



Kimberley Ziya

Call: 2018

Email: kziya@landmarkchambers.co.uk

Practice Manager

Richard Bolton

Email: rbolton@landmarkchambers.co.uk

Phone: **0207 421 1392**

Ruby Sims

Email: rsims@landmarkchambers.co.uk

Phone: **020 7421 1337**

Expertise

Property, Planning, Environment, Public

Overview

Kim joined Chambers in 2019 and is building a practice across all three of chambers' main practice areas with a focus on property, planning and environmental law. She has a particular interest in areas of overlap between planning and property law including rights to light, restrictive covenants and permitted development rights.

Recent work includes:

- *FirstPort Property Services Limited v Settlers Court RTM Company Ltd & Ors* [2019] UKUT 0243 (LC): instructed in the first "leapfrog" appeal from the Upper Tribunal (Property Chamber) to the Supreme Court in a case concerning the operation of the statutory Right to Manage regime. The Supreme Court has granted permission to appeal and the appeal

is to be heard in November 2021. Led by Simon Allison.

- *AEW UK REIT Plc v Sportsdirect.com Retail Ltd*: instructed for Sports Direct in proceedings to determine whether rent was payable under the terms of its Lease for periods in which the leased premises were forced to close in compliance with government restrictions imposed in response to the coronavirus pandemic. Led by Katharine Holland QC.
- *Jarvis v Evans* [2021] 1 W.L.R. 24: acted for the landlord (supported by the National Residential Landlords' Association) in an appeal concerning the licencing regime for landlords in Wales under the Housing (Wales) Act 2014. Led by Justin Bates.
- *R (on the application of Zins) v East Suffolk Council*: acted for the claimant in the judicial review of a planning permission granted to PGL Travel Ltd for the creation of a new activity lake within a countryside estate used as a children's outdoor activity centre. Led by David Forsdick QC.
- Acting for the successful developer at a public inquiry concerning the proposed redevelopment of 70 "Airey" houses near Leeds (APP/N4720/W/20/3250249). Led by Sasha White QC.
- Advising on questions of noise nuisance, rights to light, restrictive covenants and rights of way arising following the grant of planning permission.
- Appearing for tenants and landlords before the County Court and First-tier Tribunal in cases concerning rent and service charge arrears, possession, forfeiture and tenancy deposits.

Kim accepts instructions on a direct access and pro bono basis in appropriate cases. She is a member of the Attorney-General's baby junior scheme and part of the editorial team for the Planning Encyclopedia.

Prior to joining chambers, Kim was a Research Assistant in the Law Commission's Property, Family and Trusts team, where she worked on projects relating to Charity Law, Easements, Covenants and Profits, and Leasehold Enfranchisement. Before that Kim spent nine months at a boutique litigation firm in Los Angeles where she assisted with all aspects of cases covering civil fraud, employment, tort, probate and public law.

Property

Kim is building a practice across the full range of property disputes including landlord and tenant, issues of adverse possession, restrictive covenants, land registration and easements. Kim has been involved in a number of significant property cases, including:

