

# Landmark Chambers

## Barrister CV

David Forsdick KC



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# David Forsdick KC

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David specialises in planning, environmental and local government law (and associated public and property law) routinely acting in high stakes disputes.



## Expertise

Planning, Environment, Public and Administrative, Rating and Valuation

## Contact Practice Managers

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## Practice Summary

David specialises in planning, environmental and local government law (and associated public and property law) routinely acting in high stakes disputes: “a renowned local government silk with extensive expertise across a plethora of public and environment law issues” who “has taken on a number of eye-catching planning cases in recent years”: Chambers and Partners, 2023.

David is consistently highly rated in the legal directories across his specialisms, recent recommendations have described David as “hugely impressive”; “a fantastic talent”; “really frighteningly astute” and “so focused, intelligent, sharp and responsive and very practical”.

David regularly appears in the Planning and Administrative and higher Courts, the Lands Chamber and at public inquiry and advises major players in his areas of expertise including large city and county councils, commercial developers and landowners and some of the main environmental NGOs as well as individuals and community groups.

## Planning

David has “taken on a number of eye-catching planning cases in recent years”: Chambers and Partners, 2023 acting on large scale housing, infrastructure, minerals, waste and commercial developments, in local plan examinations and in CIL and s.106 (including affordable housing) disputes. Recent work includes: acting for the developer of a strategic rail freight interchange in Radlett; for a local authority resisting a logistics park in Northamptonshire; for a Manchester authority on major housing developments including their infrastructure requirements and the area action plan for Old Trafford, for Islington in promoting the Islington Local Plan and in its long running dispute with Ocado, for Kent on £multi-million s.106 education contribution and overage disputes; and for various landowners in Liverpool, Cheshire, Richmond and Derby in £multi-million planning contractual disputes.

### Recent inquiries:

- For Trafford Council, resisting a 332 flat scheme on design and viability grounds (Jan 2022 – decision pending); for Hertfordshire County Council in successfully resisting major mineral extraction in green belt and a country park (Nov 2021); for Harrow Council in resisting c.200 units scheme on design and heritage grounds [Oct 2021]; for Chorley Council in securing policy compliant Affordable Housing and education contributions for large scale residential development [June 2021]; for Trafford Council in resisting urban extension on landscaping and viability grounds [Jan 2021]. He continues to act for Helioslough in respect of its proposals for a strategic rail freight interchange in Radlett. He acts for Crawley Council in the full range of matters relating to Gatwick, infrastructure and associated development. , for ; for Department of Education in securing permission for a new school in Gloucester (Dec 2018); for Crawley Council in several enforcement cases concerning off airport parking (Nov 2018); for County Council in resisting mineral extraction at Ware Park in Hertford (Oct 2018).
- He has previously acted in a number of major infrastructure inquiries and DCOs – Bathside Bay new port, Shellhaven new port; Able – Humber new port; Radlett Strategic Rail Freight Interchange; M25/A3 junction improvements (2021).

### Important cases include:

- **R (Ocado) v Islington LBC** [2021] – defending revocation of certificate of lawful use.
- **R (Wasik) v Wealden** [2021] – defending challenge to housing growth based on SPA/SAC grounds.
- **West Berkshire v. Secretary of State** [2016] 1 WLR 3923 (affordable housing policy consistency with statutory scheme).
- **Smech v. Runnymede Borough Council** [2016] JPL 677 (housing requirements and discretion).
- **Gerber v. Wiltshire** [2016] 1 WLR 2593 (leading case on delay in JR and discretion).
- **St Albans City v. SoS** [2015] EWHC 655 (Admin) – challenge to a grant of consent for a strategic rail freight interchange.

### Recommendations:

- Legal 500, 2023: *“David has the ability to find a new approach to an issue and to find a way through to the desired end, whilst keeping the team enthusiastic. He is exceptional at simultaneously being deeply involved in the detail of the case and seeing the bigger picture.”*

