



Francis Taylor Building

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## Jonathan Welch

Call: 2019 **Public Access**

Practice areas:

Planning, Environment, Major Infrastructure Projects,  
Compulsory Purchase and Compensation, Rating,  
Highways, Commons and Open Spaces, Local Government



## Practice Profile

Jonathan is ranked as one of the top planning barristers under the age of 35 and welcomes instructions across all of Chambers' practice areas. He acts for a broad range of clients, including local authorities, developers, utility companies, statutory undertakers, interest groups and local residents. He regularly appears in the High Court, public inquiries and hearings, both on his own right and as part of a team. He also has a busy advisory practice.

Jonathan's areas of experience include:

- Planning and environment
- Infrastructure
- Compulsory purchase and compensation
- Rating and valuation
- Injunctions and committal proceedings
- Rights of way and highways
- Public law and licensing law

Notable examples of Jonathan's recent and ongoing work include:

### Planning inquiries and hearings

- Counsel for Bracknell Forest Council in forthcoming 3-day enforcement inquiry;
- Counsel for LB Hackney in forthcoming 2-day CLEUD and enforcement notice inquiry;
- Counsel for Bracknell Forest Council in 4-day section 78 appeal inquiry following refusal of planning permission for 82 homes;
- Junior to Rebecca Clutten acting for acquiring authority in a reference to the Upper Tribunal (Lands Chamber) for determination of compensation for compulsory acquisition of retail business premises;
- Junior counsel at 9-day inquiry promoting 55 home residential development at appeal following refusal of planning permission by local planning authority;
- Appearing for the successful Westminster City Council as Rule 6(6) party in call-in inquiry into 8 Albert Embankment redevelopment scheme.

### Judicial review and statutory challenges

- Counsel for Buckinghamshire Council in successful s.288 challenge to Inspector's decision (CO/3711/2022).
- Junior to Mark Westmoreland Smith, defending two challenges to East Anglia One North and East Anglia Two DCOs (CO/1696/2022 and CO/1707/2022);
- Counsel for claimant in challenge to grant of planning permission in south London borough (CO/1225/2022);
- Junior to Richard Honey K.C. in judicial review of planning decision in Buckinghamshire (CO/1608/2022);
- Junior to Richard Honey K.C. in successful judicial review of planning decision affecting SEN school (issues including the scheme of delegation, noise, traffic and air quality) *R (G) v Thanet District Council* [2021] EWHC 2026 (Admin).
- Junior to Cain Ormondroyd acting for billing authority (City of London) successfully resisting a challenge to a completion notice in the Valuation Tribunal for England (VTE).

## Injunctions and committal proceedings

- Junior counsel for HS2 Ltd in [successful application for injunctive relief over the entire route](#).
- Junior counsel for HS2 Ltd in successful applications for injunctions in respect of protesters at Euston Square Gardens ([CO/361/2021](#)), and in subsequent successful committal for contempt of court ([QB/2021/4465](#));
- Junior counsel for National Highways Ltd in successful [injunction](#) and [committal](#) proceedings relating to Insulate Britain direct action protestors on UK roads.

## Other recent work of note

- Ongoing advice to two water undertakers on their emerging Water Resources Management Plans, and advising two regional groups on emerging regional Water Resources plans;
- Advising two water undertakers on Strategic Resource Options proposed to be brought forward as NSIPs;
- Ongoing advice to a water undertaker in relation to water abstraction licences;
- Successful prosecution for breach of noise abatement notice.

Jonathan is a member of the Attorney General's Junior counsel scheme, a Commissioning Editor of FTB's Environmental Law Blog, and an editor of Planning Appeal Decisions.

Jonathan is able to accept instructions directly from members of the public in appropriate cases.

Jonathan joined Francis Taylor Building in 2020 following the successful completion of his pupillage under the supervision of Melissa Murphy K.C., Mark Westmoreland Smith and Hugh Flanagan. Before undertaking pupillage at Francis Taylor Building, Jonathan spent a year as judicial assistant to Sir Keith Lindblom L.J. (now Senior President of Tribunals), in the Court of Appeal.