- *FirstPort Property Services Limited v Settlers Court RTM Company Ltd & Ors* [2019] UKUT 0243 (LC): Appeal concerning the proper operation of the Right to Manage scheme where a single block on an estate acquires RTM. Considered whether the Court of Appeal's decision in *Gala Unity v Ariadne Road* was decided per incuriam and concluded that, as it was not, the appeal would be dismissed. Permission was subsequently granted by the Upper Tribunal for the 'leapfrog' procedure to be used. In November 2020, the Supreme Court granted permission to appeal; appeal to be heard November 2021. Led by Simon Allison.
- *AEW UK REIT Plc v Sportsdirect.com Retail Ltd*: instructed for Sports Direct in proceedings to determine whether rent was payable under the terms of its Lease for periods in which the leased premises were forced to close in compliance with government restrictions imposed in response to the coronavirus pandemic. Led by Katharine Holland QC.
- *1 West India Quay (Residential) Ltd v East Tower Apartments Ltd* [2020] UKUT 163 (LC): instructed by the landlord in a case concerning the application of the service charge provisions in the Landlord and Tenant Act 1985 to a large mixed-use development with a complex utility metering system. The Court of Appeal has granted permission to appeal on two grounds: (1) the proper interpretation of s.20B (including whether *Skelton v DBS Homes (Kings Hill) Ltd* [2017] EWCA Civ 1139 is properly decided); and (2) the construction of various commonly found costs clauses in residential long leases (including whether a landlord can waive its right to forfeit for breach of a covenant before such a breach has been determined by the Tribunal). The appeal is being heard in April 2021. Led by Justin Bates.
- *Northern Powergrid (Yorkshire) Plc v Leatham Estates Ltd* (Ref/2019/0649): instructed by the registered proprietor to defend an application to alter the register of title for an electricity sub-station site in Doncaster. Leatham Estates are seeking permission to appeal to the Upper Tribunal. Led by Katharine Holland QC.
- *Jarvis v Evans* [2021] 1 W.L.R. 24: acted for the landlord (supported by the National Residential Landlords' Association) in an appeal concerning the licencing regime for landlords in Wales under the Housing (Wales) Act 2014. Led by Justin Bates.
- *Piechnik v Oxford City Council* [2020] EWHC 960 (QB): acted for Oxford City Council in a High Court appeal concerning the rights of access of local authority landlords to carry out fire safety works in flats where the tenant has exercised their right to buy. Led by Justin Bates.
- *Avon Grounds Rents Ltd v Cowley* [2019] EWCA Civ 1827: acted for the landlord in an appeal regarding the application of the reasonableness test at s.19(2) of the Landlord and Tenant Act 1985 to on account service charges. Led by Justin Bates.
- *York House (Chelsea) Limited v Thompson* [2019] EWHC 2203: acted for the long leaseholders in a four-day High Court trial regarding tenants' rights of first refusal under the Landlord and Tenant Act 1987. Led by Thomas Jefferies.

Kim's recent unled work has included:

- Appearing for landlords and tenants in the County Court and First Tier Tribunal on a range of matters such as residential possession, service charge disputes, rent reviews and lease extension claims. Kim has also advised and acted in a professional negligence claim concerning a rent review.
- Providing advice and drafting pleadings on a broad spectrum of property law matters such as nuisance, mortgages, easements, adverse possession, restrictive covenants, unlawful eviction, land registration, service charges and 1954 Act claims.

Planning and Environmental

Kim is developing a varied practice covering all aspects of planning, environmental, infrastructure and procurement law. Her property expertise also makes her well suited to advising on the various cross-over issues that arise out of development.

Recent planning work includes:

- Advising on a wide range of planning issues including the merits of a challenge to the grant of planning permission and the prospects of success of a CLEUD appeal.
- *Land at Lower Road, Bedhampton*: acted for the developer in a 4-day public inquiry concerning the development of 50 residential dwellings on a greenfield site bordering a conservation area. Led by Sasha White QC.
- *265 Burlington Road, New Malden*: instructed to represent Tesco Stores in an appeal concerning a proposal to build 456 new homes on its land in New Malden. The appeal was being run by Redrow Homes who had entered into an Agreement for Lease of the Tesco-owned site. With David Elvin QC.
- *Wordsworth Drive & Sugar Hill Close, Oulton*: acted for the developer in an 8-day public inquiry concerning the demolition of existing "Airey" houses and construction of 70 new homes near Leeds. The issues in the appeal included the application of the public sector equality duty and the existing residents' rights under landlord and tenant legislation. Led by Sasha White QC.
- Advising on a possible challenge to the Cherwell Local Plan on accessibility and sustainability grounds. Led by Jenny Wigley.
- Advising and preparing statements of case for Central Bedfordshire Council in an appeal against its decision to refuse to grant a CLUED.
- *R (on the application of Zins) v East Suffolk Council*: acted for the claimant in a judicial review of a planning permission granted to PGL Travel Ltd for the creation of a new activity lake within a countryside estate used as a children's outdoor activity centre. Led by David Forsdick QC.
- *60 Dace Road, London*: acted for the developer in a successful appeal following a 6-day public inquiry concerning the development of two mixed-use buildings in a conservation area. Led by Sasha White QC.
- Drafting an objection letter on behalf of local residents to proposed development that would affect the setting of a heritage asset.

