



Clive Moys

Call: 1998

Barrister

CONTACT

Email
cmoys@radcliffechambers.com

Email Clerk
clerks@radcliffechambers.com

Telephone
020 7831 0081

ADDRESS

11 New Square
Lincoln's Inn
London WC2A 3QB

DX: 319 London
Telephone: 020 7831 0081
Fax: +44 (0)20 7405 2560

Clive Moys specialises in Real Estate: including the law of Real Property, Landlord & Tenant, Planning and Development, and Rating, Council Tax and Valuation. I advise and litigate on behalf of developers, landowners, occupiers, local planning authorities and investors interested in the development of land and buildings in England and Wales.

Clive's work typically involves:

Public Law issues/expertise: planning permission, s. 78 planning appeals, planning enforcement, s. 174 enforcement appeals and s. 179 prosecutions (listed buildings, conservation areas and POCA confiscation orders), s. 106 Agreements, Community Infrastructure Levy, Judicial Review, Highways, and Commons.

Private Law issues/expertise: Possession, Restrictive Covenants, Easements, Mortgages, Overage, Options, Pre-emption, Adverse Possession, boundaries, vesting of title, Reverter of Sites, and land registration.

Rating, Council Tax and Valuation issues/expertise: Liability Orders, Completion Notices, Mitigation and Exemptions and Charity relief.

Clive has practiced as a barrister since 1999, before that as a solicitor in London local government from 1988.

He appeared in, and before at: Civil: High Court, Chancery Division, TCC, QBD; County Courts, First-tier Tribunal (Property Chamber) all 3 divisions, and planning and enforcement appeals, and /highway inquiries. Criminal: Crown Court, and magistrates' courts.

As a member of Commercial/Chancery chambers he has related experience of the law of trusts, charity, insolvency, and professional negligence.

PROPERTY DISPUTES

Because of Clive's Planning law expertise much of his work concerns development land - Options/Overage/Clawback/pre-emption and sale and purchase contracts subject to planning. He is also instructed in disputes involving: possession; title; restrictive covenants; highways; TOLATA; service charges; and LPA receivers and mortgagees.

Examples of recent cases include:

- *Maypole Dock Ltd v Catalyst Housing Ltd High Court QBD (TCC)* Acting for the successful Claimant in a dispute concerning an Overage provision in a sale contract. Settled before trial [6 days] on confidential terms in September 2022.
- *Marion Feltham v Hampshire CC Upper Tribunal (Lands Chamber) LC-2021-000593* Acting for the successful Claimant in a disputed reference concerning compensation arising from the use of [highway alterations] public works (Land Compensation Act 1973, Pt I), together with diminution in value (Compulsory Purchase Act 1965), settled by consent on payment of a six-figure sum in compensation together with costs in May 2022.
- *Essex County Council v Thurrock Council Chelmsford CC* Acting for the Defendant in on-going litigation concerning a £750,000 claim about the consideration received in a property specific provision in an agreement made between the parties in consequence of Thurrock Council becoming a unitary authority.
- *Hubbard(s) v Hubbard(s) High Court Ch D.* Acting for the Defendants in on-going litigation concerning a portfolio of valuable farm development land.

- *W Brazil v Norwich CC First-tier Tribunal, Property Chamber (Land Registration) 2017/1102* instructed by np Law successfully resisting adverse possession/alteration of Land Register (January 2019).
- *Norfolk CC, Norwich CC, NPS Property Services Ltd v W Brazil acting for Norwich CC* instructed by np Law possession achieved spring 2019.
- *W Brazil v Norwich CC First-tier Tribunal, Property Chamber (Residential Property)* – dispute over water/sewerage charges successfully instructed by np Law autumn 2019.
- *Henley Investments Ltd v Westwoods Ltd* (2016) leasehold enfranchisement dispute, *Olivewood Ltd v. Barnet LBC* (2015), and *Camden LBC v. Cornhill Investments Ltd.* (2014) & *Camden LBC v Travis Perkins plc* (2013) – all Pt II 1954 Act (f) landlord’s intended redevelopment cases, *Camden LBC v. Post Office* (2014) – rental value dispute Swiss Cottage Post Office, *Mayor’s Office for Policing & Crime v Metropolitan Police (Imber Court) Sports Club and others* (2010 – 2014) equitable/beneficial interest in real property Chancery Division.

Landlord and Tenant: Clive has experience of commercial, residential and agricultural landlord and tenant disputes in both courts and the First-tier Tribunal (Property Chamber) in relation to 1954 Act, Pt II disputes; possession claims; forfeiture actions; adverse possession; airspace development; defined boundaries; and service charge disputes.

