



## **Andrew Parkinson**

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## **Expertise**

Planning, Environment

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## **Overview**

Andrew was called to the Bar in 2010. Andrew's practice focusses on planning and environmental law – principally related to housing, infrastructure, commercial/retail development and CPOs. He represents developers, local authorities, and a variety of interested parties at appeal, and in the High Court, Court of Appeal and Supreme Court.

Andrew is regularly ranked in Planning Magazine's survey of the top-rated junior planning barristers and barristers under the age of 35. He is ranked in the Legal 500 and is a member of the Attorney General's C Panel of Counsel.

His recent experience includes:

- Appearing at a number of planning appeals for local authorities, developers and other interested parties, including

recent recovered appeals at Hatchfield Farm (Newmarket), Ledbury Viaduct site (Ledbury) and Henwick Park (Thatcham).

- Appearing for developers in a number of recent High Court claims relating to Local Plans: for Martin Grant Homes in **Compton Parish Council v Guildford Borough Council** [2019] EWHC 3242 (Admin) – the leading case on “exceptional circumstances” for Green Belt release; **Dylon 2 Ltd v London Borough of Bromley** [2019] EWHC 2366 (Admin) – challenge to the Bromley Local Plan; and for Cala Homes and Wates Developments in a successful defence of the West Berkshire Housing Site Allocations DPD.
- Appearing in the Supreme Court for Friends of the Earth in its challenge to the Airports NPS, which provides policy support for a third runway at Heathrow Airport: **R. (on the application of Friends of the Earth Ltd and others) v Heathrow Airport Ltd** [2020] UKSC 52.
- High level judicial review and statutory challenge court work, including numerous un-led appearances in the High Court and Court of Appeal. This has included successfully appearing in the leading case on the materiality of quashed planning decisions (**Davison v Elmbridge Borough Council** [2019] EWHC 1409 Admin) and the leading case on permitted development rights for telecommunication masts (**Mawbey v CTIL** [2019] EWCA Civ 1016).
- Significant amounts of CPO/compensation work, including a number of compensation claims arising out of the HS2 scheme. Andrew is also currently promoting the A59 Kex Gill bypass for North Yorkshire County Council.
- Acting for RBKC in the “Red and white striped house” case in Kensington, including appearing in the leading case on the scope of section 215 of the Town and Country Planning Act 1990 (**Lisle-Mainwaring v RBKC** [2017] P.T.S.R. 850) and successfully resisting proposals for a double storey basement at a 4 day planning inquiry.

More information on specific practice areas can be found under the ‘Expertise’ tab.

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## Housing

Andrew has acted for developers, local authorities and third parties in a range of housing appeals. Recent work includes:

- Acting for Lord Derby in relation to a recovered planning appeal for 400 houses in Newmarket, including at a 3 week planning inquiry and in a subsequent successful High Court challenge – **Moulton Parish Council v SSCLG** [2017] JPL 1144 (led by Christopher Boyle QC), and unled at a subsequent examination in public into Forest Heath’s emerging Single Issue Review.
  - Acting for Croudace Homes in relation to a recovered planning appeal for 265 homes in Thatcham, Berkshire (led by Christopher Boyle QC).
  - Advising the RSPB regarding a proposed development of 5000 new dwellings at Lodge Hill, Kent.
  - Acting for successful objectors at inquiries into residential development in Mid-Sussex and the Peak District (both 4 day inquiries).
  - Advising and appearing for successful objectors to a proposed 10,000 dwelling new town in Horsham and Mid Sussex at the examination into the Horsham District Planning Framework.
  - Appearing for RBKC in a 4 day planning inquiry into a proposed office-residential plus double-storey basement development in Kensington, which resulted in the basement element of the proposal being rejected.
  - Successful High Court challenges to the grant of planning permission for two gypsy developments: see **Cooper v Ashford Borough Council** [2016] EWHC 1525 (Admin) and **R (XY) v Maidstone Borough Council** [2016] EWHC 1436 (Admin) and for residential development in the Green Belt: see **Boot v Elmbridge Borough Council** [2017] 2 P. & C.R. 6.
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## Neighbourhood Plans

Andrew has experience at all stages of the neighbourhood plan process, for both developers, LPAs and neighbourhood planning groups. Recent work includes:

- High Court challenges to adopted neighbourhood plans, including a successful challenge to the adoption of the Haddenham Neighbourhood Plan, led by Christopher Boyle QC (see commentary here), which resulted in planning permission being granted by the Secretary of State in the concurrent recovered appeal.
  - Section 288 challenges to appeal decisions relating to NPs, including a successful challenge to the remitted decision of the SSCLG in Woodcock Holdings for failure to give adequate reasons following Hopkins Homes (led by Christopher Boyle QC): see **Woodcock Holdings v SSCLG** [2015] EWHC 1173 (Admin).
  - Appearing at planning inquiries on both sides, where one of the main issues is the weight to be attached to an emerging NP, or conflict with an adopted plan. For a recent example see APP/H1033/W/15/3136353 – permission refused following conflict with the Chapel-en-le-Frith Parish Neighbourhood Plan.
  - Advising qualifying bodies preparing neighbourhood plans on compliance with the basic conditions.
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## Energy