- Chambers and Partners, 2022: *“David is extremely accessible and very responsive. His strategic thinking on projects is invaluable.” “He provides sensible and pragmatic advice and has an easy manner.”*
- Legal 500, 2022: *“He is always all over the detail and his focus on legal and factual specifics is second to none.”*
- Chambers and Partners, 2021: *“He has a grasp of specialist technical evidence, which is fantastic, and he can present it in a coherent manner to the Inspector.” “Incredibly thorough in his approach and extremely well prepared when it comes to meeting clients”.*
- Chambers and Partners, 2020: *“He provides sensible and pragmatic advice and has an easy manner.” “He cuts to the chase and gives advice that is pragmatic and commercial.”*
- Chambers and Partners, 2018: *“Has taken on a number of eye-catching planning cases in recent years, engaging with both housing and infrastructure matters of national importance and novel construction. Instructing solicitors praise his comprehensive analysis and his ability to solve complex problems.” Very thorough and has a great deal of experience.” “He is a very worthy opponent, being very robust and tenacious. He is happy to run difficult points and has the strength of character to stand by them and often to win through.”*
- Chambers and Partners, 2017: *“Really frighteningly astute barrister”;* *“Absolutely first rate from a legal analysis point of view”.*
- Chambers and Partners, 2016: *“Produces fantastic written work and is really focussed”.*

## Compulsory Purchase and Compensation

David regularly advises and acts in relation to CPOs and has a particular specialism in substantial compensation claims and valuation issues having acted in a number of £multi-million claims in the last three years.

He acted for landowners objecting to the proposed CPO in relation to the Newport M4 Corridor; for a supermarket operator objecting to a highways CPO; and for a City Council in respect of implementation of a CPO. He advised objectors to the Ponders End and Brent X CPOs and appeared for Sainsbury’s in the Croydon CPO. He acted for the landowner in the challenge to the Swindon CPO and for the SoS in the defence of the Margate regeneration CPO: ***Margate Town Centre Regeneration Ltd v. Secretary of State*** [2013] EWCA Civ 1178.

## Environment

His environmental work covers: water law (recent work includes for *Wildfish* on sewerage from storm overflows, for local authorities and landowners on water neutrality, nutrient neutrality, biosolids on land; provision of water infrastructure for major developments and abstraction licence conditions and breaches); waste law (advising various county councils on EFW plants and DEFRA on failed PFI waste schemes); habitats and species protection – acting for the RSPB in major inquiries and public law challenges; SEA, EIA and environmental permitting; and noise and pollution – in noise injunction claims and resisting development on noise, AQMP and pollution grounds. He is acting for the Transport Action Network in its pending JR on active travel funding raising climate change and air quality grounds.

### **Recommendations:**

- Legal 500, 2023: *“He has a very good grasp of the legal, policy and guidance requirements relating to HSE and risk issues.”*
- Chambers and Partners, 2022: *“He is incredibly sharp in judicial reviews.” “He has a very good reputation – he is an unflappable public lawyer” “David is extremely accessible and very responsive. His strategic thinking on projects is invaluable.” “He provides sensible and pragmatic advice and has an easy manner.”*
- Legal 500, 2022: *“He is always all over the detail and his focus on legal and factual specifics is second to none.” “Dave has a really broad and solid understanding of environmental law.”*
- Chambers and Partners, 2021: *“He has very good client-handling skills and gives very good and practical advice about applying the legal strategy” “He provides good, strategic advice and has excellent client handling skills.” “He’s always well prepared and knows how to pitch arguments.” “He has a grasp of specialist technical evidence, which is fantastic, and he can present it in a coherent manner to the Inspector.” “Incredibly thorough in his approach and extremely well prepared when it comes to meeting clients.”*
- Chambers and Partners, 2018: *“Sought out by government departments and key environmental NGOs and regulators...extensive experience in appearing before the Court of Appeal. He has encyclopaedic knowledge of the legislation around nature protection.”*
- *Who’s Who in the law*: *“a definite inclusion in any list”; “a fantastic talent”.*

#### Notable cases include:

- ***Health and Safety Executive v Chester University*** [2020] – approach to risk management near a major hazard facility.
- ***R(Wasik) v Wealdon*** [2022]– approach to future modelling of pollution and housing development affecting Ashdown Forest SAC; *R (Water UK) v EA* (2022) – approach to use of biosolids in agriculture and impact on water pollution.
- ***R (Misbourne) v SST and HS2*** [2022] – impact on water quality of tunnelling for HS2; *R (RSPB) v Natural England* – concerning conflict between hen harrier protection and grouse shooting (2021).
- ***R (Defra) v Greater Manchester/ Lancashire*** [2018] (JRs of withdrawal of funding for large waste PFIs).
- ***R (Holiday Extra) v Crawley BC*** (SEA of airport parking at Gatwick).
- ***R (Birchall Gardens) v. Hertfordshire County Council***: EIA screening opinions and reasons for major waste facility).
- ***R (Seoint Anglers) v. Natural Resources Wales*** (concerning meaning of “environmental damage” under Environmental Damage Regulations).
- ***Re: Envirogreen*** (Court of Appeal in Northern Ireland on environmental permitting and relevance of previous conduct of licence holder).
- ***R (RSPB) v. SoS*** [2015] Env LR 24 (for RSPB in challenge to legality of a cull of a protected species).

