



## Brendan Brett

Call: 2017

### Practice areas:

**Public Law, Planning, Environment, Highways, Commons and Open Spaces, Licensing, Public Law, Local Government, Major Infrastructure Projects**



## Practice Profile

Brendan is an established public and administrative law junior specialising in the regulation of the use, development and management of land by public authorities of every stripe, encompassing all of chambers' practice areas.

His areas of expertise include planning (under both the Town and Country Planning Act 1990 and for nationally significant infrastructure projects), highways and rights of way, and open spaces (commons, greens, and rights of access), with environmental issues cutting across and informing all these areas.

Brendan welcomes instructions from all stakeholders, including from public access and licensed access clients. In appropriate cases he will also consider pro bono or reduced fee arrangements. This broad range of clients combined with Brendan's experience prior to joining chambers as a legal advisor to central government on transport and environmental matters allows him to adopt an approach to advice and litigation which is both holistic and pragmatic.

Brendan has appeared as sole counsel at hearings at every level, from the Court of Appeal to local authority committee meetings. He has also appeared as junior counsel in both the High Court and Court of Appeal.

Recent work undertaken by Brendan includes:

- Acting for the successful local planning authority resisting a large data centre development in the Green Belt.
- Securing the successful committal of seven anti-HS2 activists for contempt of court for breaches of injunctions restraining trespass and nuisance on land required for the project ([2022] EWHC 2457 (KB)) as junior to Michael Fry, the sanctions being upheld by the Court of Appeal ([2022] EWCA Civ 1519).
- Obtaining the quashing of the development consent order for Norfolk Vanguard windfarm as junior to Ned Westaway (Pearce v Secretary of State for BEIS [2021] EWHC 326 (Admin)).
- Acting for the local authority in an appeal relating to the listing of a former golf course as an asset

of community value.

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## Public Law

In chambers and in Government, Brendan has gained experience across a wide range of public law issues, at policy development, operational, and litigation stages. Brendan is well-versed in advising on both substantive and procedural public law matters, including the scope and exercise of secondary and delegated powers; procedural fairness (including adequacy of consultation, the duty to give reasons, and legitimate expectations), the discharge of the public sector quality duty.

He has also advised and appeared in judicial reviews relating to immigration law and unlawful detention.

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## Planning

Brendan has experience across all areas of planning law, and regularly appears as sole counsel in planning appeals (at both inquiries and hearings), local plan examinations, planning statutory reviews, and planning-related judicial reviews. He has also appeared in planning-related criminal matters in magistrates and Crown courts.

Recent cases include:

- Acting for the successful local planning authority resisting at appeal a large data centre development in the Green Belt;
- Counsel for the successful claimant in a statutory challenge to the refusal of planning permission for residential development in Hillingdon (*Kazalbash v Secretary of State* [2022] EWHC 2301 (Admin));
- As counsel for Dorset Council successfully resisting a judicial review of the grant of permission for a multi-use games area at a school;
- Acting with Saira Kabir Sheikh KC for Buckinghamshire Council, in successfully resisting a judicial review relating to financial contributions towards healthcare provision (*R (HFAG) v Buckinghamshire Council* [2022] EWHC 523 (Admin));
- Acting with Ned Westaway for the claimant in successfully quashing of the development consent order for the Norfolk Vanguard Windfarm (*Pearce v Secretary of State for BEIS* [2021] EWHC 326 (Admin));
- Acting with Craig Howell Williams KC for the London Borough of Hillingdon in a challenge relating to the proper interpretation of tall buildings policies in the London Plan 2021 (*R (Hillingdon BC) v Mayor of London* [2021] EWHC 3387 (Admin));
- Counsel in a three-week enforcement appeal inquiry relating to unauthorised development on the foreshore at Whitstable;
- Appearing for a neighbourhood forum throughout the Brent Local Plan examination.

Brendan welcomes instructions from all those interested in the planning process, including local authorities, developers, local residents, and community groups.

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## Environment

Environmental matters are of considerable importance in town and country planning and infrastructure planning. Brendan has gained experience dealing with habitats and environmental impact assessments, including successfully obtaining the quashing of development consent for the Norfolk Vanguard windfarm on grounds relating to inadequate assessment of cumulative landscape effects and dealing with complex habitats assessment issues in an enforcement appeal relating to development at Whitstable beach. He frequently provides advice in respect of renewable energy developments[DA1] , Priority Habitats, and the application of local and national policy relating to the environment and 'green' infrastructure.

In addition, Brendan has acted for the Secretary of State for BEIS in a number of appeals in the First Tier Tribunal arising from the 'Green Deal' legislation[DA2] . He also has experience relating to private and statutory nuisance, the Renewable Heat Incentive, and the energy efficiency regulation of energy-using products.