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## Planning

Jonathan has gained a wide range of experience in planning matters, specifically in the following areas:

### Inquiries and hearings

Jonathan has appeared at a number of appeal inquiries and hearings, acting for local planning authorities, developers and interested parties. Whether for an inquiry or a hearing, Jonathan enjoys working with a team in preparation for and during the event and helping his clients' put their best case forward. Recent experience includes:

- Sole counsel for Bracknell Forest Council in 3-day enforcement inquiry;
- Sole counsel for LB Hackney in 2-day CLEUD and enforcement notice inquiry;
- Junior to David Matthias K.C. acting for appellant in 9-day section 78 inquiry relating to proposed 55-home residential development;
- Sole counsel for Bracknell Forest Council in 4-day section 78 appeal inquiry following refusal of planning permission for 82 homes;

- Sole counsel for Bracknell Forest Council in enforcement hearing relating to unauthorised development in the Green Belt;
- Appearing for the successful Westminster City Council (a Rule 6(6) party) in call-in inquiry into 8 Albert Embankment redevelopment scheme;
- Junior to Gregory Jones K.C. for appellant developer in 5-day combined s.73 and Enforcement Notice appeal;
- Junior to Morag Ellis K.C. in planning statutory review proceedings in East Anglia;
- Acting in an 8-day planning inquiry on behalf of an adjoining commercial landowner and Rule 6(6) party.

#### Court work

Jonathan has appeared in a number of judicial reviews and statutory challenges to planning decisions, and regularly provides advice to clients contemplating or anticipating such litigation. Recent experience includes:

- Counsel for Buckinghamshire Council in successful s.288 challenge to Inspector's decision (CO/3711/2022). Case involved a failure to comply with Habitats Regulations, and failure to have regard to a material consideration.
- Counsel for claimant in challenge to grant of planning permission in south London borough (CO/1225/2022);
- Junior to Richard Honey K.C. in judicial review of planning decision in Buckinghamshire (CO/1608/2022), concerning the *Kides* principle, the scope of a delegation and EIA principles (amongst other grounds);
- Junior to Richard Honey K.C. in successful judicial review of planning decision affecting SEN school (issues including the scheme of delegation, noise, traffic and air quality) *R (G) v Thanet District Council* [2021] EWHC 2026 (Admin)
- Junior to Gregory Jones K.C. in section 288 challenge to an Inspector's decision to grant planning consent in Bath (CO/1548/2021);
- S.288 challenge to Inspector's decision concerning a substantial residential dwelling (CO/2759/2020);

#### Advisory work

Much of Jonathan's planning advisory practice is directed to assisting his clients achieve their objectives and avoiding appeals and litigation. In recent years, this has included:

- Advising developer on appeal prospects in relation to green belt site proposed for release in now withdrawn emerging local plan;
- Advising local authority on strategy for negotiation with appellant during course of appeal against refusal of planning permission;
- Correct construction of Articles 7, 13 and 14 of the DMPO in the context of complex land ownership;
- Advice to local authority on the application of *Hillside* and the *Pilkington* principle to landfill and AD site with multiple historic permissions and remediation conditions;
- Scope of section 73 and 96A applications and in relation to time limit conditions;
- Advising DLUHC on proposed planning law reforms;
- Prospects of obtaining planning permission for substantial urban regeneration in inner London;
- Prospects of obtaining planning permission for un-allocated green belt site in East Anglia;
- Heritage planning matters concerning conversion of agricultural buildings to residential;

- Advising on and preparing pre-action correspondence for challenge relating to a local authority scheme of delegation and the approach taken to flood risk; habitats issues; and assessment of noise impacts of development;
- The scope of amendments under sections 73 and 96A of the TCPA 1990 in the light of *Finney*;
- The scope and lawfulness of planning conditions and obligations, especially concerning third party land, off-site contributions and infrastructure funding and provision;
- Lawfulness of planning conditions, and principles behind the power to impose;
- Relation between planning conditions and competition law;
- Heritage matters including in particular the correct approach to decisions concerning heritage assets, and the relationship between planning permission and listed building consent;
- Public procurement law as relevant to planning: development agreements and Voluntary Ex-Ante Transparency Notices;
- Use of regeneration and appropriation powers and relationship to restrictive covenants and registered village greens and commons;
- Advising on waste planning matters for local residents groups;
- Neighbourhood planning and local government reorganisation including the creation of new parishes;
- Prior approval and permitted development rights – the power to refuse for reasons other than those prescribed;
- The powers and scope of delegation by planning committee to officers;
- Housing land supply issues;
- Application of the tilted balance;
- Community Infrastructure Levy and Social Housing Relief;

#### Plan-making

- Acting for a neighbourhood forum in relation to the Brent Local Plan examination – with issues arising concerning the evidence base for windfall policies;
- Advising London Borough in relation to supplementary planning documents;
- Advising on the Duty to Cooperate;
- Assisting Morag Ellis K.C. in relation to a sensitive and strategically important site partly allocated for development in a local plan – issues related to the suitability and developability of the site for the purposes of the allocation;
- The lawfulness of developer contributions in development plans and supplementary planning documents;
- The publication of and public access to LDF documents;
- Waste planning: the selection of sites, calculation of need and assessment of suitability of sites.