He regularly advises NGOs and local authorities on the SPAs/SACs (Kent County Council, Herefordshire County Council, Bournemouth Christchurch and Poole); and is acting for the Royal Horticultural Society in respect of a major new road junction affecting an SPA/SAC near its Wisley HQ.

## Public and Administrative

David's public law practice is focused on environmental, planning and local government challenges. In addition to those core areas:

- He has appeared regularly in cases concerning the right to protest: for Sheffield City Council in the injunction claims concerning tree felling; for the City of London in **City of London v. Samede** – the St Paul's occupy protest; for the Mayor of London in the Parliament Square protest camp case and *Orchard* – protest camp at Magna Carta.
- He has acted in several cases concerning the compatibility of legislation with the Human Rights Act – including **Newhaven and Leeds** on A1P1 and commons registration.
- He is acting for claimants in judicial review claims challenging the legality of imposition of retrospective taxation using the state error principle.
- He has acted for the Government in **R (Harrow Community Support) v. Ministry of Defence** [2012] EWHC 1921 (Admin) (Olympic security – “missiles on the roof” – article 8).
- He has acted for claimants in various art 14 discrimination relating to benefit entitlements.

#### **Recommendations:**

- Chambers and Partners, 2015: *“He is very good... Very tenacious”*.
- Chambers and Partners, 2014: *“He is excellent”, “he’s thorough clear and helpful”*. He *“did extremely well in the High Court looking at the occupation by the camp outside St Paul’s,”* and is also *“very good at handling clients and meeting their expectations.”*
- Chambers and Partners, 2012: *“Wins acclaim for his work in the successful challenge to the government’s decision to support a third runway at Heathrow. He remains a favourite pick as counsel for judicial reviews concerning planning, the environment and local authorities”*.

#### **Local Authority**

He is a “renowned local government silk with extensive expertise across a plethora of public and environmental law issues”: Chambers and Partners, 2023. His local government work includes land assembly for development including CPO and associated contractual and compensation disputes; s.123 compliance issues; securing and enforcing s.106 contributions and advising on local authority powers, finance and reorganisations – “routinely acting as lead counsel for public authorities in high stakes vires disputes”: Chambers and Partners, 2023. He has advised on and acted in substantial highway disputes between landowners/developers and local authorities and has acted for local authorities in some of the main protest cases including *St Pauls Cathedral - Occupy*.

#### **Recommendations:**

- Legal 500, 2023: *“David is a clear and forceful advocate and has a great ability to cut through detail and get to the heart of the legal issue. Clients appreciate his direct approach and strategic insights on the case.”*
- Chambers and Partners, 2022: *“He is incredibly sharp in judicial reviews.” “He has a very good reputation – he is an unflappable public lawyer”*; *“David really knows his stuff.”*

- Legal 500, 2022: *“David has a rare ability to cut through complex rating law questions and get to the crux of the issue at hand. Clients appreciate his clear, direct advice and his thorough grasp of the facts of the case which allow him to quickly respond on his feet.”*
- Chambers and Partners, 2021: *“He provides good, strategic advice and has excellent client handling skills.” “He’s always well prepared and knows how to pitch arguments.”*
- Chambers and Partners, 2018: *“Renowned local government silk with extensive expertise across a plethora of public and environmental law issues.... routinely acts as lead counsel for public authorities in high stakes vires disputes”.*
- Chambers and Partners, 2016: *“Really good at seeing the bigger picture”.*
- Chambers and Partners, 2015: *“He does very high quality cases and he does them well.” “He turns work round quickly and is very reliable”.*

#### **Notable work:**

- David is currently acting for Cumbria County Council in its challenge to local government reorganisation (2022 – pending).
- For North East Lincolnshire in challenge to an arbitration award in respect of a proposed industrial estate [2022].
- For several business rate collection authorities in respect of rate mitigation schemes.
- For a consortium of authorities in seeking to enforce s.106 obligations in relation to delivery of a country park.
- For a council in seeking to impose a “roof tax” in a regeneration area.
- For a county council in the approach to an EFW application.
- For various authorities in seeking to overcome restrictive covenants.

