



## **Tom Morris**

Call: 2016

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## **Expertise**

Property, Planning, Costs

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## **Overview**

Tom is a specialist in property litigation and costs law. He has a particular focus on all areas of the law relating to the development of land, and complements his property litigation practice with his knowledge and experience of planning and environmental law. He is regularly instructed to appear in the High Court, including the Senior Courts Cost Office and Upper Tribunal, the county court and the First-tier Tribunal. He also undertakes advisory work and drafting in all areas of property and costs law.

Tom has a busy property trial practice, but also appears in application hearings – especially for injunctions, summary judgment and strike out – and in appeals. He recently acted for a landowner in a successful application to commit a trespasser to prison for breaching an injunction, and for a successful respondent landlord in an appeal on a point of law relating to waiver of forfeiture. Tom is currently acting for:

- a property developer in a High Court claim for declaratory relief in relation to the interpretation of clauses in a development agreement;
- a landlord in an upcoming appeal to the Upper Tribunal on an important point relating to Rent Repayment Orders;
- a Michelin-starred restaurant in a rent dispute with its landlord;
- a landowner resisting an application in the Upper Tribunal to discharge a restrictive covenant;
- a commercial landlord in an upcoming trial in relation to a series of settlement agreements;
- an unincorporated association in an upcoming trial of a claim for possession against trespassers based on possessory title;
- a mortgagee in an upcoming trial involving allegations of forgery, subrogation and unjust enrichment; and
- a mortgagee in an upcoming trial involving allegations of undue influence.

Tom also has a busy costs practice. He is presently appearing in the Senior Courts Cost Office on behalf of the paying party in the long-running detailed assessment of a £60 million bill of costs. Tom is also instructed by a company in an upcoming hearing in the SCCO to determine its dispute with HMRC about its entitlement to interest on an award of costs, and by a private prosecutor in an appeal to the SCCO against a determination of his prosecution costs. Tom appeared (unled) for the successful appellant in the widely reported appeal in *Ivanov v Lubbe* on two points of wide importance: the correct procedure for the assessment of disbursements in cases commencing in the RTA portal, and the reasonableness of incurring court fees when a receiving party may be eligible for fee remission. He also recently appeared in the TCC before Mr Justice Fraser successfully to resist an application for costs on an indemnity basis following the settlement of a construction dispute.

Tom also accepts instructions in planning and compulsory purchase law. Earlier this year he acted on behalf of a developer (led by Rupert Warren QC) in a three-week planning inquiry, and (unled) for a successful rule 6 party in a two-week planning inquiry arising from a developer's appeal against a refusal of planning permission for 150 houses in Suffolk. Tom also acted for a cycling café in west London in its widely reported dispute with the local planning authority, which had issued a claim against it for an injunction to enforce a planning enforcement notice. The local planning authority discontinued its claim shortly before the trial.

Before joining Landmark, Tom was Special Adviser to Rt Hon. Kenneth Clarke QC MP in the Cabinet Office, covering a wide-ranging home affairs and security brief, and previously worked as a Parliamentary Assistant to Rt Hon. Ben Gummer MP. Tom graduated from Corpus Christi College, Cambridge, with a first class degree in History and a Masters in the History and Philosophy of Science. He was graded outstanding on the BPTC, winning the University of Law's prize for the highest mark in the opinion-writing exam. At university, Tom also won a full blue for cycling, was the national student time trial champion over 25 miles, twice silver medalist over 10 miles and varsity champion both on road and off-road.