Illustrative cases:

- *Sachdev t/a Bash Supermarkets v Woodhouse International Inc (Panama)* 2017-18 – Acting in relation to the proposed redevelopment of supermarket, Central London CC
- *Malmin Healthcare Ltd v Andrew Kirk Management Ltd* (2017) – Acting in relation to the proposed redevelopment of dentists’ premises in Clerkenwell, Central London CC
- *The Rt. Hon JFH Baring and others v Grange Park Opera Ch Div* (HC-2016-002079) – Acting in a landlord and tenant dispute concerning fixtures, fittings, chattels & dilapidations at theatre premises forming part of The Grange a listed building and scheduled ancient monument
- *Olivewood Ltd v Barnet LBC* (2015) Pt II 1954 Act – Acting in a commercial landlord & tenant claim concerning a builders’ merchants site in Colindale
- *Camden LBC v Cornhill Investments Ltd* (2014) Central London CC – Acting in a commercial landlord and tenant claim concerning the recovery and demolition of the Abbey Rd. car park as part of phase 1 of a multi-million-pound housing redevelopment.
- *Travis Perkins Plc v Camden LBC* (2013) Central London CC – Acting in a commercial landlord and tenant claim concerning 156 West End Lane –

insertion of landlord's re-development break clause and new rent (instructed by Camden legal services)

- *Camden LBC v Post Office* (2014) – Acting in relation to Swiss Cottage Post Office rent review.

PLANNING AND DEVELOPMENT

Clive has over 20-years of planning and development experience acting for local planning authorities; developers; rule 6 parties; and landowners. He has advised about and appeared at a considerable number of planning s. 78 appeals and s. 178 enforcement appeals; ss. 288/289 challenges and planning Judicial Reviews; prior approvals; s. 187B injunction & committal for contempt; sale of land following direct action by a LPA. Additionally, planning regulatory prosecutions and enforcement cases involving listed buildings, conservation areas, trees, advertisements, and Confiscation orders under POCA. Advising on: Lawful Development Certificates; s. 106 planning obligations (including development viability) and CIL (including social housing relief); land acquisition and committee report wording.

Recent illustrative cases include:

- *Save Princes Parade, Seabrook v Folkestone and Hythe DC*: TCPA 1990, s. 247 six-day Public Inquiry October/November 2021 into Stopping-up and Diversion of Highways (South-East (No. 2) Order 2022.
- *Quinn Estates Ltd & Mulberry Estates (Sittingbourne) Ltd v Swale BC* s. 78 appeal – non-determination of hybrid application, Secretary of State recovered appeal, seven-days in November/December 2019 for Borden PC, rule 6 party.
- *CIPT Ltd v West Berkshire DC* – Appearing in a 5-day planning inquiry, May 2018 – appeal dismissed
- *(otao O'Brien) v Brentwood BC Planning Ct* (CO/4471) – Appearing in a judicial review of a grant of prior approval under the GPDO
- *(otao Elliott) v South Norfolk DC* CO/4618/2014 – Resisting a judicial review challenge to various decisions taken in the context of planning enforcement, High Court (Planning Court)
- *M Gaze Ltd v Durrants Ltd* (2015) – Acting in case concerning breach of contract/professional negligence claim against surveyors/planning consultants concerning a waste re-cycling centre in Norfolk
- *(otao Zafar) v Secretary of State for Communities and Local Government* (2015) – Acting in a s. 288 appeal from a planning inspector's decision dismissing an appeal from East Herts. DC's refusal of planning permission for works to premises in Bishop's Stortford High Court (Planning Court)
- *Basingstoke & Deane BC v Persons Unknown* (2014) s. 187B injunction – Acting in a case regarding threatened breach of planning control
- *Chichester DC v Satturley* (2014) – Representing the defendant in successful appeals against 2 planning enforcement notices

Compulsory Purchase and Compensation:

- *Alperton, Brent* large scale residential led mixed-use redevelopment – currently advising. *Derby CC Housing CPO* [2021] advised the acquiring authority.
- *Croydon Whitgift centre CPO* – advising opticians (2017).
- *Bluefoot Foods Ltd v GLA* [2015] UKUT 0208 (LC): compensation dispute arising from total extinguishment of business due to Olympics CPO – advisory (claimant/applicant).

RATING AND VALUATION

Clive was working at the local government coal face when the Local Government Finance Act 1988 ushered in the current National Non-Domestic Rates regime (aka 'business rates').

Rating liability: Clive regularly advises billing/collecting authorities and ratepayers in disputes about liability: including, collection & enforcement disputes; “shams”, for both occupied and empty property; Completion Notices; setting aside liability orders; liability on insolvency; Pandemic grants; BIDs/enterprise zones; billing authority disputes with the Valuation Office Agency.