#### Enforcement

Jonathan has appeared as sole and junior counsel at a range of enforcement hearings and inquiries. He particularly enjoys working collaboratively with a team and finding the best strategy in this area which can be technically complex. In addition to contentious work, his advisory work in this area has encompassed the following issues:

- Planning Enforcement Orders;
- Merits of CLEUD appeals;
- Advising on correct approach to CLEUD application;

- Enforcement procedure: the breadth of types of parties with rights of appeal against enforcement notices;
- Advising on complex anaerobic digester site subject to old restoration conditions;
- Nullity and clarity of enforcement notices;
- Enforcement against development on riverbanks/waterways;
- Enforcement and human rights;
- Enforcement action and previously lawful uses of land;
- Certificates of lawfulness – requirements for application; power to issue; powers of variation;
- Certificates of lawfulness and the meaning of substantial completion;
- Injunctive relief for breach of planning control.

#### Section 106 and restrictive covenants

- Advising on restrictions on disused burial sites;
- Advising on drafting and effect of section 106 agreements;
- Advising on scope to vary section 106 agreements;
- Advising on use of commuted sums under section 106 agreements;
- Jonathan has experience of and is comfortable advising on issues relating to land covenants more generally.

#### Advertising Consent

Jonathan is comfortable advising and acting for clients in matters concerning the Advertisement Regulations 2007. His recent work includes:

- Acting as sole counsel for advertisement owner successfully resisting prosecution following Discontinuance Notice;
- Junior to Craig Howell Williams K.C. in a case concerning relationship between advertisement consent and permitted development rights.

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## Environment

Jonathan is building expertise in a wide variety of environmental matters, and is co-editor of the [FTB Environmental Law Blog](#). His recent work has included:

- Advising water undertaker on Water Framework Directive compliance;
- Advising water undertaker in relation to water abstraction licences;
- Advising government on environmental law reforms;
- Advising on the relationship between restoration conditions, the environmental permitting regime and landfill tax for waste sites;
- Advising on the application of the Reservoir Act 1975;
- Advising on the interaction between restoration conditions and planning enforcement;
- The balancing of public safety against environmental factors in decisions governed by the Habitats Regulations and concerning IROPI considerations;
- Prosecuting fly-tipping offences;
- Advising on Appropriate Assessment under the Habitats Regulations, in particular the adequacy of mitigation and IROPI considerations;

- Litigation arising from the Emissions Trading Scheme;
- The proper approach to assessment of alternatives under the EIA Regulations;
- Costs in environmental litigation;
- Energy policy and climate change considerations in DCO context;
- Ecology – protection of ancient habitats;
- Green Deal Scheme appeals;
- Tree felling licences and dangerous trees.

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## Major Infrastructure Projects

- Junior to Mark Westmoreland Smith, defending two challenges to East Anglia One North and East Anglia Two DCOs (CO/1696/2022 and CO/1707/2022);
- Advising two water companies on their Water Resources Management Plans and proposed Strategic Resource Options being brought forward as NSIPs;
- Advising a water company on the scope of provisions under the Specified Infrastructure Projects Regulations 2013;
- Advising a water company on abstraction licences;
- Advising on scope of section 35 directions in relation to NSIPs;
- Advising on permitted development rights in the context of airport infrastructure;
- Advisory work on NSIPs relating to transport infrastructure and power infrastructure projects;
- Assisted Michael Humphries K.C. and Hugh Flanagan in relation to litigation concerning car parks at Heathrow Airport;
- Assisted Craig Howell Williams K.C. and Melissa Murphy in relation to the Court of Appeal case of *London Borough of Hillingdon & Ors v The Secretary of State for Transport & Ors* [2017] EWHC 121 (Admin), Hillingdon's successful appeal concerning HS2 Schedule 17 applications;
- Advising on the use of safeguarding directions for infrastructure.

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## Compulsory Purchase and Compensation

- Junior to Rebecca Clutten acting for acquiring authority in a reference to the Upper Tribunal (Lands Chamber) for determination of compensation for compulsory acquisition of retail business premises;
- Assisting Rebecca Clutten with preparation for CPO inquiry into estate regeneration scheme;
- Advising joint venture partner on garden village proposal and negotiations with statutory undertakers in relation to a confirmed CPO;
- Advising on scope of acquisition and appropriation for planning purposes under TCPA 1990;
- Advising on business disturbance head of claim for compensation, in particular the *Horn v Sunderland* principle;
- Drafting notice of reference for Compulsory Purchase Compensation claim;
- Drafting representations for DCO hearing regarding the requirement to consider alternatives;