Andrew has advised and appeared in relation to a number of energy projects and plans. Recent work includes:

- Appearing for successful objectors at two planning appeals into proposed solar farms in Devon. Issues included landscape impact (both direct and cumulative) and heritage impact on the setting of a Grade II listed building.
- Successfully challenging, twice, the decision of East Dorset District Council to grant planning permission for a large solar farm in Mapperton. The first challenge succeeded for failure to give adequate reasons in a screening opinion which found that the development was not EIA development. The second challenge succeeded for failure to interpret the key development plan policy on renewable energy and failure to apply section 38(6) of the PCPA 2004: see *Butler v East Dorset District Council* [2016] EWHC 1527 (Admin).
- Advising and appearing for Buckinghamshire County Council at the Examination in Public into its Minerals and Waste Core Strategy, which was subsequently found to be sound.
- Planning inquiry into a proposal for a recycling facility for construction & demolition waste near Chichester.
- Assisted Rhodri Price Lewis QC in Veolia's successful challenge to the refusal of planning permission for an Energy Recovery Facility at New Barnfield, Hertfordshire (see *Veolia ES (UK) Ltd v SSCLG* [2015] EWHC 91 (Admin)).
- Advising in relation to a potential challenge to nuclear waste dumping in the Blackwater Estuary.

Andrew is the editor of an "Objector's Guide to Fracking" (published with Leigh Day) and is author of the Garner's Environmental Law chapters on climate change, energy efficiency of buildings and energy efficiency of products.

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## Infrastructure

Andrew has experience in providing advice and representation in relation to large-scale infrastructure projects, including TWA Orders and NSIPs under the Planning Act 2008. Recent work includes: (i) Appearing for the main objector to the Ordsall Chord (a new railway line in Manchester which forms a key part of the Northern Hub) at a 3 week TWA Inquiry (ii) Advising and appearing for Thames Blue Green Economy (unled in the High Court, led by Robert McCracken QC in the Court of Appeal) in its judicial review of the Thames Tideway Tunnel DCO: see *Thames Blue Green Economy v SST* [2015] EWCA Civ 876.

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## Heritage

Andrew regularly advises on heritage issues. He appeared in *Whitby v SST* [2016] EWCA Civ 444, a case concerning the correct interpretation of paragraph 133 of the NPPF in appeals where a development results in substantial heritage harm, and *Butler v East Dorset District Council* [2016] EWHC 1527 (Admin) where he succeeded in challenging a planning permission for failure to interpret development plan policies relating to heritage assets. He has successfully appeared at a number of planning appeals where a main issue has been the heritage impact of the development.

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## CPO

He is regularly instructed in relation to Compulsory Purchase Orders. He advised the Kew Society in relation to the Brentford Stadium CPO and has previously advised leaseholders in relation to the Aylesbury Estate CPO and North Yorkshire County Council in relation to the A684 Bedale, Aiskew and Leeming Bar Bypass CPO. In the High Court, he recently acted for a successful objector to a CPO, which was quashed for failure to comply with the duties in the Equality Act 2010

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## Examinations in Public

Andrew has appeared at a number of Examinations in Public. Recent work includes: (i) Appearing for Buckinghamshire & Milton Keynes Fire Authority at the EiP into Wycombe District Council's Delivery and Site Allocations plan (ii) Appearing for a participant opposing a proposed new town in the Horsham District Planning Framework (iii) Advising and appearing for Buckinghamshire County Council at the EiP into its Minerals and Waste Core Strategy (iii) Appearing for a coalition of Parish Councils objecting to North Hertfordshire District Council's emerging Local Plan (iv) Appearing for Lord Derby at the examination-in-public into Forest Heath District Council's emerging Single Issue Review.

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## CIL/Section 106

Andrew has advised and given a number of recent talks on the recent affordable housing threshold changes; the vacant building credit; affordable housing appeals under s. 106BC; and the impact of reg. 122 and 123 of the CIL regulations. He appeared in *Oxfordshire County Council v SSCLG* [2015] EWHC 186 (Admin) on section 106 monitoring fees and regulation 122 (led by Nathalie Lieven QC).

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## Enforcement/CLEUD

Andrew regularly appears at enforcement inquiries, s.289 appeals in the High Court, and enforcement prosecutions in the Magistrates and Crown Courts. Recent work includes: (i) four s. 174 inquiries concerning agricultural-residential conversions in the Green Belt, both for local authorities and appellants (ii) an inquiry against the refusal of a CLEUD in respect of a mobile home (iii) a successful s. 289 appeal concerning the correct interpretation of Part 1, Class B of the GPDO 2008 (roof extensions) (iv) two successful appeals for local planning authorities on the basis of concealment of breaches of planning control.

