



Mark Westmoreland Smith KC

Call: 2006 QC: 2024 [Public Access](#)

Practice areas:

Planning, Major Infrastructure Projects, Compulsory Purchase and Compensation



Practice Profile

Mark's practice focuses on nationally significant infrastructure projects and other strategic developments such as large-scale housing, urban extensions, waste management facilities, electricity generation stations, including renewables, and grid infrastructure, and transport projects as well as compulsory purchase orders, compensation and land valuation.

Mark acts on behalf of the developers, the Government, local planning authorities and third parties. He advises and represents his clients at all stages of the process from strategic advice at the inception of a project to appearing at planning inquiries and in the High Court or Court of Appeal. Mark's time on the Government A Panel means he has been involved in some of the most important planning and infrastructure cases. Mark has recently been at the forefront of the climate change/ net zero litigation acting in some of the most important climate change cases of recent times.

Mark was appointed King's Counsel in March 2024. Before then, Mark was consistently ranked as a top planning junior in Planning magazine's annual survey of barristers and was appointed to the Attorney General's A Panel of Junior Counsel to the Crown.

Planning

Mark undertakes work for developers, landowners, local planning authorities and third parties in relation to both plan making and development control matters. He provides a complete service from early strategic advice, guidance in relation to Habitats and EIA Regulations and assessments as well as advocacy at inquiries and in court.

Recent experience includes:

- **Housing:** Mark appears at numerous planning inquiries in relation to housing acting for both developers and local planning authorities and in relation to schemes ranging from hundreds of houses to smaller in-fill developments. Mark's recent housing inquiries have involved the full gamut of planning issues, including: access and highways, ancient woodland, heritage, landscape, ecology, biodiversity net gain, habitats regulations, design, energy efficiency/ climate change mitigation and adaptation and mitigation/ section 106 obligations;
- **Waste Management Facilities:** Mark is probably the most experienced current practitioner at the bar on waste management facilities. He has promoted or advised upon over 15 energy from waste facilities under both the TCPA and Planning Act regimes. Clients include: SITA UK, Suez Environment, Covanta, Cory Environmental, Wheelabrator, Biffa, J Mould, Urbaser Balfour Beatty, Grondon, North London Waste Authority and Mercia Waste Management.
- **Solar:** Mark is increasingly acting for developers promoting solar farms just under the threshold for nationally significant infrastructure projects. He recently acted for Downing Limited successfully getting planning permission for a 49.9MW solar farm on best and most versatile agricultural land;
- **Great Ormond Street Hospital:** Mark recently acted for GOSH successfully gaining planning consent for its new Children's Cancer Centre;
- **Oil exploration:** Mark has promoted a number of hydrocarbons (exploration and production) projects (including within National Landscapes);
- **Broadmoor Hospital Redevelopment:** Mark advised the West London Mental Health Trust in gaining planning permission for its redevelopment of Broadmoor hospital including the relocation of the hospital within the Broadmoor Estate and reuse of the listed original hospital;
- **Mixed Use Development:** Mark has significant experience in promoting such schemes, by way of example, he appeared for a developer promoting part of an urban extension to Daventry which comprised a comprehensive mixed-use development of some 246 hectares including up to 4,000 houses;
- **Hotel and Tourism Development:** Mark appeared for a third party against the proposed development of an hotel and 200 holiday lodges in the Cotswold Water Park and a local planning authority resisting the extension of an hotel on a golf course;
- **Listed buildings:** Mark regularly acts in listed building cases;
- **Advertising:** Mark has acted in many advertisement consent appeals as well as in prosecuting and defending for breaches of advertisement consents in the criminal courts;
- **Trees:** Mark has acted in a number of TPO cases including with regards protected trees impacting the operation of Southampton Airport;
- Mark regularly prosecutes and defends in relation to planning offences in both the Crown and Magistrates' Courts. Mark also has particular experience of injunction proceedings in both the High Court and County Courts under section 187B of the Town and Country Planning Act 1990. Mark has also acted in contempt of court proceedings in the High Court in relation to planning injunctions.

