



## **Ben Fullbrook**

Call: 2016

Email: [bfullbrook@landmarkchambers.co.uk](mailto:bfullbrook@landmarkchambers.co.uk)

### **Practice Manager**

#### **Richard Bolton**

Email: [rbolton@landmarkchambers.co.uk](mailto:rbolton@landmarkchambers.co.uk)

Phone: **0207 421 1392**

#### **Ruby Sims**

Email: [rsims@landmarkchambers.co.uk](mailto:rsims@landmarkchambers.co.uk)

Phone: **020 7421 1337**

---

## **Expertise**

Public, Planning, Environment, Property

---

## **Overview**

Ben practises in public, planning, environmental and property law. He has appeared for clients in the Magistrates' Court, County Court, High Court, Court of Appeal and the Immigration, Residential Property, SEN and Social Entitlement Tribunals. He has also appeared at numerous planning inquiries and hearings. Ben is regularly called upon to give advice and draft pleadings.

In September 2020, Ben was appointed to the Attorney General's C Panel of Junior Counsel. Ben's recent clients have included individual claimants and defendants, developers, environmental groups, landlords, tenants, local authorities and government departments. Ben accepts instructions on a direct access basis. Ben also has extensive experience of public inquiries and has acted as junior counsel to the Independent Inquiry into Child Sexual Abuse (IICSA) since 2018.

Some of Ben's notable cases include:

- *R (Cross) v Cornwall Council* [2021] EWHC 1323 (Admin). A high profile challenge to the grant of planning permission for a large dwelling in the Cornwall AONB on the grounds of failure to give reasons. Ben acted on behalf of the successful claimant. The case has received extensive press coverage.
- *R (Fraser) v Shropshire Council* [2021] EWHC 31 (Admin). A challenge to a grant of planning permission for Extra Care accommodation. The claim raised issues relating to age and disability discrimination and the application of the public sector equality duty.
- *Finney v Welsh Ministers* [2020] 1 All ER 1034 (CA). A challenge to the interpretation of s.73 of the Town and Country Planning Act 1990 and one of the most significant planning judgments of 2019. Ben successfully represented the Appellant as sole counsel. Ben also successfully resisted an application for permission to appeal to the Supreme Court.
- *Dulgheriu v Ealing LBC* [2020] 1 WLR 609. A challenge to an order by the local council excluding protestors from the vicinity of an abortion clinic. Ben acts for the Claimant (led by Philip Havers QC). The claim raises significant issues in relation to Articles 9, 10 and 11 ECHR.
- *R (Langton) v SSEFRA* [2019] 4 WLR 151 (CA). A challenge to the Secretary of State's policy on badger culling, raising important points about the Conservation of Species and Habitats Regulations (led by Richard Turney).

Prior to joining Landmark, Ben worked for five years as a civil service fast-streamer at the Ministry of Defence. His work spanned various aspects of defence and security policy and included liaison with foreign governments, dealing with public law challenges and the application of international human rights law. Ben was also involved with the government effort to plan for the 2012 London Olympics.

Ben is the author of *An Introduction to the General Permitted Development Order* published in June 2021.

---

## Public Law

Ben has a broad public law practice, which includes the following areas.

### Education

Ben accepts instructions in all areas of education law and regularly appears on behalf of appellants and local authorities in EHCP appeals in the First-tier Tribunal. Ben has also acted in several High Court challenges which touch upon education matters. He was recently instructed to represent the Secretary of State (led by Galina Ward) in response to an unsuccessful challenge by a local academy against a decision by a nearby school to open a sixth form centre: *R (John Kyrle High School) v Secretary of State for Education* [2019], Unreported. He also was also granted permission to bring a claim on behalf of a large academy trust against Ofsted (although the matter has subsequently settled).

Ben is a governor at a local state primary school.

### Immigration

Ben has appeared in both the High Court and Upper Tribunal in immigration judicial review proceedings. Ben also regularly appears before the First-tier and Upper Tribunals (Immigration) for bail applications and for appeals covering all areas of immigration law. Ben also acts for clients in unlawful detention claims.

Ben recently as sole counsel for the claimant in *R (Hussein) v SSHD* [2018] EWHC 2320 (Admin) – an unlawful detention claim which explored the application of the SSHD's Adults at Risk Policy and the *Hardial Singh* principles.

