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## George Mackenzie

### Overview

George Mackenzie

Year of call 2011

Since joining Chambers in 2012 George has developed a busy specialist practice at the planning and local government bar. He is consistently rated as one of the top planning barristers under the age of 35 (Planning Magazine 2013, 2014 and 2015).

Examples of his recent work includes:

- Acting, as sole counsel, for the claimant and the appellant in the High Court and the Court of Appeal in *Mackman v Secretary of State for CLG* [2015] EWCA Civ 716 and [2013] EWHC 3396 (QB).
- Acting for a consortium of objectors in a 3-week inquiry in relation to a major urban extension to the south Warwick and Leamington Spa and immediately adjacent to the Grade I listed Warwick Castle Park.
- Acting (as junior to Suzanne Ornsby QC) for the successful respondent in *Bristol City Council v Digs (Bristol) Limited* [2014] EWHC 869 (Admin) in which the Divisional Court held that the respondent's HMO was not subject to mandatory licensing.
- Acting (as junior to Gerald Gouriet QC) for a betting shop operator in a successful appeal against the decision of the Gambling Commission to revoke its non-remote general betting operating licence.
- Acting for a property investment company in a successful challenge to a billing authority's application for liability orders in respect of £150,000 of unpaid national non-domestic rates. Unusually, the court also awarded George's client some £43,000 in costs.

George regularly appears in the High Court as well as in the lower courts and tribunals. He is also gaining a reputation as a sound inquiry advocate. His clients include developers, local and other public authorities, charities, educational institutions, statutory corporations as well as local residents and public interest groups.

### Practice Profile

George welcomes instructions to act individually or as a junior across all of Chambers' practice areas. He specialises in planning, environmental, local government, local government finance, compulsory purchase/land valuation, highways/open spaces and licensing/gaming law.

## Planning

George is a specialist in the law of town and country planning. He regularly appears in planning and enforcement inquiries around the country as well as in judicial reviews and statutory challenges in the High Court in London and in the regions. He is frequently instructed in all of the following areas:

**Residential.** A large proportion of George's practice involves residential schemes of varying sizes. He has appeared in numerous inquiries as well as the High Court and the Court of Appeal both promoting and resisting planning permissions for residential development. He recently acted for a consortium of objectors in a 3-week inquiry in relation to a major urban extension to the south Warwick and Leamington Spa and immediately adjacent to the Grade I listed Warwick Castle Park.

**Commercial and industrial.** George has a wide variety of commercial clients which include restaurant chains, national sports teams, industrial operators and marinas. He recently acted for Bristol Rovers Football Club in connection with the redevelopment of their stadium.

**Retail and mixed-use schemes.** George is familiar with the development constraint policies relating to retail and mixed-use schemes. He recently assisted (as junior to Clive Newberry QC) with a successful challenge to an outline planning permission for a large retail-led mixed-use development in an out of centre location and on unallocated site in High Wycombe. The case involved a dispute over almost all elements of the sequential test.

**Educational institutions.** George is frequently instructed to advise educational institutions in connection with planning matters. He has advised the governing body of a large school near Bristol in connection with a proposal to build new special needs teaching accommodation with associated car parking facilities within the Green Belt and is currently advising a large state boarding school in Surrey on proposals to construct new sixth form accommodation on their Green Belt site.

**Planning obligations and the Community Infrastructure Levy.** George is often asked to advise on the execution and enforcement of planning obligations. He recently advised the Royal Borough of Greenwich on the structure of a complex planning obligation for a district heating system on a major development site and its interaction with a set of existing "masterplan" planning obligations for the same site. He also has an excellent understanding of the CIL regime and has advised the developer of a former Boots store in Bristol as to its CIL liability.

**Heritage.** Many of the schemes with which George is involved involve heritage constraints. George recently acted for Cotswold District Council in an inquiry into a scheme for 90 dwellings immediately adjacent to a Grade II\* listed country house, and for those objecting to a proposal for an urban extension to Warwick immediately adjacent to a Grade I listed Registered Park and a number of Grade II listed buildings.

**Control of advertisements.** George recently represented Westminster CC in two high-profile prosecutions of Adidas UK in connection with serious breaches of the advertisement consent regime during the 2012 Olympic Games.

**Hazardous substances consent.** George recently advised the Royal Borough of Greenwich in connection with a major application for hazardous substances consent on the Greenwich Peninsula.

## Compulsory Purchase and Compensation

George regularly advises acquiring authorities and interested parties on a range of CPO and compensation matters. He is an active member of the Compulsory Purchase Association ("CPA"). His recent experience includes:

- Acting (as junior to Robin Purchas QC) for an international consortium of developers in a reference to

the UTLC for the determination of compensation for the compulsory acquisition of land forming part of the London Bridge Quarter, i.e. the Shard and the Place.

