

# Landmark Chambers

## Barrister CV

Jacqueline Lean



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## Jacqueline Lean

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Jacqueline has the classic Landmark practice, encompassing all matters concerning the use and development of land.



### Expertise

Planning, Environment, Property, Public and Administrative, Rating and Valuation

## Contact Practice Managers

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## Practice Summary

Jacqueline has significant experience of planning and infrastructure projects, and is particularly well placed to advise on the real property, and landlord and tenant issues, which may need to be addressed when promoting, or implementing, proposed development. Similarly, she regularly advises on property matters, which include an interface with planning, environmental, regulatory or ratings issues.

Her cross-discipline practice is illustrated most clearly by her involvement in the HS2 project, which has including promoting both the Phase 1 and Phase 2A Bills through Parliament; the legal challenges to the decision to proceed with the project and application of land acquisition policies, non-statutory compensation schemes and the Compensation Code.

Jacqueline has acted as sole, or junior, counsel in Courts and tribunals at all levels, including the Supreme Court, the Aarhus Compliance Committee, and Parliamentary Select Committees.

## Planning

Jacqueline has significant experience with infrastructure projects and with compulsory acquisition and compensation more generally (both under the Compensation Code and enactments providing compensation arising from the exercise of statutory powers).

In addition to her work on HS2, Jacqueline has promoted a number of Transport and Works Act Order for Network Rail, including three recent applications for works associated with the Transpennine Route Upgrade programme, and successfully obtained confirmation of the West Midlands Combined Authority (Walsall to Wolverhampton Railway Line – Willenhall and Darlaston New Stations) Compulsory Purchase Order 2021, the first CPO made by a Mayor of a Combined Authority. Her infrastructure work also includes acting for the RSPB Cymru in relation to The Morlais Demonstration Zone Order 2021 (a tidal demonstration zone off the Anglesea coast), matters relating to ports, and highway improvements. She also has substantial experience with public rights of way.

Jacqueline's wider planning work encompasses statutory development plans (examination and legal challenges), development affecting heritage assets, habitats, assets of community value, and the application of permitted development rights (including in respect of Crown land)..

Her court work includes:

***R (CPRE Kent) v Secretary of State for Communities and Local Government*** [2021] UKSC 36 - Claimant's liability for costs for more than one party where permission for statutory review is refused. Sole counsel in the Court of Appeal. Led by James Maurici KC in the Supreme Court.

***R (Packham) v Secretary of State for Transport*** [2020] EWCA Civ 1004 (with Tim Mould KC) - Appeal against the Divisional Court's refusal to grant permission to challenge the Government's decision to proceed with HS2 following the Oakervee Review.

***Thorpe Hall Leisure Ltd v Secretary of State for Communities and Local Government*** [2020] EWHC 44 (Admin) - Challenge to the refusal of planning permission for development of land around the Lighthouse Hotel in Thorpe-le-Soken where the Inspector could not be satisfied that it would not have an adverse impact on an SPA and SAC.

***R (Granger-Taylor) v HS2 Ltd*** [2020] EWHC 1442 (Admin) (with Tim Mould KC) - Judicial review challenging the current design for the HS2 railway as it approaches Euston Station.

**She is a contributing editor or author to:**

- Garner's Environmental Law (Conservation of habitats, species & contaminated land).
- 'A Practical Guide to Planning Law and Rights of Way in National Parks, the Broads, and AONBs' (forthcoming).

She has been identified as a leading junior for Planning in *Legal 500* and Chambers and Partners for a number of years, described variously as "*The complete advocate: she has a powerful intellect and a lightness of touch that makes her first on the team sheet*" (2019), "*Outstanding*" (2018) and "*She stands out for her versatility and fierce intellect*" (2017).

## Environment

Jacqueline is instructed by a broad range of clients within her environmental law practice, including regulators (such as the Environment Agency), environmental NGOs (in particular, the RSPB), local authority decision-makers, developers and others whose works or activities may engage environmental concerns or consenting regimes.

In addition to her planning work (which regularly includes issues relating to habitats and other environmental impacts) Jacqueline's environmental work includes waste, the environmental permitting regime, compensation for statutory works, contaminated land, and application of the Environmental Information Regulations

Notable court work includes:

- ***R (Packham) v Secretary of State for Transport*** [2020] EWCA Civ 1004 (with Tim Mould KC) - Appeal against the Divisional Court's refusal to grant permission to challenge the Government's decision to proceed with HS2 following the Oakervee Review, with an injunction sought to restrain works in ancient woodland.
- ***R (Richards) v Environment Agency*** [2022] EWCA Civ 2593 (with Tim Mould KC) - Positive obligations arising under Articles 2 and 8 of the European Convention of Human Rights in the regulation and control of hydrogen sulphide emissions from a landfill site in Staffordshire.
- ***R (Anglian Water Services Limited) v Environment Agency*** [2020] EWHC 3445 (Admin) - First claim to consider the interpretation and application of the Bathing Water Regulations 2013/1675 with regards to the management of bathing water quality and classification scheme for grading the water quality of bathing waters as 'excellent'; 'good'; 'sufficient' and 'poor'.
- ***Fish Legal v Information Commissioner*** [2015] UKUT 0052 (AAC) (First consideration by the Upper Tribunal of the guidance given by the CJEU in *Fish Legal v Information Commissioner* (C-279/12) as to when a person or body is a public authority within the meaning of Article 2(2)(b) or Article 2(2)(c) of the Directive.