### Free Speech and Protest

Ben appeared on behalf of the claimants (led by Philip Havers QC) in *Dulgheriu v Ealing LBC* [2020] 1 WLR 609. This concerned the implementation by Ealing Council of a Public Spaces Protection Order ("buffer zone") under s.59 of the Crime Policing and Anti-Social Behaviour Act 2014. The Order prevents people from expressing views relating to abortion in the vicinity of an abortion clinic in Ealing. The case raises important issues relating to the use of these controversial anti-social behaviour measures and articles 8 (right to private and family life), 9 (freedom of religion), 10 (freedom of expression) and 11 (freedom of assembly) of the ECHR. This case was recently considered by the Court of Appeal. For press coverage, see [here](#) and [here](#). This is now proceeding to the European Court of Human Rights.

Ben is also instructed on behalf of an individual seeking to challenge a similar order which was recently imposed by the London Borough of Richmond upon Thames. For press coverage, see [here](#).

Ben was also asked to speak to members of the Irish Parliament in relation to the human rights implications of proposals to

introduce nation-wide “buffer zones” outside abortion clinics in the wake of the referendum.

## **Equality Act**

Ben has recently been instructed by several direct and indirect discrimination claims raising issues under the Equality Act, including claims touching on complex but current issues relating to transgender rights.

## **Public Inquiries**

Ben has extensive experience of public inquiries and was first instructed as junior counsel to the Independent Inquiry into Child Sexual Abuse (IICSA) in 2018. Since that time he has acted as junior counsel to the investigation into the Anglican Church (led by Fiona Scolding QC). For press coverage, see [here](#) and [here](#). He is currently instructed as junior counsel to the Inquiry’s investigations into Effective Leadership in Child Protection and Child Sexual Abuse by Organised Networks.

## **GDPR and Privacy**

Ben has advised clients in response to claims under the GDPR and claims for breach of confidence/misuse of private information. He is currently instructed for the claimant in *R (Child B) v College of Policing*, which is a claim seeking to quash the College of Policing’s guidance on the recording of “non-crime hate incidents”, particularly relating to children. The case has received significant media coverage [here](#), [here](#) and [here](#) (£).

## **Healthcare and Court of Protection**

Ben is the co-author of the chapter on GP law in Lock & Gibbs, *NHS Law and Practice* (LAG, 2018). He regularly advises clients on matters of healthcare law, particularly ordinary residence. Ben also accepts instructions in the Court of Protection. Ben has also been appointed by the British Medical Association to independently review complaints about its service provision.

## **Pensions**

Ben has been instructed as junior counsel by the Secretary of State for Work and Pensions in an ongoing judicial review relating to the Pension Protection Fund following the CJEU’s judgment in *Case C-17/17 Hampshire v Board of the Pension Protection Fund*. The claim relates to the obligation on members states to provide citizens with a minimum level of pension protection, pursuant to Art. 8 of Directive 2008/94/EC.

Ben has also advised individuals and appeared in tribunal hearings in relation to Police Injury Pensions.

---

## **Planning Law**

Ben has an extensive planning practice. He regularly advises clients on a wide range of planning matters, including:

- Permitted development rights
- Habitats Regulations
- EIA Regulations
- Greenbelt issues
- Public Sector Equality Duty
- Heritage matters and ‘enabling development’
- Neighbourhood plans
- Air quality issues
- Highways
- Interpretation of the NPPF
- Ports and infrastructure projects
- Community Infrastructure Levy
- Development Consent Orders and infrastructure
- Section 106 agreements

Ben is the author of *An Introduction to the General Permitted Development Order*, published in June 2021.

Ben also frequently appears for clients at planning inquiries, hearings and in the High Court.

