successfully resisting Richborough Estates Ltd and Mr Robert Jones' appeal for up to 650 dwellings on land west of Higham Lane, Nuneaton (2024) and successfully resisting Gladman Developments Ltd's appeal for up to 700 dwellings at Weddington Road, Weddington Nuneaton.

## Major Infrastructure

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Richard has been involved in some of the largest schemes considered at inquiry. He has experience of the DCO process under the Planning Act 2008, as well as substantial infrastructure development pursuant to the Town and County Planning Act 1990, the Transport and Works Act 1992, the Electricity Act 1989 and other infrastructure related legislation. Examples include the Thames Gateway Bridge, the City of London heliport, Redhill Aerodrome, Manchester Second Runway and Heathrow Terminal 5. Richard has also advised and acted for the CAA in respect of numerous airport inquiries including Manchester, Stansted, Cardiff, Southampton and City Airport, London.

He represented Essex County Council at the London Gateway (Shellhaven) container port development and Carlisle City Council in respect of proposed Carlisle Airport freight development.

He has considerable experience of wind farm development, including representing at inquiry London Oxford Airport in resisting wind farm development and Carlisle City Council at inquiry in resisting wind farm development.

He also has considerable experience of telecommunication mast cases, including related objections under the Communications Act 2003. He successfully represented Hutchinson 3G in the High Court and Court of Appeal and O2 in the County Court.

He is currently advising on the largest proposed solar farm in England in Northamptonshire.

## Retail

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Richard has very extensive retail development experience in the convenience, comparison and bulky goods sectors, and warehouse clubs, and certificates of lawful use in respect thereof, representing many of the major retailers (Aldi, Asda, B&W, Co-op, Sainsbury, Tesco) and retail park operators, and many local authorities over many years. More recent instructions include out of town retail developments in Sunderland and proposed new stores for Aldi at 2 recent inquiries (Fletton Close, Leicester and Great Barr, Birmingham).

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## Industry/office/r&d and logistics

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Richard has advised and /or represented numerous clients in relation to a wide range of such proposals, for example:

- Europe's largest bottle-making and filling factory,
- office development in the grounds of a listed building,
- Qinetiq r&d
- numerous logistics development proposals (e.g. Swindon, Northamptonshire, Warwickshire, Leicestershire) including for DB Symmetry Ltd and Tritax Symmetry.

## Leisure

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Richard has extensive experience in a wide range of leisure developments

- Coventry Stadium (speedway and stock-car racing)
- holiday park development, numerous caravan site and lodge developments throughout England including for Darwin and Waterside.
- a multisports complex

## Heritage

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Richard has many years' experience of projects which potentially affect heritage assets (both designated and non-designated). Examples include

- Nutfield, West Sussex enabling development,
- works affecting listed buildings, Dunstable and Eaton Bray,
- Harlestone, Northants enforcement inquiry,
- St John's Wood, London Robert Adam residential development,
- Extension of listed building, St John's Wood
- Water Research Company office redevelopment, Medmenham,
- West Walls of Carlisle/Tesco retail inquiry,
- Milton Keynes Council – Tesco, Wolverton redevelopment ,
- Weston Lane, Shavington, Cheshire,
- inquiries at Melksham and Semington, Wiltshire,
- Ticehurst, East Sussex
- West Malling, Kent (Bellway Homes).

## Agriculture

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Richard has wide-ranging experience in agricultural development, from poultry processing to pig and cattle farming, to large scale greenhouse production and agricultural land classification.

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## Planning Enforcement

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Richard successfully argued the still leading case of R v Wicks in the House of Lords (the scope for a Defendant to challenge the validity of an enforcement notice when prosecuted for non-compliance).

He has appeared at numerous enforcement inquiries and has in-depth knowledge of enforcement law.

Recent instructions have included Wycombe DC (Babs Park, Bourne End), Nick Hood (Brush Garage, Walsall), Rob Pattinson, Knights for Graham Heath Group Ltd (Station Yard, Wrenbury), Rob Pattinson, Knights for Gamble Plant, Norfolk and Tom McArdle, Pike Smith Kemp Rural in relation to Thimble Farm, Holyhead, Maidenhead.

## Environment

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Environmental work has included numerous advices and/or representation in respect of

- statutory and public / private nuisances,
- environmental protection (prescribed processes, substances and waste) regulations
- hazardous substances regulations, including in relation to Buncefield depot, Hemel Hempstead.

Past instructions have related to noise, dust, vibration, odour (from pigs, cattle, poultry).

Recent instructions include representing Cank Farm, Tanworth-in-Arden (nuisance case concerning poultry) in the High Court.

## Local Government

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Local government work includes advising on

- the scope of statutory powers (including financial),
- State Aid,
- governance,
- the constitution of committees (including political balance),
- election law,
- Code of Conduct issues,
- freedom of information,
- the acquisition, appropriation and disposal of land,
- emergency planning,
- urgent works notices,
- the provision of affordable housing,
- the establishment, diversion, extinguishment and protection of public rights of way,
- town and village greens,
- common land,
- charter and statutory markets and fairs,
- hackney carriage licensing and private vehicle licensing,
- caravan site licensing and duties in relation to travellers.

He recently successfully represented Carlisle City Council, Allerdale Borough Council and Copeland Borough Council in a High Court case

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brought by Cumbria County Council challenging the decision of the Secretary of State to create 2 new unitary authorities rather than a single authority for Cumbria.

## Compulsory Purchase

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Richard's Compulsory purchase work includes

- section 17 inquiries (certificates of appropriate alternative development),
- section 226 TCPA 1990 inquiries/compulsory acquisition for development/planning purposes, compensation,
- section 84 Law of Property Act 1925 applications (restrictive covenants), and
- Lands Tribunal (Lands Chamber of the Upper Tribunal) work.

Recent CPO work include:

- the Network Rail (London to Corby)(Land acquisition, level crossing and bridge works) Order (Bovis Homes Ltd);
- the promotion of the Manchester City (Brunswick) CPO.

## Awards



## Appointments

- Bencher, Inner Temple

## Qualifications

- LLB (Nottingham)
- LLM (Cambridge)

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## Publications

- Past contributing editor of Crown Office Digest.
- Past contributing editor of Halsbury's Laws (Local Government)

### Journal of Planning and Environmental Law articles include:

- "Interpreting planning permissions after Stevenage – the primacy of the plans?"
- "Material Change in use – what's character got to do with it?"
- "20 years of the 10 year period for enforcement: time for reform?"
- "Integrity in the planning system in England: lacunas but lessons from a British Isle?"
- "Sustainable development: does the NPPF paragraph 14 ensure that future generations can meet their own needs?"

### Linked-in posted articles:

- "The power to make a Public Path Diversion Order: points for councils, vendors, purchasers and owners of adjacent land"
- "Finney v. Welsh Ministers before the Court of Appeal – the scope of s.73"
- "Confusion and consultation? Planning White Paper, Planning Policy Paper, timing, comprehensive review and genuine consultation?"
- "DB Symmetry Ltd and another (Respondents) v. Swindon Borough Council (Appellant) [2022] UKSC 33"
- Elephants in the room and flying-pigs (300,000 new homes a year?) (June 2024)

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