

Hugh Flanagan



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## Hugh Flanagan

Call: 2008

Practice areas:

Major Infrastructure Projects, Planning, Compulsory Purchase and Compensation, Rating, Public Law, Environment, Local Government



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## Practice Profile

Hugh specialises in planning and public law, with a focus on infrastructure, housing, compulsory purchase and compensation, and rating. He acts for developers, individuals, central government and local authorities. He frequently appears in courts and tribunals at all levels up to the Supreme Court, as well as at planning inquiries and examinations. He has consistently appeared in Planning Magazine's survey of top-rated planning juniors. He is a member of the Attorney General's B Panel of Counsel and an editor of the Encyclopaedia of Compulsory Purchase and Compensation.

Hugh is ranked as a leading junior in the Legal 500 and described in Chambers and Partners as *"a very talented junior who can more than hold his own in the company of KCs"* (2017), *"a standout junior"* (2022) and *"very strong at written advocacy and a very neat cross-examiner – the sort of person who gets his opponent to make unforced errors"* (2020).

Recent examples of his work include:

- Acting for EDF Energy in promoting the Sizewell C nuclear power station
- Acting for Heathrow Airport Limited in relation to its plans for a third runway
- Acting for Network Rail in promoting the expansion of Oxford station
- Appearing for London City Airport in securing planning permission for its airport expansion
- Appearing for the valuation officer in the Supreme Court in *Telereal Trillium v Hewitt* [2019] UKSC 23
- Appearing for the Secretary of State in the High Court in *Manor Oak Homes v SSCLG* [2019] EWHC 1736
- Appearing for Cherwell District Council in the examination of its Local Plan to address Oxford's unmet housing need and in the subsequent High Court challenge

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## Major Infrastructure Projects

Hugh has considerable experience of acting for promoters and interested parties in respect of major infrastructure projects, both as sole counsel and as part of a counsel team. These include projects under the Planning Act 2008 as well as other regimes. He has particular experience of energy, aviation, rail and road schemes.

Major infrastructure clients include: Heathrow Airport; EDF Energy; Network Rail; London City Airport; Highways England; Thames Water; and Horizon Nuclear Power.

Examples of projects include:

- **Sizewell C** - promoting the new nuclear power station on behalf of EDF Energy at the DCO examination (2021) and defending the DCO in the High Court (2022)
- **East Anglia One North and East Anglia Two** - promoting DCOs for two offshore windfarms and defending the DCOs in the High Court (2022)
- **Thorpe Park solar farm** - promoting a 40MW solar farm at appeal (sole counsel; 2022)
- **Indaver Rivenhall Integrated Waste Management Facility** - promoting an IWMF at appeal (2022)

- **Heathrow third runway** - advising Heathrow Airport in respect of its expansion plans
- **Oxford station** - acting for Network Rail as sole counsel in the inquiry into Transport and Works Act Order for the expansion of Oxford station (2021)
- **Wylfa Newydd Nuclear Power Station** - advising Horizon Nuclear Power in respect of a proposed new nuclear power station (2016-2017)
- **Thames Water** - advising Thames Water in respect of its Water Resources Management Plan 2019
- **Oldbury Nuclear Power Station** - appearing on behalf of Horizon Nuclear Power at local plan examination hearing sessions (2016)
- **London City Airport** - acting for London City Airport in a four week inquiry into its expansion proposals (junior to Michael Humphries KC) (2016)
- **Tata Steel, Port Talbot DCO** - representing Natural Resources Wales at the DCO examination for a gas fired power station (as sole counsel; 2015)
- **Mexico Inn Level Crossing** - successfully acting for the Office of Rail Regulation in a seven day inquiry into the closure of a level crossing (as sole counsel; 2014)
- **Farnborough Airport** - appearing for the LPA in a six week inquiry into proposals to increase flights at Farnborough Airport (junior to Simon Bird KC) (2012)

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## Planning

Hugh has a wide-ranging planning practice. He has been instructed on a number of significant proposals, both in public inquiries and on legal challenges in the High Court, Court of Appeal and Supreme Court. He has considerable experience of plan-making and examination.

