



Clive Moys

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Barrister

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Clive Moys' practice is focussed primarily upon real property, planning and development, and rating and valuation. He is a seasoned advocate, and an experienced litigator and adviser having been in practice for 30 years. Prior to call to the Bar, he began as a qualified solicitor in London local government helping him bring a valuable insight into the workings of local government to his work at the Bar. His advocacy experience includes the High Court, Upper Tribunal (Lands Chamber), (Property Chamber) First-tier Tribunal, County Court, Crown Court, magistrates' courts and planning appeals (public inquiries).

REAL PROPERTY

Clive's real property work is wide ranging - from reverter of sites (schools) to possession claims, but property development focussed, to private law disputes - adverse possession, land registration, mortgages, restrictive covenants, easements, TOLATA, proprietary estoppel, and constructive trusts, and public law matters - common land, public rights of way, town and village greens, ACV and, especially, real property cases which raise points of planning law or concern local authority land.

Some significant cases include:

- *Brazil v Norwich city council (2017/1102)* Property Chamber (Land Registration Division) First-tier Tribunal - Acting in a case concerning adverse possession/alteration of Land Register trial 2019
- *Henley Developments 206B v Westwoods Ltd. & others (2016)* Central London CC - Appearing in an enfranchisement dispute concerning a valuable property in South Kensington where the freehold reversion had been sold pending an enfranchisement claim which had not been the subject of a notice at the Land Registry
- *Mayor's Office for Policing and Crime v The Metropolitan Police (Imber Court) Sports Club and others (2010-2015)* - Appearing in a long-running dispute concerning equitable/beneficial interests in land, High Court, Ch. Division
- *Valoris and South Norfolk DC v Elliott & Jay (2009/258/59/60) [2010]* - Appearing before the Adjudicator to HM Land Registry on 3 references

concerning the effect of s. 55 of the LRA 2002 on the sale of land by a local authority as mortgagee-in-possession, having taken direct action to remedy a breach of planning control.

Illustrative recent advisory work:

- Advising about a redevelopment site in Docklands – leasehold structures, commercial and residential elements
- Advising and drafting an Overage Agreement for sale of development land in Colchester
- Purchaser of land in Essex which had been registered as an Asset of Community Value
- Purchaser at auction of development land in Brent – status of planning permission and easements
- Owner of a listed building in Barnet concerning nuisance/breach of statutory duty arising from water penetration
- Landowner of commercial property portfolio in Surrey – leases or licences
- Developer of land in Hertfordshire concerning terms of special conditions – conditional contract subject to planning permission
- Tenant of business premises in Stratford – compensation entitlement arising from Olympic CPO.

PLANNING

Clive appears for local planning authorities, rule 6 parties and developers at section 78 appeals (public inquiries), and section 174 enforcement appeals. He has appeared in s. 187B injunction cases, and cases involving direct action. Additionally, he has appeared in ss. 288 and 289 challenges in the High Court (Planning Court) and judicial review challenges. In relation to planning prosecutions he has successfully represented 4 defendants at Crown Court trials – owners, builders and architects – prosecuted for offences under listed buildings or conservation area law. He has experience of confiscation orders under POCA following s. 179 offences.

Illustrative cases include:

- Land at south-west Sittingbourne, Wises Lane, Sittingbourne – appeared on behalf of Borden Parish Council (rule 6 party) at a 9 day public inquiry, recovered by the Secretary of State, appeal from the LPA's non-determination of a hybrid application for up to 675 dwellings; 2-form primary school; local facilities (A1, A2, A3 & D1); rugby pitches x 3 together with club house; new link road and formal and informal open space. Decision 29 April 2021.
- *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.

DEVELOPMENT

Clive provides advisory and drafting services (s.106 planning obligations, deeds of variation and CIL, & ss. 278 & 38 highways agreements) to a range of house-builder developers (e.g. Weston Homes Plc), in support of transactional work – conditional contracts or options.

Advisory work includes: Overage, development viability appraisal, options, highways issues, restrictive covenants and easements.

Some of Clive's advisory work in this area includes:

- Advising investors concerning a valuable development site in Surrey (2018)
- Advising a company in 2018 about a valuable Docklands redevelopment site
- Advising architect and niche house builder concerning permitted development rights
- Advising on listed buildings legislation – conversion of a listed barn
- Advising residents' group concerning challenge to a grant of planning permission – property in Bow
- Advising purchasers of land in Cambridgeshire about a CLEUD application
- Advising resident objectors to application for planning permission for neighbouring land in Hertfordshire and Essex
- Advising Kensington LBC concerning application for planning permission – basement excavation.

RATING

Clive advises business rate payers and billing (local) authorities involved in disputes about liability – e.g. beneficial occupation, completion notices, charitable status (discounts), and liability orders – including setting them aside, collection & liability – including applying for and defending applications for liability orders.

Recent cases include:

- Advising/representing Lewisham LBC in a completion notice dispute with U + I Group plc concerning hereditaments forming part of Deptford Market Yard redevelopment VTE appeal M02300937.
- Advising a billing authority about a dispute with the VOA concerning retrospective changes to the local list causing a loss of circa £2.3 in budget for N-D R income.

VALUATION

Clive advises occupying business rate payers about valuation appeals.

Illustrative cases below:

- *Masala Zone Ltd v Golding*(V/O) [2016] UKUT 0328 (LC) – Appearing in a successful (in part) valuation appeal on behalf of the ratepayer concerning a restaurant in Soho (formerly Cranks)
- *Broxtowe BC v Scotia Aid Sierra Leone* (2013-14) – Acting in relation to the non-domestic rates liability of trustees of charitable body
- *Vines Ltd v de Mauny* (V/O) [2010] UKUT 322 (LC) – Acting in the only reported challenge to the R/V of car show-room premises in the 2005 list – comparable evidence, tone, relativity & quantum allowance

LOCAL GOVERNMENT

Clive's local government work typically concerns functional land or corporate property: particularly redevelopment, disposal, and compulsory purchase and compensation. Cases involve administrative law principles and statutory restrictions upon the acquisition, appropriation and disposal of land – e.g. charity law, public open space, procurement law, best value, assets of community value.

Other typical work concerns statutory functions, regulatory responsibilities, contracts and procurement, rating and valuation, governance and vires issues.

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

- Advising a county council as education authority about an academy conversion (2020)
- Advising a local housing authority about the introduction of additional and selective HMO licensing in its district (2020)
- 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.

LANDLORD AND TENANT

Landlord & tenant, mainly commercial cases involving lease termination or renewal under the 1954 Act, Pt II, s.30(1) ground (f) – redevelopment.

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.

RECOGNITION

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

- *"I would now like to take this opportunity to thank you personally for your continued support, advice and guidance throughout the enquiry process. The whole procedure was way out of my area of knowledge and that of the members on the Parish Council so without your direction our process of involvement would not have witnessed the professional approach that you delivered."* (Planning, client testimonial, 2021)
- *"Without doubt your skill gave us hope and a masterly approach that I*

certainly would not have ever hoped to achieve. Thank you for your time, effort and polished instruction which was greatly received and much appreciated.” (Planning, client testimonial, 2021)

- *“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

POLICIES AND OTHER DETAILS

- Read Clive's [Privacy Notice](#), [Data Protection Policy](#) and [Disposal Policy](#)
- VAT Registration Number: 739947372
- Bar Membership Number: 38228