Kim has a particular interest in environmental law and recent work includes:

- Advising and drafting letters before action in a potential claim for judicial review against the Forestry Commission and Natural England regarding the proposed re-introduction of pine martens in parts of the South West of England.
- Advising a local resident as to a possible claim for judicial review on environmental grounds against the grant of planning permission for the development of a new dwelling in her neighbour's garden.
- Advising a Parish Council on the lawfulness of its draft Neighbourhood Plan policies setting high sustainability standards for new developments and assisting with the drafting of a "model policy" for other Parish Councils to adopt where appropriate.

Public

Kim is a member of the Attorney General's junior junior scheme and has accepted instructions via the scheme in a number of high profile public law cases:

- Assisting Samantha Broadfoot QC who acted for Highways England's in the inquest into a death on a motorway.
- *Dolan v Secretary of State for Health & Social Care*: application for judicial review of the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 and the Prime Minister's decision to direct the closure of all schools and other educational establishments on 20th March 2020. With Jacqueline Lean.
- Assisting Julia Smyth in advising on the form of assessment required under the Mental Health Act 1983 and whether these could be carried out remotely during the coronavirus pandemic.
- Advising the Home Office regarding the lawfulness of a Regulation 33 certification decision. With David Blundell QC and

Julia Smyth.

Kim has separately advised on the merits of an unlawful detention and likely quantum of damages. Led by Samantha Broadfoot QC.

Qualifications

- University of Oxford (Lady Margaret Hall) – BA Law with French Law
 - University of Law, London – BPTC
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Awards

- Provost’s Award for Excellence, University of Law – 2017
- Hardwicke Award, Lincoln’s Inn – 2017
- Howarth & Smith Fellowship – 2015

Kimberley Ziya is a rising star.

Research for Chambers UK Bar 2022

Publications

22 Mar 2022	Enfranchisement
22 Mar 2022	Right to Manage
22 Mar 2022	A time of change: The legal impact upon management of estates when parts of the estate exercise RTM or enfranchise – webinar
22 Mar 2022	A time of change: The legal impact upon management of estates when parts of the estate exercise RTM or enfranchise – Webinar handout
18 Oct 2021	The public sector equality duty: Requirement and application in the planning context
18 Oct 2021	Equality Law for Planners – webinar
11 May 2021	Law Commission – Residential Leasehold Reforms
11 May 2021	What Next? Residential Property Law in 2021/22 – webinar
19 Apr 2021	“Bridging the Gap”: Property Pointers for Planners – webinar
22 Mar 2021	Bringing and defending High Court challenges
22 Mar 2021	Planning Law Update for Local Authorities: Planning challenges – webinar
08 Mar 2021	“Bridging the Gap”: Planning Pointers for Property Practitioners – webinar
25 Aug 2020	Possession Proceedings: What to expect when the stay is lifted – Webinar
30 Jun 2020	The Approach to the Basic Conditions in Policy and Law

30 Jun 2020	Neighbourhood Plans: The Latest Law And Policy - Webinar
30 Jun 2020	Property in Quarantine - Part 1: So Wrong That It's Right?
23 Jun 2020	Getting an injunction against unlawful traveller encampments: what the law now requires
23 Jun 2020	Unknown travellers (1)
27 May 2020	Issues with Insolvent Landlords
27 May 2020	Property In Quarantine: Liquidation Foundation: The Basics of Property Insolvency - Part 4: Bankrupt individuals and property - Webinar
12 May 2020	Property In Quarantine: The Regulation of the Private Rented Sector in England - Part 3: Regulation of letting agents - Webinar
15 Apr 2020	A Comprehensive Guide to the Latest Planning Law, Practice and Policy (Part One) - Webinar
15 Apr 2020	The Government's emerging planning reforms set out in "Planning for the Future"
12 Feb 2020	Residential Service Charges 2 Consultation, Demands And Cost
30 Jan 2020	What Is A Flat And What Is A Building
04 Nov 2019	Planning High Court Challenges Conference - Practice and Procedure Update
22 Oct 2019	Residential Service Charges 1: the statutory regime, reasonableness and rights to information
01 Oct 2019	Nationally Significant Infrastructure Projects - High Court Challenges - Current Issues (co-authored James Maurici Q.C. and Kimberley Ziya)
25 Sep 2019	Planning Law Update

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