He acted for Cheshire East in £multi-million claim related to rights to cross council land for development [2021/2]; for Islington in the first case on the revocation of CLEUDs for misinformation (2021) and on the challenge to PD rights for retail to residential (2021).

## Rating and Valuation

In rating he “has a rare ability to cut through complex rating law questions and get to the crux of the issue at hand”: Chambers and Partners, 2023. He was advocate to the Supreme Court in *Mazars*, acted for Exeter in the seminal *RAMM* case and for Ludgate House in its dispute concerning guardianship schemes. He has acted in some of the most value significant valuation cases in recent years and has acted in a number of HS2 compensation claims.

His cases often include highly technical scientific or valuation issues and he is fortunate to have acted for government (HSE, DEFRA), NGOs and the private sector with leading experts in test cases on technical matters related to climate change, water and air pollution, development viability including affordable housing and risks from major hazard installations.

In recent years, David has acted acts for ratepayers and local authorities on a number of high value and significant rating cases:

- He acted successfully for Exeter in the leading case on valuation of public buildings for rates purposes (2019) and continues to act for the landowner in the long running dispute on “Guardian” schemes – *Ludgate House*.
- He was advocate to the Supreme Court in the leading case of the identification of the hereditament (*Woolway v. Mazars* [2015]) and acted for a wide range of affected ratepayers in addressing the consequences of that decision.
- In 2016, he acted for the HMRC in two cases challenging the use of the contractor's basis in the oil industry (*Mainline* and *Total*).

He has advised various farmers on agricultural exemptions and the owners of a large building in London on applicable exemptions. He is advising several authorities on maximising income from rates and the correct approach to rate mitigation schemes.

He has a particular expertise in valuation issues and regularly cross examines on viability appraisals in the planning and other contexts.

**Recommendations:**

- Legal 500, 2022: *“David has a rare ability to cut through complex rating law questions and get to the crux of the issue at hand”*.

## Recommendations

"He is technically able and a strong advocate."

**Rating and Valuation, Chambers and Partners, 2024**

"David is well prepared for conferences and provides good verbal advice."

**Local Government, Chambers and Partners, 2024**

"David is great for thinking of new angles in a case."

**Planning, Chambers and Partners, 2024**

"David is excellent."

**Local Government (including Rating Law), Legal 500, 2024**

"He's very good and a strategic thinker."

**Local Government, Chambers and Partners, 2023**

"He has provided outstanding advice on very complex public sector planning issues. He is very helpful and does not mind answering questions." "His written work is always comprehensive and hits all the main points."

**Rating and Valuation, Chambers and Partners, 2023**



"David is a clear and forceful advocate and has a great ability to cut through detail and get to the heart of the legal issue. Clients appreciate his direct approach and strategic insights on the case."

**Local Government, Legal 500, 2023**

"David has the ability to find a new approach to an issue and to find a way through to the desired end, whilst keeping the team enthusiastic. He is exceptional at simultaneously being deeply involved in the detail of the case and seeing the bigger picture."

**Planning, Legal 500, 2023**

"He has a very good grasp of the legal, policy and guidance requirements relating to HSE and risk issues."

**Environment, Legal 500, 2023**

"He has a very good knowledge of rating and is very good at cross-examination."

**Rating and Valuation, Chambers and Partners, 2022**

"He is incredibly sharp in judicial reviews." "He has a very good reputation – he is an unflappable public lawyer."

**Environment, Chambers and Partners, 2022**

"David really knows his stuff."

**Local Government, Chambers and Partners, 2022**

"David is extremely accessible and very responsive. His strategic thinking on projects is invaluable." "He provides sensible and pragmatic advice and has an easy manner."

**Planning, Chambers and Partners, 2022**

"He is always all over the detail and his focus on legal and factual specifics is second to none."

**Planning, Chambers and Partners, 2022**

"David has a rare ability to cut through complex rating law questions and get to the crux of the issue at hand. Clients appreciate his clear, direct advice and his thorough grasp of the facts of the case which allow him to quickly respond on his feet."

**Local Government, Legal 500, 2022**

"He is always all over the detail and his focus on legal and factual specifics is second to none."

**Environment, Legal 500, 2022**

"David is always all over the detail. His focus on legal and factual specifics is second to none. Dave has a really broad and solid understanding of environmental law."

**Planning, Legal 500, 2022**

"He has very good client-handling skills and gives very good and practical advice about applying the legal strategy."

