



## Stephen Whale

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## Expertise

Planning, Environment

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## Overview

Stephen was called to the Bar by Gray's Inn in 1999. He was a member of the Attorney General's Panel of Counsel between 2007 and 2020, culminating in five years on the A Panel, and he is one of the highest ranked juniors for Planning in the country in both the *Legal 500* and *Chambers & Partners*.

Current directory accolades: "He's very down to earth and very human and engaging as an advocate." "He's a safe pair of hands, knowledgeable, practical and very reassuring in front of clients." (*Chambers & Partners*, 2021); "Stephen has always provided high quality and practical advice which deals with the clients requirements and provides them with a good understanding as to the best way forward." (*Legal 500*, 2021) Previous directory accolades include: "His advocacy is understated and efficient;" "Widely regarded as an impressive advocate. Provides high-quality and practical advice. He is a

down-to-earth and robust advocate with a thorough grasp of his cases”; “An intellectual heavyweight: accessible and personable.”; “Extremely articulate and affable, with a very quick grasp of the issues.”; “He is accessible and has the ability to provide very clear written advice for clients.”; “He is great at instilling client confidence in a no-nonsense, unstuffy way.”; “vast experience of advising on large infrastructure projects”; “excellent and well liked by clients”; “totally unflappable”; “well liked by judges and inspectors”; “outstanding”; “excellent as he’s very persuasive and comes across very well”; and “very good in conference because he sets out issues clearly and concisely.”

Stephen has an extensive practice in all aspects of planning and environment law, local government law, highway law, public law and licensing law. He regularly advises and represents developers, local authorities, interest groups, government agencies and the Secretary of State. Stephen has a great deal of experience at planning inquiries and hearings, as well as DCO examinations, together with all court levels from the magistrates’ court up to the Supreme Court. He is licensed to accept direct instructions by way of Public Access. Stephen has many reported cases to his name. He has been highly ranked in the leading directories for both Planning and Licensing over many years. Stephen is the author of the enforcement section in the Encyclopaedia of Planning Law.

### **Memberships**

Planning and Environment Bar Association; Agricultural Law Association; Administrative Law Bar Association.

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## **Planning and Environment**

Stephen’s experience embraces all aspects of the planning process, including the formulation of planning proposals and plans, planning applications, prior approval, permitted development, enforcement, certificates of lawfulness, environmental impact assessment, section 106 obligations, listed buildings and conservation areas, scheduled monuments, Article 4 directions, Council committee meetings, inquiries and hearings, judicial review challenges and statutory challenges in the High Court and above. Stephen represents clients in criminal law proceedings in connection with enforcement notices, tree preservation orders and listed buildings. His workload has concerned a wide range of development proposals, including for housing, retail, airports, waste treatment, strategic rail freight interchanges and windfarms. Stephen advises on compensation for compulsory purchase as well as appearing in the Lands Chamber of the Upper Tribunal in connection with the same.

Stephen has a particular interest and expertise in rural and agricultural planning law and similar matters. Recent examples include: grouse moor enforcement appeal (Yorkshire); certificate of lawfulness for shooting estate (Hampshire); forestry buildings and prior approval (Dartmoor); rights of common on golf club land (Sussex); bridleway diversion (Surrey); footpaths across equine stud farm (Hampshire); curtilage development in Green Belt (Essex); affordable housing in a hamlet (Somerset); oil exploration in an AONB (Surrey); grazing rights on registered common land (Dartmoor); agricultural barn conversion (Northumberland). Stephen is an active member of the Agricultural Law Association.

Examples of large-scale proposals with which Stephen has recently been involved or is currently involved include HS2, the M4 smart motorway DCO, the A180/A160 DCO in Lincolnshire, the A556 DCO in Cheshire, the Thames Tideway Tunnel DCO in London, the A21 in Kent, the £6bn redevelopment of London Bridge Station, compulsory purchase to facilitate the new stadium for Tottenham Hotspur FC, proposed oil exploration in the Surrey Hills, aviation expansion at Farnborough Airport and Dunsfold Aerodrome, the Radlett strategic rail freight interchange and numerous proposals for large-scale housing development. At the other end of the spectrum, Stephen’s recent work has included advising on a planning application for 8 flats, advising a parish council on a Local Plan Examination, a judicial review challenge to planning permission for a new dwelling, drafting submissions for a planning appeal under Written Representations and advising on a listed building consent.