Notable court appearances include:

- *Chichester District Council v SSHCLG* (2021). A successful s.288 challenge to the decision of an inspector to allow an appeal against the Council's refusal to grant prior approval. Ben acted on behalf of the claimant.
- *R (Cross) v Cornwall Council* [2021] EWHC 1323 (Admin). A high profile challenge to the grant of planning permission for a large dwelling in the Cornwall AONB on the grounds of failure to give reasons. Ben acted on behalf of the successful claimant. The case has received extensive press coverage.
- *R (Fraser) v Shropshire Council* [2021] EWHC 31 (Admin). A challenge to a grant of planning permission for Extra Care accommodation. The claim raised issues relating to age and disability discrimination and the application of the public sector equality duty
- *R (Collins) v Conwy Council* [2021]. A successful judicial review of the variation of a condition pursuant to s.73 of the Town and Country Planning Act 1990. The claim alleged a failure to have regard to material considerations. Ben acted for the claimant.
- *Finney v Welsh Ministers* [2020] 1 All ER 1034 (CA). A challenge to the interpretation of s.73 of the Town and Country Planning Act 1990 and one of the most significant planning judgments of 2019. Ben successfully represented the Appellant as sole counsel. Ben also successfully resisted an application for permission to appeal to the Supreme Court.
- *R (Newman) v Braintree District Council*. Ben represents the Claimant who was recently granted permission to bring a judicial review of the grant of prior approval by Braintree District Council for development purporting to fall within Class A of Sch. 2, Pt. 6 of the GPDO (agricultural and forestry). The claim raises issues regarding the extent to which a local planning authority is now obliged (following *Westminster City Council v SSHCLG* [2019] EWCA Civ 2250) to consider whether development falls within the definitional scope of the particular class of permitted development relied upon before it can determine the question of prior approval.

Notable inquiry appearances include

- Cattle Market, Honiton: a 6 day inquiry relating to the construction of 57 dwellings for older peoples' accommodation in the setting of a listed building. Ben appears as a junior to Sasha White QC.
- *Land North East of Eagles Farm, Sevenoaks*: a four-day planning inquiry which considered an application to construct a gypsy/traveller site in the greenbelt. Ben acted as sole counsel for the Rule 6 party.
- *St Peters' Church, Norwich*: a planning hearing into a proposed housing development in Norwich City Centre. Ben appeared on behalf of interested parties to make submissions in respect of viability and the application of NPPF2.
- *21 Buckle Street*: Ben appeared as a junior to Christopher Katkowski QC (on behalf the appellant) at a planning inquiry relating to the construction of a multi-storey apart-hotel in Tower Hamlets.
- *80 Dunsmure Road*: Ben appeared as sole counsel for the appellants in a successful planning appeal against an enforcement notice.
- *1 Sydenham Park*: Ben appeared as sole counsel on behalf of a local planning authority at a planning hearing relating to a large urban development.

Ben is also instructed by an objector to the East Anglia ONE and East Anglia TWO Offshore DCO applications.

---

## Environment Law

Ben has experience in a wide range of environmental law matters. He regularly advises clients on the application of the Habitats and Environmental Impact Assessment Regulations. Ben has also represented clients in the Magistrates Court in claims brought under the Environmental Protection Act.

Notable court appearances include:

- *R (Langton) v SSEFRA* [2019] EWCA Civ 1562- a claim which raised a number of important matters relating to the application of the Habitats Regulations. This was the first case to consider the effect of the CJEU judgment in *People Over Wind*. This case is pending an application for permission to appeal to the Supreme Court.
- *R (Langton) v Natural England* [2019] EWHC 597 (Admin) – the first case which discussed how to interpret SSSI citations and the extent of statutory undertakers' duties under the Wildlife and Countryside Act 1981.
- *R (Client Earth) v Environment Agency* [2019] unreported – a claim relating to the application of the Industrial Emissions Directive and Best Available Techniques at the Humber Refinery. Ben was instructed on behalf of the Environment Agency and led by Tim Buley QC. They were successful in getting permission to bring a judicial review refused.

Ben is a contributor to Garner's Environmental Law, for which he writes the chapter on the management and shipment of waste.

---

## Property Law

Ben has appeared for clients in the High Court, County Court and First-tier Tribunal in relation to property matters. In particular, Ben frequently appears for both landlords and tenants in residential (private and public sector tenancy) possession hearings and

in disrepair actions at the County Court. Ben has also successfully represented clients at hearings relating to orders for sale and enforcement, business tenancy renewals, applications for default judgment and other case management hearings.