### **Environment, Chambers and Partners, 2021**

"He provides good, strategic advice and has excellent client handling skills." "He's always well prepared and knows how to pitch arguments."

### **Local Government, Chambers and Partners, 2021**

"He has a grasp of specialist technical evidence, which is fantastic, and he can present it in a coherent manner to the Inspector." "Incredibly thorough in his approach and extremely well prepared when it comes to meeting clients."

### **Planning, Chambers and Partners, 2021**

"He's a compelling advocate whose work is of an excellent quality." "He is quick to see which way a tribunal is going."

### **Rating and Valuation, Chambers and Partners, 2021**

"His written advice is clear, timely and succinct."

### **Environment, Chambers and Partners, 2020**

"He is always a very pleasant advocate, but he is also very thorough and not be be underestimated in any way."

### **Local Government, Chambers and Partners, 2020**

"He provides sensible and pragmatic advice and has an easy manner." "He cuts to the chase and gives advice that is pragmatic and commercial."

### **Planning, Chambers and Partners, 2020**

## **Cases and inquiries**

22 06 20	Government refused permission to appeal in landmark case on rating of public buildings
27 06 18	Smech v Runneymede Borough Council [2016] EWCA Civ 42; [2016] JPL 677
07 06 18	UK Renderers Association v Secretary of State
06 06 18	Hoare v Secretary of State for Trade and Industry
05 06 18	R (Greenpeace) v Secretary of State for Trade and Industry
05 06 18	R(Merrick) v Secretary of State for Trade and Industry
04 06 18	R (McKeown) v Oxford City Council
04 06 18	English Heritage, Westminster CC and Ashton v Secretary of State for Communities & Local Government

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04 06 18 R(South Yorkshire Passenger Transport Executive) v Leeds Clty Council

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04 06 18 R(West Yorkshire Passenger Transport Executive) v. Leeds City Council

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04 06 18 Somerfield Stores v. South Oxfordshire District Council - Lands Tribunal

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04 06 18 R (Dinedor Action Group) v Herefordshire County Council (pending)

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04 06 18 R (New Forest National Park Authority) v Christchurch Borough Council (pending)

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31 05 18 Hillingdon v Secretary of State [2010] JPL 976

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30 05 18 Northern Ireland Environment Agency v Planning Appeal Commission [2013]

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30 05 18 R (Gray) v Southwark LBC [2012] EWHC 2653

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30 05 18 R (Evans) v Secretary of State [2013] EWCA Civ 115; [2013] JPL 1027

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30 05 18 St Albans City v SoS [2015] EWHC 655 (Admin)

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30 05 18 R (RSPB) v SoS [2015] EWCA Civ 227; [2015] Env LR 24

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30 05 18 Ecotricity v SoS [2015] EWHC 801 (Admin)

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29 05 18 Gerber v Wiltshire [2016] EWCA Civ 84; [2016] 1 WLR 2593

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29 05 18 West Berkshire v Secretary of State [2016] EWCA Civ 441

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29 05 18 Affordable Housing Contributions: West Berks in the Court of Appeal

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29 05 18 R (Menston) v Bradford [2016] JPL 689

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29 05 18 Gibson v Waverley Borough Council [2015] EWHC 3784 (Admin)

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29 05 18 High Court considers Environmental Liability Directive for the first time

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29 05 18 R (Save) v Secretary of State [2014] Env LR 9

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29 05 18 R (Sainsbury's) v Hillingdon [2015] EWHC 2571

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29 05 18 Royal Mutual v SoS [2014] JPL 458

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25 05 18 Sheffield City Council v Fairhall and others [2017] EWHC 2121 (QB)

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25 05 18	Sheffield Tree Protesters in Contempt Proceedings - Sheffield City Council v Teal and Payne [2017] EWHC 2692 (QB)
25 05 18	R (Seoint Anglers) v Natural Resources Wales [2016] EWCA Civ 797
24 05 18	RSPB v Scottish Ministers [2016] CSOH 106
24 05 18	Re: Envirogreen [2016] NICA 32
24 05 18	R (Smith) v Warwickshire [2016] EWHC 1534 (Admin)
23 02 16	R (on the application of Gerber) v Wiltshire Council [2016] EWCA Civ 84
19 02 08	R (Howsmoor) v South Gloucestershire District Council
25 05 07	R (Kings Cross Railway Lands Group) v Camden LBC [2007] EWHC 1515 (Admin)