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## **Highways**

Stephen has a wealth of experience on highways and similar matters, including: major motorway and A-road schemes (A63, M4, A180/A160, A556, A21); traffic regulation orders (including *Trail Riders Fellowship v Hampshire CC* [2019] RTR 39; *Trail Riders Fellowship v Devon CC* [2013] EWHC 2104 (Admin)); proposals to create, divert or extinguish public footpaths and bridleways; England Coast Path. He has appeared at DCO examinations, roads inquiries and rights of way inquiries on many occasions.

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## **Local Government**

Stephen has advised a very large number of local authorities over the years, including in their capacities as local planning authority, highway authority (including traffic regulation orders), registration authority (commons and village greens), order making authority (definitive statements and maps) and licensing authority (premises licences). He also routinely represents

those opposed to or involved with local authorities for one reason or another. Stephen's recent work in this field has included advice on CIL payments, planning injunctions, criminal proceedings for uprooting trees, a reserved matters application for a sports lake and a proposed football training academy on Metropolitan Open Land. Stephen has acted as a village green Inspector.

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## Qualifications

### Education

- Inns of Court School of Law
- College of Law
- University of Birmingham

### Scholarships & Prizes

- Peter Duffy Bar European Group Scholarship 2001
- Gray's Inn Junior Award 1998
- Gray's Inn Karmel Award 1997

## Great at instilling client confidence in a no-nonsense, unstuffy way

Chambers & Partners

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## Cases

02 Jun 2020	A short but interesting judgment on Aarhus Convention costs caps in the Planning Court
18 Jul 2019	Court of Appeal rules on challenge to traffic regulation order
31 Jan 2019	Barlow judgment approved
07 Dec 2018	Trail Riders Fellowship v Hampshire County Council [2018] EWHC 3390 (Admin)
22 Nov 2018	Court orders demolition of £1m "man cave"
04 Jun 2018	Wind farm developer's planning obligations found to be immaterial
28 Mar 2018	Court of Appeal rules on meaning of "isolated" in NPPF 55
26 Mar 2018	Court of Appeal upholds planning permission for new QPR training ground and academy facility
20 Nov 2017	Court of Appeal rules that Secretary of State appeal decisions lawful even where prior recovery direction unlawful
07 Nov 2017	"up to 6" does not meet 5: Court of Appeal quashes Somerset planning permission
09 Mar 2017	Challenge to QPR Training Facilities on Metropolitan Open Land Fails
15 Jul 2016	High Court dismisses Stoke Poges Free School challenge
06 Jun 2016	Mr Fidler's "castle" demolished

06 May 2016	Court of Appeal rules on rights of common over registered common land
05 Feb 2016	Court of Appeal restores AZ's planning permission
14 Jan 2016	Gallagher Properties Ltd v Secretary of State for Communities and Local Government [2016] EWHC 674 (Admin)
04 Dec 2015	Mulvenna and Smith v Secretary of State for Communities and Local Government [2015] EWHC 3494 (Admin)
09 Nov 2015	Mr Fidler must demolish house or go to jail for contempt of court
12 Jun 2015	Exeter City Council v. Secretary of State for Communities and Local Government [2015] EWHC 1663 (Admin)
24 Mar 2015	Grazing, piscary, turbary and estovers
05 Mar 2015	Court of Appeal rules on Luton airport parking policy
03 Mar 2015	Court of Appeal decides that there is still a Green Belt in Castle Point, Essex
20 Feb 2015	Judgment in Spurs compulsory purchase case
05 Dec 2014	Success for Taylor Wimpey in the Court of Appeal
09 Oct 2014	Court of Appeal overturns judgment in Redhill
11 Jul 2014	High Court rejects multiple challenges to Gypsy and Traveller policy, directions and decisions
11 Jul 2014	Tottenham Hotspur CPO confirmed
13 Jun 2014	High Court orders Mr Fidler to demolish unauthorised house
25 Jul 2013	Europa Oil & Gas Ltd v Secretary of State for Communities and Local Government [2014] J.P.L. 21
26 Jun 2013	Trail Riders Fellowship v Devon County Council
23 May 2013	Delaney v Secretary of State for Communities & Local Government and Basildon Borough Council
19 Mar 2013	Secretary of State for Communities & Local Government v Proudfoot Properties
16 Jan 2013	Parratt v Secretary of State for Justice and another [2013] EWHC 17 (Admin)
19 Sep 2012	Collins v Secretary of State for Communities and Local Government & Anor [2012] EWHC 2760 (Admin)
20 Jul 2012	Proudfoot Properties v Secretary of State for Communities and Local Government & Anor [2012] EWHC 2043 (Admin)
20 Jun 2012	R (The Manchester Ship Canal Company Ltd & Anor) v Environment Agency [2012] EWHC 1643 (QB)
24 May 2012	R (Barnsley Metropolitan Borough Council) v Secretary of State for Communities and Local Government & Ors
30 Apr 2012	R (London Borough of Hillingdon) v Secretary of State for Communities & Local Government [2012] EWHC 1557 (Admin)
27 Apr 2012	Golding v Secretary of State for Communities and Local Government & Ors [2012] EWHC 1656 (Admin)
08 Dec 2011	Erdogan v Gravesham Borough Council