Inquiry, hearing and examination work includes:

- **The London Plan** - appearing as sole counsel for Heathrow Airport at the London Plan examination (2019)
- **Cherwell Local Plan Partial Review** - promoting as sole counsel the Local Plan Partial Review to address Oxford's unmet needs (2020)
- **South West Milton Keynes urban extension** - acting as sole counsel for Buckinghamshire Council in the three week inquiry into access proposals for urban extension of 1800 homes (2021)
- **South Northants Local Plan Part 2** - promoting as sole counsel the Part 2 Plan (2020)
- **Oxford Brookes** - acting as sole counsel for the LPA in a two week inquiry resisting proposals for 400 homes at Oxford Brookes' Wheatley campus in the Green Belt (2019)
- **London City Airport** - acting for London City Airport in the four week inquiry into proposals for airport expansion (junior to Michael Humphries KC) (2016).
- **Redrow Homes, Great Bowden** - appearing as sole counsel for Redrow Homes in successfully promoting 70 homes on greenfield land (2016).
- **Kensington Cinema** - acting as sole counsel for Kensington and Chelsea in an

inquiry into the redevelopment of the historic Odeon cinema on Kensington High Street (2016).

- **Tesco, Bude** - successfully resisting proposals for a Tesco superstore in Cornwall on behalf of the LPA on grounds of retail impact in a six day inquiry as sole counsel (2014).
- **Rushden Lakes** - representing several local authorities resisting proposals for a major out of town shopping centre in a three week inquiry (junior to Morag Ellis KC) (2013).

Examples of court work includes:

- **Cherwell Development Watch Alliance v Cherwell District Council** [2021] EWHC 2190 - successfully acting for Cherwell District Council in the challenge to the Cherwell Local Plan Partial Review
- **Arora v LB Hillingdon and Heathrow Airport** - acting for Heathrow Airport in a High Court claim regarding the interpretation of a car parking condition on the T5 planning permission (2020; junior to Michael Humphries KC and Gerry Facenna KC)
- **Loader v Rother DC** [2016] EWCA Civ 795 - acting as sole counsel in the High Court and Court of Appeal in the judicial review of a housing scheme on the site of a bowls club.
- **Gallagher v Cherwell DC** [2016] EWHC 290 - resisting a challenge to the adoption of a local plan.
- **EU Plants Ltd v Wokingham BC** [2013] EWCA 1542 - successfully acting for the LPA in a s.288 challenge to a Tree Preservation Order on a commercial fruit farm (as sole counsel in the High Court and Court of Appeal) (2013).

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## Compulsory Purchase and Compensation

Hugh has significant experience of compulsory purchase and compensation matters, both in public inquiries and in the Upper Tribunal (Lands Chamber). Hugh is also an editor of the Encyclopaedia of Compulsory Purchase and Compensation.

Recent work includes:

- **Oxford station** - acting for Network Rail as sole counsel in the inquiry into the Transport and Works Act Order for the expansion of Oxford station (2021)
- **Lyminster A284 Bypass CPO** - promoting a bypass at public inquiry (2021)
- **Littlehampton A259 CPO** - promoting a CPO for a road widening scheme at public inquiry (2019)
- **Stubbington Bypass** - promoting a CPO for a new bypass on the Gosport peninsula at public inquiry (2018)
- **London City Airport CPO** - acting for London City Airport in the compulsory purchase inquiry to enable airport expansion, as junior to Michael Humphries KC (2016)
- **Ho v Welwyn Hatfield BC** [2016] UKUT 151 - acting for the acquiring authority in a compensation dispute in the Upper Tribunal as sole counsel (2016)
- **Cambridge Heath Properties v Greenwich LBC** - acting for the authority in respect of a blight notice dispute before the Upper Tribunal (2016)
- **Ferrier Estate, Kidbrooke CPO** - acting for the authority in the inquiry into the compulsory purchase of the Ferrier Estate, now being redeveloped as Kidbrooke Village