- Assisting Hugh Flanagan (during pupillage) on CPO for road widening scheme – Consideration of scale of public benefits and justification for extent of land take;
- Assisting drafting advice relating to Electronic Communications Code wayleave agreements;
- Research into limitation and temporary possession issues in compulsory purchase.
- Assisting drafting advice relating to Wayleaves payments – Calculation and nature of compensation payments;

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## Rating

- Jonathan has gained experience in the following areas:
- Junior to Cain Ormondroyd, acting for billing authority successfully resisting a challenge to a completion notice in the Valuation Tribunal for England (VTE);
- Successful judicial review by ratepayer of billing authority decision in respect of ERD relief (government policy related to impact of covid on ratepayers);
- Advising on correct approach to grant relief for non-domestic hereditaments;
- The correct approach to Council Tax banding valuation evidence;
- Advising on challenge to decisions of the VTE in relation to Council Tax;
- Advising on approach to chargeable dwellings, aggregation and disaggregation;
- Council tax liability issues and HMOs;
- Interpretation and application of Material Day Regulations;
- Issues arising relating to advertising hereditaments;
- Schedule 5 exemptions;
- Rates mitigation schemes and property guardianship – During pupillage Jonathan assisted Mark Westmoreland Smith in a case concerning the identification, nature and valuation of hereditaments: *London Borough of Southwark v Ludgate House Limited* [2020] EWCA Civ 1637;
- Scope of proposal matters and the jurisdiction of the VTE;
- Rates mitigation schemes;
- Valuation: contractors' method – appropriateness of substitutions;
- Advising in relation to unoccupied rates and exemptions for energy infrastructure.

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## Highways, Commons and Open Spaces

Jonathan is well acquainted with highways law, rights of way matters and the law relating to Commons and Town and Village Greens. Particular experience includes:

- Advising on rights and responsibilities of respective parties in relation to bridge maintenance, highway authority and Secretary of State powers to order improvement;
- Acting as sole counsel for statutory objector in 9 day rail crossing extinguishment order;
- Advising on stopping up orders under section 247 TCPA;
- Advising on compensation under the Highways Act for stopping up and extinguishment;
- Advising local authority on Traffic Regulation Orders;
- Advising London Borough local authority on parking restriction regulations;
- Town and Village Green registration and deregistration, specifically advising in relation to



local authority powers of appropriation for planning purposes.

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## Local Government

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### Injunctions and Committals

Jonathan has gained considerable experience in the field of injunction and committal proceedings, having assisted clients obtain a number of urgent out-of-hours injunctions to protect their land, and secure sanctions for contempt of the resultant court orders. He has particular experience in obtaining persons unknown injunctions in respect of trespass and nuisance. He is comfortable working in this area either as sole counsel or as part of a team. Particular recent examples include:

- Junior counsel for HS2 Ltd in [successful application for injunctive relief over the entire route](#).
  - Junior counsel for HS2 Ltd in successful applications for injunctions in respect of activists at Euston Square Gardens (CO/361/2021), and in subsequent successful committal for contempt of court (QB/2021/4465). Also in respect of other injunctions: Cubbington and Crackley (PT-2020-BHM-000017), and Cash's Pit (QB-2022-BHM-000044).
  - Junior counsel for National Highways Ltd in successful [injunction](#) (QB-2021-3626, 3576, 3737) and committal proceedings (*National Highways Ltd v Heyatawin & Ors* [2021] EWHC 3078 (QB); *National Highways Ltd v Buse* [2021] EWHC 3404 (QB); *National Highways Ltd v Springorum* [2022] EWHC 205 (QB)) relating to Insulate Britain direct action protestors on UK roads.
  - Advising a local authority in relation to availability of injunctive relief over land to be used in connection with infrastructure works;
  - Advising private companies in industries particularly exposed to the threat of unlawful direct action protest, as to options available when protests occur;
  - Jonathan also has experience advising on and representing local authorities in relation to other powers available in respect of unlawful occupation of land.
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### Statutory Nuisance

In this area, Jonathan has experience of the following:

- Advising on scope of noise abatement notices;
  - Successfully prosecuting breaches of abatement notices
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## Public Law and Licensing Law

### Public Law

Jonathan has gained experience in a variety of public law matters, including the following:

- Determination of whether land is consecrated, and relationship between faculty and secular jurisdictions;
- Advising LB Camden defending proposed challenge to market stall licensing arrangements;
- Legal principles applying to applications to re-open court hearings on the basis of unfairness;
- Advising prospective claimant on definition of “philosophical belief” under Equality Act 2010, and merits of litigation relating to discrimination on this basis;
- Assisting Department for Work and Pensions in relation to Post Office Horizon IT public inquiry;
- Prison law and human rights – the right to an oral hearing by CART tribunal;
- Duty of candour in judicial review proceedings;
- Enforcement proceedings and human rights;
- Local government powers – Extent of devolved powers, and local government reorganisation;
- Issues arising in the settlement of judicial review proceedings;
- Scope of local authority schemes of delegation;
- Lawfulness of closed and confidential proceedings/discussions and need for transparency in local government decision-making;
- Advising on building safety and cladding in the light of the Grenfell disaster;
- Advisory work on London local authority finance raising powers.