- *Lewisham LBC v U + I Group plc [2021] Valuation Tribunal England: validity of a completion notice.*
- *Westminster CC [2022] pop-up candy store Oxford Street.*
- *Camden LBC v Travis Brothers (2013) rates liability of night club owners.*
- *Camden LBC v Retail Space Management Ltd (2009) liability for retail space let under licence in Camden.*
- *Valuation: Masala Zone v Golding (V/O) [2016] UKUT 328 (LC): comparables; tone; mezzanine floor.*
- *Vines v de Mauny (V/O) [2010] UKUT 322 (LC): disability; values; tone.*
- *Broxtowe BC v Scotia Aid Sierra Leone (2015) rates liability of charity.*

Clive is an IRRV member and a periodic author on Rating topics: *Occupation of Premises by a Charity for Charitable Purposes*, Private Client Business: issue 5, 2022; *The Road from Heydon’s case, via Ramsay, to Hurstwood*, The Valuer, September 2022; *Snails and Shams*, The Valuer, June 2021 *Encyclopaedia of Forms and Precedents: Vol. 26(2)(A) Rating, Council Tax and Valuation Appeals*, Lexis Nexis 2019 and 2023 update [forthcoming]. *Atkin’s Court Forms: Rating and Appeals* [forthcoming].

LOCAL GOVERNMENT

Since leaving local government in 1999, Clive has built a broad local government practice at the Bar regularly advising and representing county, unitary, borough and district councils in matters such as: Academies and school conversion disputes; local transport plan; HMO selective and additional licensing; status of land – held on charitable trust or corporate property; redevelopment of council owned land; and Options viz. airport development land; disposal of charity land and charitable and library bequests; home fees portfolio, land charges and land registration issues.

Recent examples of Clive’s non-litigious work include:

- Advising in 2018 on proposed housing redevelopment on council owned land Winchester CC
- Acting for Brentwood BC in 2018 concerning possible land disposal – issues of charity law/governance/procurement and property law
- Advising Brent LBC concerning bequests held on charitable trust by the council
- Advising Surrey County Council about a library and museum bequest held on charitable trust
- Advising Hounslow LBC about a park and other land held on charitable trust
- Acting for Bath & NE Somerset DC concerning portfolio of care home fee cases, land charges and land registration.

RECOGNITION

Clive has been recommended by the leading legal directories over the years. You can read his recommendations and client testimonials below:

- *“He advises on a range of planning, compulsory purchase and rating law matters and receives praise for his client-handling skills and his ability to quickly get up to speed on complex matters.”* (Planning, Chambers UK Bar 2015)
- *“Clive is a master of explaining complex, technical issues and their immediate implications for the client’s situation in a very clear and practical way. He also has great commercial understanding.”* (Planning, Chambers UK Bar 2015)

- *“He is very helpful and very approachable, has a good grasp of the issues and is very good as an advocate.” (Planning, Chambers UK Bar 2015)*
- *“He provides excellent service.” (Planning, Chambers UK Bar 2014)*
- *“He is very approachable, has a good grasp of the issues and is very good as an advocate.”*
- *“Clive is a master of explaining complex technical matters and their immediate implications for the client’s situation in a very clear and practical way. He also has great commercial understanding.”*

PUBLICATIONS AND SPEAKING

Clive’s work has been featured in a number of journals. He is a keen speaker and often delivers seminars on topics within his practice areas. Some of his publications, talks and papers include:

- Rating and Valuation: joint webinar with Tim Johnson of CBRE, Revaluation, reliefs and mitigation, and Covid-19 material change of circumstances challenges (June 2020)
- “Encyclopaedia of Forms & Precedents: Vol 26(2)(A) Rating, Council Tax & Valuation Appeals”, Lexis Nexis forthcoming 2019
- 2017 Simon Gore Property update Conference – chaired and spoke on 1954 Act, Pt II s.30(1) (ground (f) redevelopment)
- Housing and Planning Act 2016 – Update a LexisNexis webinar with Iain Gilbey of Pinsent Masons and David Whipps of Holmes & Hills
- Planning Issue for Residential Property Lawyers (2016) – joint webinar with Carl Dyer, partner Irwin Mitchell for Lexis Nexis
- “Has the Town and Country Planning Act 1990 stood the test of time?” *JP & EL* Issue 5, 2016
- “The Town and Country Planning Act 1990 25 years on – has it stood the test of time?” The City of Westminster & Holborn Law Society 2015
- “Planning Offences and Confiscation Orders” – South London Legal Partnership and np Law & local authorities in Norfolk 2015.

COMMUNITY AND PRO BONO

Clive is on the Bar Council’s Pro Bono Panel of reviewers, reviewing cases involving planning and development disputes. Additionally, he undertakes case work himself in the planning and property fields.

QUALIFICATIONS

LLB (Hons) (University College, Cardiff) 1984, Solicitor of the Supreme Court 1988, Diploma in Local Government Law & Practice 1989, called to the Bar by Lincoln’s Inn 1998, qualified for Direct Public Access 2012, dual practising certificate as consultant planning barrister to Nockolds solicitors 2015.

MEMBERSHIPS

Property Bar Association

Planning & Environment Bar Association

Chancery Bar Association

Administrative Law Bar Association

Compulsory Purchase Association

Institute of Revenues, Rating & Valuation

POLICIES AND OTHER DETAILS

- Read Clive’s [Privacy Notice](#), [Data Protection Policy](#) and [Disposal Policy](#)
- VAT Registration Number: 739947372

- Bar Membership Number: 38228