(junior to Morag Ellis KC)

- **HS2** – acting on behalf of property owners seeking compensation for the impact of HS2
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## Rating

Hugh has a significant rating practice and is described by the Legal 500 as "a real technical expert" in the field (2021). He advises and acts on behalf of ratepayers, the Valuation Office Agency and billing authorities in the Valuation Tribunal, the Upper Tribunal (Lands Chamber) and the courts. Recent work includes:

- **Ricketts (VO) v Cyxtera Technology UK Ltd** [2021] UKUT 265 - successfully acting on behalf of the valuation officer in a dispute concerning the valuation of data centres
  - **Telereal Trillium v Hewitt** (VO) [2019] UKSC 23 - acting on behalf of the successful valuation officer in the Supreme Court in proceedings concerning the valuation of empty property (junior to Hui Ling McCarthy KC)
  - **Capgemini** - acting as sole counsel for the valuation officer in a VTE dispute concerning the valuation of data halls (2021)
  - **Cemex v O'Dwyer** (VO) [2019] UKUT 106 - acting as sole counsel for the successful valuation officer in a dispute concerning the valuation of a cement works
  - **Shaw v Benton** (VO) [2018] UKUT 168 - acting as sole counsel for the successful valuation officer in a dispute concerning the valuation of industrial units
  - **Humbly Grove** - acting as sole counsel for the valuation officer in a VTE dispute concerning the valuation of an underground gas storage facility (2017)
  - **Celsa Steel v Webb** (VO) [2017] UKUT 133 - acting as sole counsel on behalf of the successful valuation officer in a dispute concerning the valuation of a steelworks
  - **Serviced offices** - advising ratepayers on the rating of services offices
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## Public Law

Hugh is an experienced public law and judicial review practitioner, specialising in planning, environmental, prisons, immigration, and local government matters. Examples of court work include:

### Planning and Environment

- **Manor Oak v SSHCLG** [2019] EWHC 1736 - acting as sole counsel for the successful Secretary of State in a s.288 challenge to the refusal of planning *permission for 375 homes*
- **Oates v Wealden** [2018] EWCA Civ 1304 - acting for the claimant in a judicial review challenge to a grant of planning permission for 390 dwellings (junior to Saira Sheikh KC)
- **Loader v Rother DC** [2016] EWCA Civ 795 - acting as sole counsel in the High Court and Court of Appeal in a judicial review of a housing scheme on the site of a bowls club (2016)

### Prisons and Courts

- **Rowen v Secretary of State for Justice** [2021] EWHC 3144 – successfully acting before a Divisional Court as sole counsel in a judicial review challenge to detention and sentence calculation
- **Bowen v Secretary of State for Justice** [2017] EWCA Civ 2181 – successfully acting in the High Court and Court of Appeal as sole counsel and as junior to James Strachan KC in the ongoing proceedings before the European Court of Human Rights (2021), for the SSJ in a judicial review challenge to the provision of bail hostels across the UK
- **Ewing v Isleworth Crown Court** [2019] EWHC 288 – acting for HMCTS in defending a claim alleging breach of open justice in court procedure in the Crown Court (junior to Louis Mably KC)
- **Khosa v Secretary of State for Justice** [2018] EWCA Civ 2801 – acting for the Secretary of State in the Court of Appeal as sole counsel in resisting allegations of assault and breach of convention rights by a prisoner (2018)
- **Taylor v Secretary of State for Justice** [2016] PTSR 446 – successfully acting for the SSJ a two day judicial review challenge to the provision of disabled premises for those leaving prison

#### Local Government

- *Couves v Gravesham BC* [2015] EWHC 504 – successfully resisting a judicial review of a £120m town centre regeneration scheme (junior to Tim Straker KC) (2015)
- **EU Plants Ltd v Wokingham BC** [2013] EWCA 1542 – successfully resisting a s.288 challenge under s.288 to the imposition of a Tree Preservation Order on a commercial fruit farm (as sole counsel in the High Court and Court of Appeal) (2013)
- *Gulliver's Bowls Club Ltd v Rother District Council* CR2013/0009 – defending a decision to list a bowls club as an Asset of Community Value in an appeal before the First Tier Tribunal (2014)