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## Special Controls

Andrew has experience of section 215 notices, having appeared for RBKC at two appeals against a notice requiring the repainting of a property (in both the Magistrates and Crown Courts) and the leading case on the scope of the section (*Lisle-Mainwaring v RBKC* [2017] P.T.S.R. 850). He also has advised on a number of occasions in relation to the TPO and TRN regimes, and appeared in *Distinctive Properties v SSCLG* [2015] EWCA Civ 1250, an important case on the definition of "tree" under the Town and Country Planning Act 1990, and the scope of the TPO and TRN regimes. He has advised on Ancient Woodlands, and succeeded in *Cooper v Ashford Borough Council* [2016] EWHC 1525 (Admin) – failure to interpret development plan policies relating to Ancient Woodlands.

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## Highways

Andrew has considerable experience in advising and appearing in relation to DMMOs and other highways issues. Recent work includes: (i) Appearing at five DMMO inquiries in the past 12 months, one of which lasted over 2 weeks (ii) appearing for TfL in the High Court successfully resisting an application for interim relief, involving issues under s. 130 and s. 143 Highways Act 1980 (iii) acting for TfL defending a judicial review in relation to the Greater London Low Emission Zone (iv) stopping up orders in the Magistrates Court.

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## Qualifications

### Academic

Andrew graduated from Oxford University in 2007 with a degree in History (first class). Between 2007 and 2009 he studied for a Graduate Diploma in Law (Distinction). He completed the Bar Vocational Course at City University in 2009-2010. He has an LLM in Environmental Law and Policy from UCL (Distinction)

### Scholarships and Awards

Lincoln's Inn: Lord Denning; Hardwicke; and Cholmeley Scholarships.

Oxford University: Gladstone Memorial Essay Prize; Mary Somerville Prize; and Coombs Exhibition.

### Other Experience

Between 2007 and 2009, Andrew taught History at an inner-London comprehensive school. In 2007 he was promoted to Head of History and in an inspection in 2009 both his teaching and leadership of the department were judged as 'Outstanding' and he was described as an 'inspiring leader'. He is a governor at Acland Burghley School.

**Able to skilfully deal with the twists and turns of each case**

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## Cases

04 Nov 2019	High Court to hear Guildford Local Plan challenges
17 Oct 2019	Heathrow expansion judicial review hearings to begin in the Court of Appeal
14 Nov 2017	Rogers v Wycombe District Council [2017] EWHC 3317 (Admin)
19 Jul 2017	RSPB and others v Secretary of State for Justice [2017] EWHC 2309 (Admin)
10 May 2017	Dennehy v SSCLG CO/1166/2016
04 Apr 2017	Moulton Parish Council v SSCLG [2017] EWHC 1047 (Admin)
14 Mar 2017	R (on the application of Lisle-Mainwaring) v RBKC
07 Mar 2017	Relta v GLA [2017] EWHC 671 (Admin)
28 Feb 2017	Robb v South Cambridgeshire DC [2017] EWHC 594 (Admin)
06 Dec 2016	Boot v Elmbridge Borough Council
12 Jul 2016	Lisle-Mainwaring v Kensington and Chelsea RLBC
28 Jun 2016	Butler v East Dorset District Council [2016] EWHC 1527 (Admin)
24 Jun 2016	Cooper v Ashford Borough Council [2016] EWHC 1525 (Admin)
17 Jun 2016	R (XY) v Maidstone Borough Council [2016] EWHC 1436 (Admin)
27 Jan 2016	Skelmersdale Ltd v West Lancashire BC [2016] EWHC 109 (Admin)
08 Dec 2015	Distinctive Properties v Secretary of State for Communities and Local Government [2015] EWCA Civ 1250
01 May 2015	Woodcock Holdings v SSCLG [2015] EWHC 1173 (Admin)
08 Mar 2015	Thames Blue Green Economy v SST [2015] EWCA Civ 876
03 Feb 2015	Oxfordshire County Council v SSCLG [2015] EWHC 186 (Admin)

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## Inquiries

05 Dec 2017	Arch 88, Blackfriars Road
07 Nov 2017	Hays Mill Oast
06 Nov 2017	North Hertfordshire Local Plan
26 Sep 2017	Forest Heath Single Issue Review

05 Sep 2017	Former Poultry Unit, Beckford
25 Apr 2017	Nixton Homes, York
22 Nov 2016	47 Huntworth Mews
15 Nov 2016	Henwick Park, Thatcham
11 Oct 2016	49 Hough Lane
04 Oct 2016	Tadcaster DMMO
20 Sep 2016	Land off Larch Avenue, Nettleham, Lincs
14 Jun 2016	Sheriff Hutton
26 Apr 2016	Holy Cross Stables, Wormley
05 Apr 2016	Land to the West of Long Lane, Chapel-en-le-Frith
15 Mar 2016	Brooder House, Hampshire
26 Jan 2016	Lower Blackmore Farm
08 Dec 2015	South End, Kensington
14 Apr 2015	Hatchfield Farm, Newmarket

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## Publications

15 Mar 2021	Opposing Appeals by Hearings
15 Mar 2021	Planning Law Update for Local Authorities: Dealing with Appeals
30 Jun 2020	Neighbourhood Plans: weight in development control decisions and in relation to other development plans
30 Jun 2020	Neighbourhood Plans: The Latest Law And Policy - Webinar
04 Jun 2020	Green Belt and Exceptional Circumstances
08 Oct 2014	Section 106 and CIL