Ben has provided written advice and drafting services for clients in relation to a number of other property matters, including:

- Leasehold enfranchisement under the Leasehold Reform Act 1967 and the Leasehold Reform, Housing and Urban Development Act 1993
- The interpretation of leases and enforceability of leasehold covenants
- Freehold covenants
- Easements and rights of way
- Rights to light
- Disrepair and dilapidations
- Rent recovery in commercial leases
- Forfeiture, estoppel and waiver
- Assets of Community Value
- Business tenancy renewals and terminations
- Lease variations

Ben was recently instructed as a junior to Katharine Holland QC in a high-value High Court claim in relation to valuation, the enforceability and interpretation of covenants and deeds of indemnity.

---

## Qualifications

- BPP University, Bar Professional Training Course (Outstanding) (2016)
- BPP University, Graduate Diploma in Law (Distinction) (2015)
- University of Oxford (Hertford College), M.St in History (Distinction) (2010)
- Durham University (St Aidan's College), BA History (First Class) (2009)

## Prizes

- Inns of Court Debating Competition 2016 (Finalist)
  - Advocacy Scholarship (BPP University)
  - Prince of Wales Scholarship (Gray's Inn)
  - Bar Council Law Reform Essay Competition 2014 (Winner, best GDL entry)
  - David Karmel Scholarship (Gray's Inn)
- 

## Publications

### Books

- *An Introduction to the General Permitted Development Order*, Law Brief Publishing (June 2021). The book is available [here](#) and [here](#).
- 'GP Practice Management' Lock and Gibbs, *NHS Law and Practice* (LAG, 2018), co-authored with Hannah Gibbs

### Published Articles

- 'Judicial Remedies for Human Rights Act Breaches: Secretary of State for Work and Pensions v Carmichael [2018] EWCA Civ 548', *Judicial Review* 2018
  - 'At what point does what's mine become yours? A critical analysis of the current law on common intention constructive trusts and cohabitation', *Institute of Advanced Legal Studies, Student Law Review* (2016), vol. 4, issue 1
  - 'Monkey see, monkey do something about this law: a proposal to reform the Communications Act 2003' (winner, best GDL entry in the Bar Council Law Reform Essay Competition, 2014)
- 

## Cases

21 May 2021

R (Cross) v Cornwall Council [2021] EWHC 1323 (Admin)

11 Jan 2021	R (Fraser) v Shropshire Council [2021] EWHC 31 (Admin)
01 Jan 2020	Finney v Welsh Ministers [2020] 1 All ER 1034 (CA)
01 Jan 2020	Dulgheriu v Ealing LBC [2020] 1 WLR 609
01 Jan 2019	R (Langton) v SSEFRA [2019] 4 WLR 151 (CA)

---

## Publications

05 Aug 2021	Exam Appeals: hints and tips - webinar
21 Jun 2021	Preparing for a public inquiry: evidence gathering and what to expect from the inquiry
21 Jun 2021	Preparing Now for Next Year's Covid-19 Public Inquiry - webinar
11 Mar 2021	Recent Caselaw on Permitted Development Rights
11 Mar 2021	Planning Law Update for Local Authorities: Technical Issues for Planning Authorities
30 Sep 2020	Permitted Development: key issues - article 1
06 Aug 2020	Social Care - Part 4 - Webinar
06 Aug 2020	Data Protection and Social Care
03 Aug 2020	Who can appeal?
03 Aug 2020	Public Examinations: How to Appeal - Webinar
23 Jul 2020	Social Care - Part 2 - Webinar
16 Jun 2020	Damages for Unlawful Immigration Detention: Recent Cases
16 Jun 2020	Immigration Detention: An Update - Webinar
07 May 2020	Article 14 ECHR - from nuts and bolts to some big themes troubling the courts now - Webinar
07 May 2020	Article 14: A very short introduction
07 May 2020	Finney v Welsh Ministers - Webinar
07 May 2020	What Did The Court Decide?
01 Oct 2019	The Role Of Statutory Bodies Consultees
11 Jul 2019	Immigration Law Update
27 Nov 2018	Habitats Update: People Over Wind and other developments
03 Oct 2018	Educational Testing Service (ETS)
27 Sep 2018	Orders for sale
05 Jun 2018	Section 21 Procedure

---

04 Oct 2017	Public Procurement Update (Paper)
20 Sep 2017	Consents - User and Alterations/Improvements
14 Sep 2017	Rooftop Development: Dealing with Tenants' Statutory Rights

---