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## Property

Tom's property practice is wide-ranging. He is regularly instructed in matters ranging from multitrack and fast track trials and complex service charge and s.168 hearings in the First Tier Tribunal, through to possession hearings, strikeout and summary judgment hearings, and relief from sanction hearings. Recent appearances have included the following:

- Obtaining orders for possession of properties let under tenancies protected by the Rent Act 1977 and Housing Act 1988.
- Obtaining possession orders against trespassers, and injunctive relief against trespassers.
- Obtaining an urgent possession order in the High Court in a trespass case affecting infrastructure of national importance, on the same day as obtaining an order abridging time for service to a few hours.
- Obtaining possession orders against mortgagors.
- Obtaining orders for possession of commercial premises on grounds of forfeiture; successfully resisting applications for relief from forfeiture; successfully obtaining relief from forfeiture (in one case ten minutes after being instructed).
- Successfully obtaining an ex parte interim injunction in favour of a business owner who had been unlawfully evicted, having been instructed only the evening before.
- Securing the discharge of multiple charging orders from multiple properties against the background of a complex trust dispute.
- Obtaining third party debt orders in the High Court.
- Obtaining non-party disclosure orders.
- Appearing on behalf of an appellant against Westminster Council's determination that she was voluntarily homeless, involving multiple successful applications before HHJ Luba in Central London County Court over the course of a whole day.
- Appearing in hearings relating to disputes under the old and new telecommunications codes, and in contested lease

renewal hearings under the 1954 Act.

Tom's drafting and advisory work encompasses all areas of property law. Recent advisory work has included:

- The construction of a wide range of contractual terms, leasehold covenants, easements, and restrictive covenants.
- Conveyancing disputes.
- The law of forfeiture and relief against forfeiture.
- The law of mortgages and receivership.
- The law of trespass and nuisance, including in relation to invasive weeds.
- Professional negligence in the conveyancing context.
- Boundary disputes, the Party Wall Act, adverse possession and highways disputes.
- Issues relating to rights of way and restrictive covenants.
- Issues of co-ownership and the law of trusts in the property context, including the Trusts of Land and Appointment of Trustees Act.
- Telecommunications matters.
- Cases involving rent review disputes, and disrepair.
- Cases involving unlawful penalty clauses.

As junior to David Elvin QC, Tom advised a developer on a complicated highways dispute with the local authority.

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## Costs law

Tom has a busy costs practice. He is currently instructed on behalf of the paying party in the long-running detailed assessment of a £60 million bill of costs before the Senior Costs Judge in the SCCO following a 3-month trial in the Commercial Court in 2013. Partly led by Ben Williams QC and partly unled, Tom has been responsible for drafting large parts of the Points of Dispute, and for making submissions over the course of five weeks of assessment. The matter returns to court for another month later this year. The issues in the assessment include the burden of proof on the indemnity basis, the law of evidence in detailed assessment hearings, the approach to assessing multimillion pound disbursements and, in particular, the fees of experts, the reasonableness of counsels' brief fees in the Commercial Court, the reasonableness of extensive printing and photocopying costs, and the recoverability of fees paid to non-solicitors for providing litigation support.

Tom is also presently instructed by a company in an upcoming hearing in the SCCO to determine its dispute with HMRC about its entitlement to interest on an award of costs, and on behalf of a private prosecutor in an appeal to the SCCO against a determination of his prosecution costs.

His recent work includes appearing (unled) for the successful appellant in a widely-reported appeal before His Honour Judge Lethem (*Ivanov v Lubbe*), which concerned two points of general importance: the proper approach to determining a dispute over disbursements in a case which commences in the portal and to which fixed costs apply, and the reasonableness of incurring court fees when a receiving party may be eligible for fee remission.

Earlier this year, Tom twice appeared before Mr Justice Fraser in the Technology and Construction Court, successfully resisting an application for costs to be assessed on the indemnity basis following the settlement of a construction dispute. Tom also appeared in the High Court on behalf of a developer in a costs hearing following the settlement of a party wall dispute, and on behalf of the Legal Aid Agency, successfully defending a series of applications for relief under the Crown Proceedings Act and for a writ of control against the Lord Chancellor.

In the county court, Tom has recently appeared on behalf of an impecunious company, successfully opposing an application for security for costs and obtaining a costs order against the applicant, and on behalf of an individual successfully to resist an application for her defence to be struck out unless she paid the costs of an interim application. He also has particular experience in fixed costs and RTA portal cases, and frequently advises and appears on behalf of insurers in related applications.