Major Infrastructure Projects

Prior to taking silk, Mark was one of the most experienced infrastructure and compulsory purchase juniors at the bar. He successfully promoted DCOs through examination unled, as well as numerous others assisting King's Counsel. His infrastructure experience is broad and deep. He has promoted or advised on projects including: energy generation schemes (wind, solar, gas, nuclear); carbon capture schemes; grid infrastructure; waste management facilities; roads; railways; and airports.

Recent infrastructure projects have included:

- Acting for T H Clements (agricultural business) in objecting to the Outer Dowsing Wind Farm;
- Acting for Buckinghamshire Council in the Luton Airport Expansion DCO;
- Acting for Leicestershire County Council in relation to the Hinkley National Rail Freight Interchange;
- Acted for Island Green Power in relation to its challenge of the Lullington Solar Park decision (*Lullington v SSLUHC*);
- Acted successfully as sole counsel in the hearing in the latest Government in relation to the Manston Airport DCO litigation (*R (oao Dawes) v SST*);
- Acted successfully for the Government in Bristol Airport litigation;
- Acted successfully for the Government in East Anglia ONE and TWO litigation (both the SEAS and SAES claims) (High Court and Court of Appeal (*SEAS* pending));
- Acted successfully for Southampton Airport defending the grant of planning permission for the extension to the runway;
- Acted successfully for SSE Thermal promoting the Keadby 3 Carbon Capture Power Station DCO;
- Junior Counsel for the Government in Aquind litigation;
- Junior Counsel for EfW Group Ltd, part of Wheelabrator, in relation to the Kemsley 3 and Kemsley North litigation which raised fundamental questions as to the proper application of sections 104 and 105 of the Planning Act 2008 and the scope of the Energy NPSs (*R (oao EFW Group Ltd) v SSBEIS*);
- Successfully advised J Mould (Reading) Ltd in relation to its planning application for a 40MWth Combined Heat and Power (CHP) Energy Recovery Centre (ERC) and adjacent data centre;
- Advised the Government in relation to the determination of the Hornsea Three Offshore Windfarm;
- Acted successfully for the Government in on-going Swansea Tidal Bay litigation (*Swansea Bay (Tidal Lagoon) PLC v SSBEIS and Welsh Ministers*);
- Advised the Government in relation to the determination of the Wylfa Newydd DCO;
- Acted successfully for Cory Riverside Energy in *R (oao Mayor of London) v SSBEIS and Cory Environmental Holdings Limited*;
- Promoted the Drax Repower Project (consent granted October 2019) (Mark continued to act for Drax in successfully defending the recent legal challenge to the grant of consent in the High Court and Court of Appeal (*R (oao) ClientEarth v SSBEIS and Drax Power Ltd*));
- Successfully promoted the North Shropshire Reinforcement Project for SP Manweb (an overhead electric line) (consented March 2020);
- Advised Eggborough Power UK Limited in relation to the South Humber Energy Centre (a proposed energy from waste facility) and its connection to the South Humber CCGT;
- Advised Eggborough Power UK Limited in relation to a proposed Black Start facility at its Langage Power Station, Plymouth;
- Advised Wheelabrator in relation to a proposed energy from waste facility in Hampshire;
- Promoting the International Advanced Manufacturing Park adjacent to the Nissan plant in Sunderland (pre-application stage) (Mark also defended a judicial review of Sunderland City Council's adoption of planning policy supporting the development, which document which removed the site from the Green Belt);
- Objected to the Northamptonshire Gateway DCO (with Hereward Philpott KC), a rail freight interchange, on behalf of the competitor rail freight interchange, the Rail Central Strategic Rail Freight Interchange DCO;
- Advised (with Hereward Philpott KC) in relation the Rail Central Strategic Rail Freight Interchange DCO (pre-application);
- Promoted the Third Runway at Heathrow (acting with a team of barristers) (pre-application stage);
- Promoted the Second Phase (2A) of HS2 (acting with a team of barristers) (hybrid bill);
- Promoted Eggborough CCGT Project (consent granted September 2018);
- Promoted the North London Heat and Power Project (an energy from waste facility) (consent