- Acting to secure compensation - and modifications of the programme of works - for owners and occupiers of houseboats with mooring rights in an area of the River Thames which was required for the Thames Tunnel scheme.
- Advising the Royal Borough of Greenwich on the compulsory purchase of a dilapidated and empty house which they sought to reintegrate into the housing stock for their area.
- Representing local residents objecting to Southwark LBC's regeneration scheme and compulsory purchase of the Aylesbury Estate in London. The case concerned the valuation of the residents' leasehold estates as well as the merits of the CPO itself.
- Advising a landowner in the West Sussex area as to the mechanism for the compulsory acquisition of ancillary mining rights and compensation under the Mines (Working Facilities and Support) Act 1966.

## Rating

Rating is one of George's principal practice areas. His experience includes the following.

- **Rating.** George acts for and advises ratepayers and in a wide range of contentious and non-contentious rating matters. Unusually, the District Judge ordered the council to pay £43,000 in costs on the basis that they had acted unreasonably. Summonses worth £150,000 were resisted. George has also represented an art charity in a hearing concerning the nature of their occupation of a warehouse and the availability of charitable relief. He has also acted for clients seeking alterations of local rating lists from the VOA as well as from the tribunals. He has particular experience of the completion notice regime and proposals to nil-rate hereditaments based on uneconomic repair.
- **Council tax.** George has advised (with Richard Glover QC) a large multi-national provider of serviced apartments as to whether one of their buildings in London was correctly brought into rating or whether it is in fact a non-domestic hereditament. The case concerned the company's intention and the meaning of "short lets" for the purposes of the LGFA 1988.

## Environment

George has a keen interest in the law regulating human intervention in the natural and built environment. He has experience in and welcomes instructions in the following areas:

- **Water resources and management.** George is instructed by Thames Water Utilities, as part of a team from Chambers led by Suzanne Ornsby QC, in connection with the preparation of their Water Resources Management Plan 2019. This involves advising on all aspects of water resources planning and management law as well as connected areas of environmental regulation. George is familiar with the technical matters underlying water resources planning. He is fast becoming an expert in this field and is particularly interested to undertake more work within it.
- **Waste, minerals and energy projects.** Many of George's clients are involved in promoting or resisting waste, minerals and/or energy projects. As a result he has a sound understanding of the legal framework and policy constraints of this field. George has a particular understanding of the consenting regime for onshore oil and gas projects including "fracking" and other unconventional hydrocarbon extraction projects, as well as applications for compulsory grants of ancillary rights under s. 1 of the Mines (Working Facilities and Support) Act 1966. He is currently instructed (with Robert McCracken QC) by landowners in the East Sussex area in connection with Celtique Energy's proposals to carry out exploratory fracking in the area. In September 2013 George gave a series of lectures on fracking law in Birmingham, Manchester and Newcastle. He welcomes instructions in this area.
- **Environmental Impact Assessment.** Many of George's planning cases involve EIA points and he has much experience of the law in this area. In *Mackman v Secretary of State for CLG* George acted in the High Court and Court of Appeal for a local councillor in a statutory challenge to a planning permission brought on the basis of a failure to screen for cumulative environmental impacts. He has also lectured on the impact of the Supreme Court's decision in *Walton v Scottish Ministers* on

remedies for breaches of the EIA Directive.

- **SEA and sustainability appraisal.** George acted (with Gregory Jones QC) for a candidate neighbourhood planning forum in a successful challenge to emerging supplementary planning guidance for Guildford's town centre. The case turned on the status of the documents and on failures to subject them to SEA.
- **Statutory nuisance.** George has advised residents of accommodation situated above a pub on their remedies in statutory nuisance, private law as well as ways of securing their desired outcome through the planning and licensing regimes.
- **Access to environmental information.** Many of George's clients seek the provision of environmental information in relation to existing and emerging plans and projects in their area. George advises on these matters and has experience of EIR 2004 appeals to the Information Commissioner and to the First-tier Tribunal (Information Rights).
- **Environmental litigation under the Aarhus Convention.** George has a sound understanding of the principles of environmental litigation and is regularly instructed to seek - or resist - applications for protective costs orders. He is currently instructed in a case which concerns the application of these rules to statutory challenges under s. 288 and s. 289 and the Convention's impact on the availability of legal aid for environmental litigation.

## Local Government

George has a busy practice at the local government bar. The cases he deals with span the spectrum of local government activity and often interact with planning and CPO matters. His clients include local authorities as well as a wide range of persons concerned with local government decision-making. His experience includes the following:

- **Housing.** George is acting (as junior to Suzanne Ornsby QC) in a high-profile challenge to a city council's decision to prosecute a large property investment/management company for alleged breaches of the HMO licensing regime under the Housing Act. The case has involved a judicial review in the High Court as well as simultaneous proceedings before the magistrates' court. It raises a number of points of law in relation to HMOs and the licensing regime.
- **Emerging policy.** George acted (as junior to Gregory Jones QC) in a challenge to two supplementary planning documents which were being promoted by Guildford BC and which undermined his client's interests. The policies were abandoned and the leader of the executive resigned in the wake of the scandal. He is also currently assisting on a case concerning a highly contentious proposal to modify a local area's strategic transport policies.
- **Education.** George assisted Gregory Jones QC (as a pupil) in a challenge to a Grammar School's decision to refuse to admit a prospective pupil following his 11+ exam. The challenge was based on the unlawfulness of the school's admissions policy.
- **Elections.** George has experience in the field of local government elections and has been involved in a challenge to the validity of a parish council election.
- **Regeneration.** George often advises clients in the context of large public-private regeneration projects for local areas. He is currently acting for local residents objecting to Southwark LBC's regeneration proposals for the Aylesbury Estate in London.
- **Powers of expenditure.** George advises local authority clients on their powers of capital expenditure. He has recently advised the Royal Borough of Greenwich on expenditure and borrowing powers in connection with a private street works scheme outside the scope of a s.278 agreement in its local area.

## Open Space and Highways

George is keen to expand his practice in the law of open space, commons, town and village greens, highways and access land. His experience of this area of law includes the following:

- Acting (as junior to Andrew Tait QC) in a judicial review of a highway authority's decision to adopt a

private street under s. 228 of the Highways Act 1980. The case concerned the interaction between the private street works regime and the European Convention on Human Rights.

- Acting (as junior to Douglas Edwards QC) for the Southbank Centre in resisting an application to have the Undercroft of the Queen Elizabeth Hall registered as an Asset of Community Value.
- Successfully defending an application for judicial review of a local authority's decision to refuse to register land as an Asset of Community Value on the basis that it had not been used in the "recent past".
- Acting (with Cain Ormondroyd) for local residents in a successful application to register land as a village green in Thundersley, Essex.
- Representing a successful interested party at a contested highway diversion inquiry in Canterbury, Kent.
- Advising a national charity, Surfers Against Sewage, on coastal access rights to a famed surf break under CROW 2000.?
- Assisting (as a pupil) Charles George QC with a case involving registration of rights of common of pasturage in a pilot area under the Commons Act 2006.

## Licensing, Gaming and Gambling

George has experience of and accepts instructions in all aspects of licensing, gambling and gaming law. He has the following experience:

- **Gambling.** George acted (as junior to Gerald Gouriet QC) for the successful appellant in the controversial *Trafalgar Leisure v Gambling Commission* case in the General Regulatory Chamber of the First-tier Tribunal. The case concerned whether the Gambling Commission had the jurisdiction to revoke Trafalgar's non-remote general betting operating licence in the context of review proceedings brought by the Commission. The tribunal decided Trafalgar had not breached Condition 16 of its GBOL. George is also currently instructed by Paddy Power (as junior to Gerald Gouriet QC) in Newham LBC's judicial review of the statement of a district judge, in the context of a premises licence appeal, that licensing authorities did not need to have regard to the concept of "primary gambling activity".
- **Licensing.** George has represented clients before licensing sub-committees as well as in appeals in the magistrates' court. He regularly acts for Westminster City Council in the preliminary stages of licensing appeals. In one such recent appeal George acted for an individual seeking an "off-licence" in the Eastbourne Town Centre cumulative impact zone. George also has experience of licensing matters in the High Court. In 2012 he acted for a Designated Premises Supervisor in a successful High Court application to set aside an injunction and costs order made against him for alleged breaches of copyright law. He has also assisted Gerald Gouriet QC (as a pupil) with a twin-tracked judicial review and appeal by way of case stated in relation to a licensing decision.

## Property

George advises on the law of easements, restrictive covenants, chattel leases, estate contracts and land options - particularly where they arise in the context of development proposals. He assisted Suzanne Ornsby QC (as a pupil) with a successful challenge to rent recovery orders before the Residential Property Tribunal and is currently instructed on a boundary dispute in the context of a fracking case.

## Professional Memberships

- PEBA (Planning and Environmental Law Bar Association)
- UKELA (UK Environmental Law Association)
- CPA (Compulsory Purchase Association)
- NIPA (National Infrastructure Planning Association)

- ALBA (Administrative Law Bar Association)
- Denning Society for Scholars of Lincoln's Inn

## **Education, Scholarships and Background**

George holds a BA (Hons) in Jurisprudence with Law Studies in Europe from Oxford University. There he was an Exhibitioner of Mansfield College and a Scholar of the Oxford and Cambridge Society of Kenya. He also spent a year studying international, European and French law at the *Université Panthéon-Assas (Paris II)*).

George was graded Outstanding on the BPTC and has been awarded the Mansfield, Megarry, Buchanan and Hardwicke scholarships from Lincoln's Inn. In 2012 he won the UKELA Lord Slynn Mooting Competition which was judged by Carnwath LJ.

George grew up in Kenya. In his spare time is a keen surfer, swimmer, cyclist and photographer - and an avid reader of good books. He speaks good French and Kiswahili. In appropriate cases George will consider acting *pro bono*. Please contact his Clerks for more details.

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