Jacqueline has also been instructed on a number of matters concerning the Aarhus Convention, and appeared (with James Maurici KC) for United Kingdom before the Aarhus Compliance Committee on two communications concerning the Government's decision to proceed with HS2 (ACCC/C/100 & 101)

She is identified as a leading junior for Environmental Law in Legal 500.

**She is a contributing editor or author to:**

- Coppel '*Information Rights*' (6<sup>th</sup> Edn, 2020) (Part III Environmental Information) (with James Maurici KC).
- Garner's Environmental Law (Conservation of habitats, species & contaminated land).

## Property

Jacqueline's property work encompasses the full range of landlord and tenant work and real property disputes. She has significant experience with conditional agreements, overage agreement, restrictive covenants and rights of way, and regularly

advises on cases involving planning and/or environmental issues. Recent work includes advising in connection with restrictions on development of land which is subject to an easement or other restrictions by reason of utility pipes or conduits; restrictions on title affecting proposed use or development of land for a charity's purposes, and the potential claims arising from noise and/or air pollution from neighbouring landowners.

She has a particular interest (and experience) in cases involving protestors, and applications for pre-emptive relief, both for private landowners and public authorities.

She is a contributor to Chapter 9 of Hill & Redman's 'Law of Landlord and Tenant' and the author of 'A Practical Guide to Mortgage Possession Proceedings' (2021)

## Public and Administrative

Jacqueline undertakes a range of public law work, and has extensive experience in advising, and acting for, local and central government, and other regulatory bodies (including Ofwat and Ofqual).

Recent advisory work in the local government context includes advising a highway authority on its powers, and obligations, with regards to rolling road closures to facilitate peaceful protest; advising a local authority with regards to a common in respect of which it was both freehold owner and planning authority; and advising a number of local authorities with regards to their ability to enforce obligations relating to the transfer of land or potential overage payments under s.106 agreements and transfers of land.

She has also been instructed for the relevant order making authority at a number of DMMO inquiries, and is current instructed on behalf of a statutory harbour authority which is objecting to the confirmation of a DMMO on grounds of statutory incompatibility.

Reported cases of note in the public law context include:

***R (Hemming) v Westminster City Council*** [2015] UKSC 25, in which the Supreme Court decided that the EU Services Directive (2006/123/EC) as implemented by The Provision of Services Regulations 1999 did not preclude a licensing authority or regulatory body from charging a 'success fee' to successful applicants as a condition of holding a licence (led by Nathalie Lieven KC).

***R (Dolan) v Secretary of State for Health and Social Care*** [2020] EWCA 1605 - Challenge to the vires, rationality and ECHR compatibility of the Government's 'lockdown legislation' (the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 as enacted and as subsequently amended))

***R (Gallastegui) v Westminster City Council & ors*** [2013] EWCA Civ 28 - challenge to the provisions of the Police Reform and Social Responsibility Act 2011 relating to control of activities within Parliament Square with the right to freedom of expression and assembly under the ECHR.

***R (Doncaster MBC) v Peel L & P Investments*** [2022] EWHC 3060 (Admin) (with James Maurici KC) - Application for permission to judicially review the decision to close Doncaster Sheffield Airport by its operator, a Peel Group company).

She is identified as a leading junior in Local Government (including rating) in Legal 500.

## Rating and Valuation

Jacqueline acts for a range of clients on rating matters.

Recent cases have included issues of retrospective business rates liability (following splitting or merging of hereditaments), liability of tenants where occupying under 'rates included' agreements, and some complicated applications of the contractor's basis of valuation.

Reported cases include ***Celsa Steel (UK) Limited v Webb (VO)*** [2017] UKUT133 (LC) (for the Appellant, Celsa Steel – adjustment at stage 5 of the contractor's basis of valuation) and ***Shirley v Park (Valuation Officer)*** [2018] UKUT 288 (LC) (for the VOA – effective date of alteration of the list; whether reg 14 compatible with ECHR).

She is identified as a leading junior in Local Government (including rating law) in Legal 500.

## Local Government

Jacqueline undertakes a range of public law work, and has extensive experience in advising, and acting for, local and central government, and other regulatory bodies (including Ofwat and Ofqual).

Recent advisory work in the local government context includes advising a highway authority on its powers, and obligations, with regards to rolling road closures to facilitate peaceful protest; advising a local authority with regards to a common in respect of which it was both freehold owner and planning authority; and advising a number of local authorities with regards to their ability to enforce obligations relating to the transfer of land or potential overage payments under s.106 agreements and transfers of land.