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#### Environment

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#### Local Government

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#### Property

Hugh has extensive experience of advising and acting in property litigation in the High Court, County Court, Upper Tribunal (Lands Chamber) and First Tier Tribunal (Property Chamber). Particular expertise includes applications to discharge restrictive covenants, crossover planning / property cases such as disputes concerning s.106 obligations, adverse possession cases, service charge claims, and Housing Act 2004 cases.

Court and Tribunal work includes:

- *Soloman & Co v Attorney General of Ascension Island* - acting for the AG of Ascension

Island in a property dispute on the Island (in the Supreme Court of St Helena) (2021)

- **Wandsworth BC v Pereira** (2016) – acting for the land owner in a four day adverse possession trial under the Land Registration Act 2002
- **Re Rasbridge's application** [2012] UKUT 246 (LC) - successfully appearing in an application before the Upper Tribunal under s.84 of the Law of Property Act 1925 to discharge a restrictive covenant
- *Hastings Borough Council v Braear Developments Ltd* [2015] UKUT 145 (LC) - proceedings in the Upper Tribunal concerning improvement notices under the Housing Act 2004
- *Vivian v Fallon* 2014/0355 - successfully appearing in a two day adverse possession trial in the First Tier Tribunal

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## Qualifications

- Called: 2008 (Lincoln's Inn)
- BA (Oxon) (1st class - ranked 5th in his year)
- GDL (Distinction)
- BVC (Outstanding)

During 2010-11 Hugh was appointed as Judicial Assistant to Lord Mance and Lord Kerr in the UK Supreme Court.

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## Memberships

- Planning and Environmental Bar Association
- National Infrastructure Planning Association
- Compulsory Purchase Association
- Administrative Law Bar Association

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## Publications

- Assistant Editor of the Encyclopaedia of Compulsory Purchase and Compensation
- Westlaw Insight: Local Authority Procurement
- Westlaw Insight: Local Government Finance: Charging and Trading
- Aviation and Planning Policy - Current and Future Flight Paths [2012] JPL Issue 2

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## Privacy Notice

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## Quotes

*"His level of expertise for a junior barrister is very strong and he provides advice in a very confident and considered manner."*

*Chambers and Partners, 2023*

*"He is very user-friendly, to the point, and excellent at reading the decision maker."*

*Chambers and Partners, 2023*

*"He has a great brain, is very concise and doesn't take bad points."*

*Chambers and Partners, 2023*

*"Hugh is a really solid rating practitioner and a pleasant person to work with."*

*Chambers and Partners, 2023*

*"He is good at statutory interpretation and comes up with creative arguments."*

*Chambers and Partners, 2023*

*"Hugh is a very good advocate. He is fair as an opponent and is succinct, articulate, and intellectual. Hugh has good knowledge of planning law."*

*The Legal 500 , 2023*

*"A very talented barrister and a pleasant opponent to litigate against, Hugh is one of HMRC's go-to panel counsel for rating work in the VTE and Upper Tribunal."*

*The Legal 500, 2023*

*"He writes beautifully and is really good with technical analysis. He is a standout junior."*

*Chambers and Partners, 2022*

*"Hugh is calm, clear-minded and incredibly clever. This is reflected in the outstanding quality of his oral and written advocacy, and in the advice that he gives. Clients love him, and very swiftly come to regard him as an invaluable member of the team and their new go-to junior for all planning work. He will go far."*

*The Legal 500, 2022*

*"He is very strong at written advocacy and a very neat cross-examiner - the sort of person who gets his opponent to make unforced errors."*

*Chambers and Partners, 2020*

*"A very talented junior who can more than hold his own in the company of KCs."*

*Chambers and Partners, 2017*

*"His advocacy is very thorough, and he's confident and shows a bit of steel."*

*Chambers and Partners, 2015*

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