### Licensing

- Appearing before licensing Sub-Committees for applicants and Responsible Authorities;
- Defending appeals against decisions under the Licensing Act 2003 in the Magistrates Courts on behalf of various London Boroughs;
- Advice to London Borough local authority on the merits of defending Licensing Act 2003 appeals following refusal of applications;
- Advisory work on controlled product licensing;
- Advising on animal licensing regime, local authority powers, and primary authority arrangements;
- During pupillage, Jonathan assisted Gary Grant acting for the West Midlands Police in relation to summary review proceedings for public house relating to coronavirus restriction breaches.

### Information Law

- Interaction between legal privilege and rights of access to information under the FOI and EIR regimes;
- Restrictions and limits on the sharing of information between public authorities.

### Public Order and Anti-Social Behaviour Law

Jonathan has gained experience in the following areas:

- Procedure under ss.77-78 CJPOA to remove unauthorised encampments;
  - Lawfulness of public order conditions – human rights & proportionality;
  - Civil anti-social behaviour orders (Closure Orders, Sexual Harm Prevention Orders, Stalking Orders and Sexual Risk Orders).
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## Qualifications

- King's College London, Theology BA (First Class Honours, top of year) (2015);
- King's College London, Theology MA (Distinction, top of year) (2016);
- City University London, Graduate Diploma in Law (Commendation) (2017);
- BPP University Law School, Bar Professional Training Course (Very Competent) (2019).

## Bar Awards, Prizes & Scholarships

- Excellence Scholarship, BPP University (2018)
- Advocacy Scholarship, BPP University (2018)
- Denning Scholarship, Lincoln's Inn (2018)
- Lord Haldane Scholarship, Lincoln's Inn (2016)
- Partial Fee Scholarship, City University (2016)

Jonathan won a number of mooting competitions during his studies, including the UKELA national mooting competition (2017); The 9-12 Bell Yard inter-varsity criminal law moot (2016); the KCL Bar Society/Wildy & Sons contract law mooting competition (2015).

## University Awards & Scholarships

- Hanson Prize for the Philosophy of Religion (MA) (2016)
  - Relton Prize for Christian Doctrine (MA) (2016)
  - Walton Scholarship for postgraduate study, King's College London (2015)
  - Sellers Prize for Christian Theology (2015)
  - Hanson Prize for Philosophy of Religion (2015)
  - Mascall Prize for Christian Doctrine (2015)
  - Bishop Collins Memorial Prize for Church History (2015)
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## Previous Experience

Previously, Jonathan was a planning caseworker at Southwark Law Centre, where he provided pro-bono advice and representation to members of the local community in relation to planning and regeneration matters.

Before undertaking pupillage at FTB, Jonathan spent a year as judicial assistant to Lindblom L.J. in the Court of Appeal, during which time he gained experience in a variety of fields including:

- Planning and environment (Green Belt policy; Neighbourhood Development Plans procedure; Enforcement procedure and human rights; Housing Need; Consistency of

Inspector's decisions; CIL Regulations; Housing land supply; Scope of heritage asset setting; Duty to give reasons);

- Rating/Valuation (Hereditaments – occupation);
- Village Greens (Statutory Incompatibility);
- EU Public Procurement (Development agreements and VEAT notices);
- Highways (Stopping up orders and planning conditions);
- Public Law (Consultation duties);
- Civil Procedure (re-opening of final appeals; costs in the Upper Tribunal (Lands Chamber));
- Immigration;
- Property law (service charges);
- Coronial/Inquest law (threshold for fresh inquest).

Prior to coming to the Bar, Jonathan worked for a political communications and campaigns consultancy. He has a keen sensitivity to the political dimension which is often relevant to his clients' interests.

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## Professional Memberships

Planning and Environmental Bar Association  
Compulsory Purchase Association  
United Kingdom Environmental Law Association  
National Infrastructure Planning Association

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## Quotes

*One of the top-rated planning barristers under the age of 35*  
*Planning magazine, Planning Law Survey 2022*

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