- granted February 2017) (with Michael Humphries KC);
- Promoted the FAB Link Limited (Budleigh Salterton to Broadclyst) Compulsory Purchase Order 2016;
- Promoted the North Wales Wind Farms Connection (an overhead electric line) (consent granted July 2016) – Mark successfully defended a challenge to this decision in R (oao Jones) v Secretary of State for Business, Energy and Industrial Strategy and SP Manweb;
- Promoted the A14 Cambridge to Huntingdon Improvement Scheme (consented granted May 2016) (with Andrew Tait KC);
- Promoted the Progress Power Gas Fired Power Station, Suffolk (consent granted in July 2015) (with Michael Humphries KC);
- Objected to the Able Marine Energy Park (a port) at the Special Parliamentary Procedure stage (with Andrew Newcombe KC); and
- Objected to the A19/A1058 Coast Road Junction Improvement (on behalf of a landowner in the context of negotiations about land acquisition).

As a result of his work in this area, he has built up significant experience of advising clients on: land assembly and compulsory acquisition (including in relation to linear schemes), building a case for compulsory purchase, routing, optioneering, complex transport engineering and modelling issues, environmental impact assessments including air quality, Climate Change and Net Zero, Green Belt, AONB, habitats regulations assessments, retaining flexibility with regards to detailed design, consultation, and human rights.

Major infrastructure clients have included: National Highways, Associated British Ports, Scottish Power, SSE, EDF, Drax, Enso Energy, Island Green Power, Eggborough Power, North London Waste Authority, Cory, Wheelabrator, Covanta, Suez, Biffa, Balfour Beatty Urbaser, Southampton Airport, HS2 Ltd and Heathrow Airport Ltd and the Government.

Compulsory Purchase and Compensation

All of Mark's Infrastructure work has involved the promotion of compulsory purchase powers, advice on land assembly and compensation. In addition, Mark has a separate compulsory purchase and land valuation practice which includes advising on and promotion of compulsory purchase orders as well as compensation claims in the Upper Tribunal (Lands Chamber) and wayleaves.

Recent or notable work in this area includes:

- Currently working with Cannock Chase District Council on The Cannock Town Centre Regeneration CPO;
- Currently promoting the M49 Link Road CPO;
- Currently promoting the Dorset County Council Dinah's Hollow CPO;
- Successfully promoted the Stockton on Tees Castlegate CPO (urban regeneration) and associated stopping up order;
- Successfully promoted the Cumbria County Council (Carlisle Southern Link Road) Compulsory Purchase Order (Inquiry completed in June 2021);
- Acting for landowner in the context of the compulsory purchase powers under the Northumberland Line Transport and Works Act Order;
- Advised the Sandwell and West Birmingham Hospitals Trusts as Acquiring Authority on a number of compensation claims following the making of a CPO for the new Midland Metropolitan University Hospital;

- Currently acting for a landowner in a compensation claim against Northumbria County Council following the Morpeth Bypass CPO (on going);
- Currently advising the London Borough of Wandsworth and promoting the York and Winstanley Estates Compulsory Purchase Order as well as the Alton Compulsory Purchase Order (on going);
- Mark is currently acting for HS2 as acquiring authority on a number of compensation claims;
- Acted for HS2 in the Upper Tribunal (with Andrew Tait QC) in *Canfield v Secretary of State for Transport* a £35m compensation claim in the Upper Tribunal (settled during Trial, March 2020);
- Acting for the landowner in relation to The Cheshire West and Chester Council (Chester Northgate) Compulsory Purchase Order 2017 – a large regeneration scheme in Chester);
- Promoting the FAB Link Limited (Budleigh Salterton to Broadclyst) Compulsory Purchase Order 2016;
- Advising NWLA on land valuation in relation to the negotiated purchase of land in advance of a Development Consent Order;
- Acting for Moto Limited (a motorway service area company) on its reference to the Lands Tribunal for compensation in relation to a National Highways scheme to improve the M6;
- Acting for private clients on references to the Lands Tribunal for compensation in relation to local authority compulsory purchase schemes.
- Mark also acts for the Government in compulsory purchase and compensation matters and for HMRC in relation to rating.
- Mark also has experience in compulsory purchase compensation mediations.

Mark advises clients in relation to claims under Part 1 of the Land Compensation Act 1973 (claims for compensation for depreciation caused by public works). In particular, he has advised HS2 and Heathrow Airport Ltd, in relation to the proposed expansion, in relation to potential Part 1 claims and schemes for compensation under that Part. He has also provided advice to National Highways in relation to Part 1 compensation and advised motorway service station operators on compensation arising from change to the highway.