Tom has appeared in the SCCO in assessments of solicitor client costs under the Solicitors Act 1974, as well as providing advice and drafting in relation to the status of solicitors' bills.

Separately, Tom has advised on:

- the assignment of CFAs;
- the cost consequences of Part 36 offers;
- the law of interest on costs;
- the basis for departing from Part 36 cost consequences on the basis of injustice; and
- the applicability of fixed costs in RTA protocol disputes.

Tom has also worked with David Holland QC on solicitors' liens.

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## Planning and Compulsory Purchase

Tom brings a knowledge of planning and compulsory purchase law to his property practice. He appeared earlier this year in a three-week planning inquiry on behalf of a major developer (led by Rupert Warren QC), and (unled) on behalf of a successful rule 6 party in a two-week inquiry following a developer's appeal against a refusal of permission for 150 houses on the edge of a small Suffolk town. He has also acted in enforcement inquiries, both for appellants and local authorities, and appeared in the Magistrates' Court on planning, council tax and environmental enforcement issues.

Tom recently acted for a cycling café in west London in its widely reported dispute with the local planning authority, which had issued a claim against it for an injunction to enforce a planning enforcement notice. The local planning authority discontinued its claim shortly before the trial.

Tom is also instructed to draft submissions to be made to planning committees, and to attend committee meetings to make submissions. In response to one application for permission to develop 150 houses, Tom drafted and made submissions to a planning committee resulting in a deferral of an application and in its subsequent refusal, despite officers recommending permission be granted. He acted for a rule 6 party in the resulting planning inquiry. In response to a different application for 300 houses, his submissions also led to permission being refused despite officers recommending that permission be granted.

Separately, Tom has advised:

- on a development turning on issues including the need for planning permission, planning enforcement, and parallel issues of landlord and tenant law;
- commercial clients on enforcement matters generally;
- a developer on the applicability of GDPO rights to a development on green belt land;
- local authorities on the interpretation of planning permissions, including historical permissions;
- local authorities on time limits on the commencement of development;
- on breach of condition notices;
- on neighborhood plan-making; and
- on the applicability of human rights law to challenges to compulsory purchase orders.

Tom has also worked with David Elvin QC on the interaction between the law of compulsory purchase and human rights. Also led by David Elvin QC, Tom has worked on ransom value in the CPO context.

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## Qualifications

- Cambridge University (Corpus Christi College), BA History (First Class)
- Cambridge University (Corpus Christi College), MSci History and Philosophy of Science
- GDL, BPP University
- BPTC, University of Law (Outstanding, top of year in Opinion Writing)

## Scholarships and Prizes

- Corpus Christi College, Cambridge: Manners Scholarship (for performance in Part I exams)
- Corpus Christi College, Cambridge: Intermediate Exhibition (for performance in Part II exams)
- Middle Temple: Queen Mother Scholarship
- Middle Temple: Astbury Scholarship
- Middle Temple: Certificate of Merit (for performance in BPTC exams)
- Middle Temple: Harmsworth Entrance Award
- University of Law: President's Scholarship
- University of Law: Prize for coming top of year in opinion-writing exam

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## Publications

27 May 2021	Recovering Possession of Residential Premises
27 May 2021	Issues Around Lease Termination – webinar
04 May 2021	The elements of the assessment: CPR Part 47 CPR and some relevant points of law

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04 May 2021	Costs for Planners - webinar
15 Sep 2020	Possession Proceedings: what to expect when the stay is lifted (Repeat)- Webinar
05 Dec 2019	Waiver of Forfeiture
05 Feb 2019	Waiver of Forfeiture
30 Oct 2018	Service Charge Consultation Requirements, Demands and Costs
27 Sep 2018	Charging orders: introduction and procedure
09 Jul 2018	Common pitfalls in possession claims against trespassers and how to avoid them
05 Jun 2018	Deposits and other obstacles to obtaining possession
14 May 2018	Drainage of land

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