02 Mar 2011	Rencher-Paine v Secretary of State for Communities and Local Government & Anor
29 Apr 2010	Barlow v Highways Agency [2010] UKUT 121 (LC)
15 Oct 2009	Connolly & Ors v Secretary of State for Communities and Local Government [2009] EWCA Civ 1059
09 Oct 2009	River Club v Secretary of State for Communities and Local Government [2009] EWHC 2674
27 Apr 2009	Royal Borough of Kingston v Secretary of State for Communities and Local Government [2009] EWHC 1121
20 Mar 2009	R (X (Iran)) v Secretary of State for the Home Department [2009] EWHC 809 (Admin)
09 Mar 2009	R (De Oliveira) v Secretary of State for the Home Department [2009] EWHC 347 (Admin)
14 Feb 2009	Woodhouse School v Webster
11 Dec 2008	R (Berwood Homes Ltd) v London Borough of Bromley [2008] EWHC 3243 (Admin)
25 Nov 2008	Yasotharan v Spelthorne Borough Council
12 Nov 2008	R (Connolly) v London Borough of Havering [2008] EWHC 2873 (Admin)
30 Oct 2008	Aylesford School v Grosvenor [2008] UKEAT 0001_08_0310
25 Apr 2008	R (Catt) v Secretary of State for Communities & Local Government & Anor [2008] EWHC 1042 (Admin)
24 Apr 2008	Woodhouse School v Webster [2008] UKEAT 0459_07_2404
14 Jan 2008	R (Carroll) v Luken Beck Partnership Ltd & Anor [2008] EWHC 104 (Admin)
09 Oct 2007	Darrell Hair v International Cricket Council (2007)
25 Sep 2007	Bromley LBC v Secretary of State for Communities and Local Government [2007] EWHC 2480 (Admin)
03 Aug 2007	R (Ogilvy) v Secretary of State for the Home Department [2007] EWHC 2301 (Admin)
22 Mar 2007	Uttlesford District Council v English Heritage [2007] EWHC 816 (Admin)
16 Nov 2005	Hammersmatch Properties Ltd v First Secretary of State and another [2005] EWCA Civ 1360; [2006] JPL 843
22 Apr 2005	Villa Grisebach Auktionen Organisations GmbH v Micky Tiroche Fine Arts Ltd
21 Jan 2005	R (Persimmon Homes (South East) Ltd and another) v Secretary of State for Transport [2005] EWHC 96 (Admin); [2004] 04 EG 167 (CS)
01 Nov 2004	Refrigeration Norwest (Chester) Ltd v R M Unwin UKEAT/0394/04/RN
14 Oct 2003	R (Mount Cook Land Ltd and another) v Westminster City Council [2003] EWCA Civ 1346; [2004] JPL 470
08 May 2003	Lambiris v Specialist Training Authority [2003] EWCA Civ 609; [2003] 2 CMLR 38
12 Dec 2002	R (Crichton and another) v Wellingborough Borough Council [2002] EWHC 2988 (Admin); [2004] Env LR 11
26 Nov 2002	R (Medway Council and others) v Secretary of State for Transport [2002] EWHC 2516 (Admin); [2003] JPL 583

01 Jan 1970	R (Schlesinger) v Secretary of State for Communities & Local Government & Anor [2009] EWHC 973 (Admin)
01 Jan 1970	Bramall v Secretary of State for Communities and Local Government & Anor [2011] EWHC 1531 (Admin)