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## Highways, Commons and Open Spaces

Brendan has experience advising and litigating in all areas of law relating to rights of way. He has recently acted in a number of matters relating to the addition of rights of way to the definitive map and statement for both landowners and applicants. Other recent work includes acting for the appellant against the service of a section 154 Highways Act 1980 notice and advising on temporary traffic regulation orders, including post-COVID 'modal filter' schemes and 'green lanes' matters.

He also welcomes instructions relating to the Commons Act 2006 and Commons Registration Act 1965, in which he has a particular interest. Recent examples of such work include acting for a Welsh local authority in successfully resisting the registration of housing land as a town and village green, promoting registration of open space in Somerset as a green, advising a landowner about obtaining consent for works to common land to facilitate a renewable energy development, and advising the owner of farm land as to the removal of the land from the register of common land.

Other recent work in this area includes acting in a number of appeals in the First Tier Tribunal against the listing of land as assets of community value.

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## Licensing

Brendan provides advice and advocacy to local authorities, the police, and private parties in licensing matters. This includes reviews and summary reviews of premises licences, and appeals to the magistrates' courts against licensing decisions taken by local authorities. Brendan recently acted for a licensing authority resisting an appeal against the curtailing of the operating hours of a nightclub at which there had been serious incidents of disorder, and for the appellant convenience shop owner in an appeal against the revocation of their alcohol licence.

Brendan is also part of FTB's trail-blazing cannabis law group and is interested in Home Office licensing of controlled drug possession, supply, and import/export.

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## **Public Law**

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## **Local Government**

Brendan is extremely conversant with the nature and exercise of local authority powers and duties. In addition to planning, licensing, highways and open spaces (dealt with elsewhere in this profile), Brendan has experience dealing with members' conduct issues, decision-making procedures, and the 'primary authority principle'. Brendan has spent time 'embedded' in local authority legal teams, assisting internal lawyers to deliver timely and accurate advice and providing legal training.

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## **Major Infrastructure Projects**

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## **International, EU and Domestic EU Exit Law**

Brendan has experience advising on international, EU, EU Exit law, and retained EU law in relation to:

- international road safety law, including autonomous vehicles;
  - type-approval of vehicles under international and EU law;
  - regulation of energy-using products;
  - the provisions of and powers under the European Union (Withdrawal) Act 2018;
  - State Aid and the General Block Exemption Regulation;
  - SEA and EIA Directives and their implementing UK legislation in England and Wales;
  - the Aarhus Convention, including access to information (under the Environmental Information Regulations) and procedural (including costs capping in judicial review);
  - Habitats Directive and Regulations.
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## **Police and Anti-social Behaviour Law**

Brendan advises police authorities and appears before the magistrates' courts in respect of civil matters, including:

- Closure orders against residential and commercial properties and community protection notices under the Anti-Social Behaviour, Crime and Policing Act 2014, and community protection notice;

- Seizure and forfeiture of cash detained under the Proceeds of Crime Act 2002;
  - Civil orders under the Sexual Offences Act 2003 including sexual risk orders, sexual harm prevention orders. He also has experience of stalking prevention orders and applications for removing notification requirements.
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## Publications

- “, Journal of Licensing (26, March 2020) – with Leo Charalambides.
  - “, Journal of Licensing (27, July 2020) – with Gary Grant
  - ‘Planning for data and storage’ [2021] Journal of Planning and Environmental Law 2021 Issue 7 (787-795) – with Morag Ellis KC
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## Qualifications & Awards

- 2017: BPTC (BPP)
  - 2016: Winston Churchill Scholarship (Middle Temple)
  - 2016: Master of Laws (University College, London)
  - 2015: Graduate Diploma in Law (Oxford Brookes University)
  - 2014: Benefactors’ Scholarship (Middle Temple)
  - 2014: BA (Hons) Ancient and Modern History (Somerville College, Oxford)
  - 2012: Hodge Exhibition in Ancient and Modern History; College Prize (Somerville College, Oxford)
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## Memberships

- Member of the Chartered Institute for Arbitrators
  - Member of the Planning and Environment Bar Association
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## Quotes

*“his advice and intervention was concise, compelling and decisive”.*

Solicitor Client, 2024

*“Brendan is very technically savvy and knows his way around case law impressively well for a young junior barrister.”*

The Legal 500, 2023

*“His analysis... was incisive, since as always he brings a keen intellect, a fine clarity and a jolly disposition to the provision of very commercial advice.”*

Solicitor Client, 2022