Mark is an editor of the Compulsory Purchase Encyclopaedia.

Other Practice Areas

Environment

Mark has a wide-ranging environmental law practice. Mark is frequently asked to advise in relation to Environmental Impact Assessments, the Habitats Directive, SEAs, the Environmental Permitting Regulations and contaminated land.

Public Law

Mark's appointment to the Treasury Solicitor's A Panel saw him involved in some of the most significant cases in the built environment/ climate change space. Mark has regularly appeared in the Court of Appeal and has a number of cases pending permission applications in the Supreme Court.

Highways

Mark has a particular interest and expertise in all aspects of highways law. He is currently acting for a solar farm developer on a number of modification orders to move public rights of way to allow

development and acted for successfully the developer in the York Central stopping up order inquiry.

Rating

Mark has a well-regarded rating practice where he has acted for both ratepayers, HMRC and billing authorities. He acted in the Ludgate House guardianship scheme litigation which involved a VTE hearing, two Upper Tribunal hearings and a Court of Appeal hearing.

Qualifications & Appointments

- Date of Call - October 2006 (Lincoln's Inn)
 - BPP, London, September 2005 - BVC, graduated in the top ten of year
 - City University, London, September 2004 - CPE, Distinction
 - University of Manchester, 1995-1998 - First Class Honours in History of Modern Art, graduated top of year
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Memberships

- Planning and Environment Bar Association
 - National Infrastructure Planning Association
 - Compulsory Purchase Association
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Quotes

"Mark is a calm and assured presence in court, always completely on top of his brief and trusted by the court. He has built up a formidable practice and reputation by dint of these qualities combined with an impressive capacity for work. He is thoroughly commercial and pragmatic in his outlook, and displays an astute understanding of what matters from the client's perspective."

Legal 500, 2024

"Mark is incredibly knowledgeable on DCO."

Chambers and Partners, 2024

"He is an excellent junior who is an expert in DCOs and Examination hearings. He gives practical advice and is down to earth." "He is a real rising star who I rate very highly." "He is very effective, very calm, and gives straightforward advice."

Chambers and Partners, 2023

"Mark has a great depth of knowledge on DCOs and is a safe pair of hands. He is very client friendly and provides sound and authoritative advice. He does not over-complicate matters and is always pragmatic. Mark's amenable and calm manner goes down particularly well with examiners, and indeed clients. He is always responsive and supportive of team members."

Legal 500, 2023

"He is thorough and has an excellent ability to put across the facts of a case in a sound and coherent manner" "Mark is very adept at cutting through the vast detail and helping shape strategic direction of the case. He provides a sensible way forward"

Chambers and Partners, 2022

"He's easy to work with and very relaxed, clients like him and he has a very good technical brain." "He puts his points forward very well." "He's a very safe pair of hands for DCO work."

The Legal 500, 2021

"He is very analytical, very capable, has a very clear thought process and gives you a considerable amount of confidence." "He is experienced on DCO matters and has an approachable manner."

Chambers and Partners, 2020

"Very good at getting his head around complex issues"

Legal 500, 2020

"He is very helpful, very commercial and understands clients' commercial aims, and how to achieve them and unearth issues"

Chambers and Partners, 2019

"He's an excellent junior who is very accommodating and gives very good commercial advice. Acting unled is also not a problem for him"

Chambers and Partners, 2018

"Well organised and unflappable. He's highly professional, very easy to deal with and a very pleasant individual with a good sense of humour"

Chambers and Partners, 2017

"He's got a natural ability to focus quickly on the real issues, and is very pragmatic and sensible about how to deal with them. He's easy to work with and very effective"

Chambers and Partners, 2017

"Building up an impressive record"

Chambers and Partners, 2016

"Approachable, highly competent and knowledgeable, and gives a good strategic lead"

Chambers and Partners, 2016

"Very sharp, and excellent on his feet"

Chambers and Partners, 2015

"Resourceful, commercial and client-friendly"

Chambers and Partners, 2014

"Rapidly scaling the ranks" and "particularly well regarded" with "a bright future"

Chambers and Partners, 2013