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## Inquiries

17 Jun 2020	Covid-19's impact on future housing delivery: "postulation"
05 Mar 2020	NPPF 79e: A modern country house of exceptional quality
13 Feb 2020	Emerging Local Plan helps scupper proposal for up to 210 dwellings just outside Wetherby
01 Jul 2019	Planning permission granted for Green Belt equestrian operation
04 Jun 2019	A63 Hull DCO hearings get underway
13 Aug 2018	Planning permission granted on appeal for 103 student accommodation units in Reading
20 Dec 2017	Planning permission granted on appeal for 117-bed purpose built student accommodation building in Falmouth, with costs
30 Oct 2017	Essex eco-village given the green light
22 Sep 2017	Queens Park Rangers win latest match
19 May 2017	Croydon Lane cemetery inquiry
05 Sep 2016	Secretary of State approves M4 smart motorway scheme
12 Aug 2016	Dartmoor National Park Authority wins "off-grid community" case
09 May 2016	Worthing seafront inquiry
23 Feb 2016	Exeter Road, Topsham
20 Nov 2015	M4 smart motorway development consent order examination: initial hearings
27 Mar 2015	Mr Fidler and the house behind the straw bales: latest news
09 Feb 2015	Development consent granted for A160/A180 Port of Immingham improvement, Lincolnshire
01 May 2014	Outcome of A21 inquiries
07 Jan 2014	Redhill Aerodrome inquiry takes off
12 Dec 2013	DCO examination hearings into A556 road scheme get underway
12 Nov 2013	Fishing and footpaths
17 Jul 2013	Sutherland House, Sutton
15 May 2013	A21 Inquiries
12 Mar 2013	Willow Farm, Norfolk

09 Jan 2013	Melbourne Road, Teddington
13 Jul 2012	Dunsfold Park
06 Dec 2011	Priors Marston, Warwickshire, footpath inquiry
14 Oct 2011	Hennings v East Sussex County Council
10 Aug 2011	Fairlawne Estate, Kent
01 Sep 2010	Pinewood Studios, Buckinghamshire
31 Jul 2010	TAG Farnborough Airport Ltd
15 Apr 2010	River Club, Kingston-upon Thames
10 Mar 2010	Old Bexley Equestrian Centre
23 Dec 2009	Kent International Gateway
08 Oct 2009	Kaur v Southampton City Council
23 Jul 2009	Daventry Housing Appeals Inquiry
08 May 2009	Devine v Ealing London Borough Council
01 Jan 2009	West Northamptonshire Development Corporation Inquiry
15 Jan 2007	George Wimpey Southern Ltd v Arun District Council
01 Jan 2007	Coventry Airport Inquiry
10 Nov 2003	South Downs National Park Inquiry (2004 and 2007)
01 Jan 1970	Hithermoor Waste Disposal Inquiry

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## Publications

08 Jun 2020	The Environment Bill: Conservation Covenants
08 Jun 2020	Current Issues in Environmental Law Part 4: The Environment Bill, biodiversity net gain and nature conservation - Webinar
04 May 2020	No bull: farmers and footpaths during the COVID-19 lockdown
03 Apr 2020	Rights Of Way article during the COVID-19 Crisis
12 Feb 2019	Implications of the Revised NPPF for the Environment
10 Sep 2018	The New NPPF: Potential litigation
19 Jun 2018	Renewable energy developers must tighten up on planning obligations (first published on Lexis PSL planning on 7 June 2018)
30 Apr 2018	Meaning of "isolated" in NPPF 55 (first published on Lexis PSL Planning on 12 April 2018)

19 Feb 2018	Footpaths, commons and village greens: Recent cases and practical points
08 Feb 2016	Challenging Development Consent Orders in the High Court
19 Oct 2015	Gypsies & Travellers: Recent case-law and some informed speculation about the future
04 Dec 2014	Enforcement: Breach, Immunity and Enforcement Notices
18 Jun 2014	NPPF and Housing Land Supply: Recent case law
19 Mar 2014	Arguing about land supply: practical lessons
18 Sep 2013	Rights of Way and Public Footpaths: Belief, intention and the capacity to dedicate
22 Apr 2013	The legal protection afforded to TVGs