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She is identified as a leading junior in Local Government (including rating) in Legal 500.

## Qualifications

- BA in Law, Clare College, Cambridge in 2005
- LL.M. the University of Chicago Law School in 2006

## Recommendations

"Jacqueline Lean is very good at cross-examining, very professional, but also very personable."

**Planning, Chambers and Partners, 2024**

"Jacqueline is a precise and very sound advocate."

**Environment, Legal 500, 2024**

"She is excellent at working alongside witnesses and ensuring they are prepared and with interacting with the underlying client, very good cross examination skills and is always polite and professional."

**Planning, Legal 500, 2024**

"Jacqueline has exceptional advocacy skills in court."

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

"She is someone who prepares well and provides focused and thoughtful advice."

**Planning, Chambers and Partners, 2023**

"Jacqueline impresses with her ability to digest information on complex issues and provide clear, concise advice in a tight timeframe."

**Local Government, Legal 500, 2023**

"She is an effective High Court advocate and a safe pair of hands." "Jacqueline is very bright, very sharp on her feet and thorough in her preparation."

**Planning, Chambers and Partners, 2022**

"She is confident, approachable and provides great assistance."

## Local Government (including Rating Law), Legal 500, 2022

"Jacqueline gets to grips with technical subject matter quickly and has provided useful, detailed legal advice."

### Planning, Legal 500, 2022

"She's got a phenomenal amount of experience and knowledge of a vast range of topics. She's incredibly swift on her feet and she won't be caught out by left-field questions."

### Planning, Chambers and Partners, 2021

## Cases and inquiries

01 12 22	R (Doncaster MBC) v Peel L & P Investments [2022] EWHC 3060 (Admin)
30 08 22	West Midlands Combined Authority (Walsall to Wolverhampton Railway Line – Willenhall and Darlaston New Stations) Compulsory Purchase Order 2021
01 07 22	Approvals granted for key Transpennine Route Upgrade
28 01 21	R (CPRE Kent) v Secretary of State for Communities and Local Government [2021] UKSC 36
21 12 20	R (Anglian Water Services Limited) v Environment Agency [2020] EWHC 3445 (Admin)
02 12 20	R (Dolan) v Secretary of State for Health and Social Care [2020] EWCA 1605
31 07 20	Court of Appeal hands down judgment in two challenges to the HS2 project (R (Packham) v Secretary of State for Transport) and (London Borough of Hillingdon v Secretaries of State)
05 06 20	R (on the application of Granger-Taylor) v High Speed Two (HS2) Ltd [2020] EWHC 1442 (Admin)
15 01 20	Thorpe Hall Leisure Ltd v Secretary of State for Communities and Local Government [2020] EWHC 44 (Admin)
14 11 18	Catesby Estates Ltd v Steer and Secretary of State for Communities and Local Government v Steer [2018] EWCA Civ 1697
14 11 18	Shirley v Park (Valuation Officer) [2018] UKUT 288 (LC)
14 11 18	R (on the application of Wet Finishing Works) v Taunton and Deane BC [2017] EWHC 1837 (Admin)



14 11 18	Inquiry into the proposed (now confirmed) High Speed Rail (London-West Midlands) (Greatmoor Railing Sidings Etc) Order 2018
25 09 18	Inquiry into the proposed (now confirmed) Network Rail (Essex and others Level Crossing Reduction) Order
04 06 18	R (Health & Safety Executive) v Wolverhampton City Council and Victoria Hall Limited [2009] EWHC 2688 (Admin)
30 05 18	R (on the application of Harrow Community Support Ltd) v Secretary of State for Defence [2012] EWHC 1921 (Admin)
30 05 18	Fish Legal v Information Commissioner [2015] UKUT 52 (AAC)
30 05 18	R (HS2 Action Alliance Ltd & London Borough of Hillingdon) v Secretary of State for Transport [2015] P.T.S.R. 1025
30 05 18	HS2 Action Alliance Ltd & others v Secretary of State for Transport [2014] 1 C.M.L.R. 10
29 05 18	Inquiry closes in second Anglia level crossings reduction order application
29 05 18	R (on the application of Hemming (t/a Simply Pleasure Ltd)) v Westminster City Council [2015] UKSC 25
29 05 18	ACCC/C/2014/100&101 HS2 Action Alliance v (1) United Kingdom (2) European Union
24 05 18	Celsa Steel (UK) Limited v Webb (VO) [2017] UKUT133 (LC)
02 03 15	Water and Sewage Companies found to be public authorities for the purposes of the Environmental Information Regulations 2004
22 01 14	R (on the application of Buckinghamshire County Council) v Secretary of State for Transport [2014] 1 W.L.R. 324
30 01 13	R (Gallastegui) v Westminster City Council [2013] EWCA Civ 28

## Publications

*A Practical Guide to Mortgage Possession Proceedings*