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## Robert McCracken QC



QC 2003  
Year of call 1973

Robert McCracken QC is a leading public, planning and environmental lawyer. He appears at all levels from the European Court of Justice to magistrates courts and planning inquiries. His wide experience includes the petrochemical industry, renewable and conventional power, water, retail and transport sectors, waste and contaminated land and statutory nuisance. He represents a wide range of clients including multinationals, utilities, regulators, planning authorities, community groups and individual citizens. He is recognised as a leading silk by Chambers Directory in the fields of Environment and Planning.

### Testimonials

"An exceptional barrister who cares passionately about environmental justice." The Legal 500, 2015

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"Robert McCracken QC's 'encyclopaedic knowledge of environmental issues' has caught the eye of observers and earned him a reputation as a 'top-flight individual within the field'." Chambers and Partners

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"First rank knowledgeable and tenacious environmental barrister who swings the court his way...often succeeds on the basis most people wouldn't have had the nerve to try." Chambers and Partners 2014

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"Always very clear and commercial." Chambers and Partners 2014

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"Very good trial advocate, authoritative in his area and easy to get on with." Legal 500, 2014

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Rated "very highly" for his "sheer intellect," and "ability to grasp all the facts straight away." Chambers and Partners, 2013

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"...He is the man to have on your side in a complex dispute" Legal 500, 2013

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"He is the guy you don't want to have against you - I try to instruct him as early as possible so as not to be up against him" Chambers and Partners, 2012

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"...intellectually gifted, the "tenacious" Robert McCracken QC is appreciated by his clients as he leaves "no stone unturned." Chambers and Partners, 2011

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"Loved by clients for his 'tremendous advocacy skills'." Chambers and Partners, 2009

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"Specialist environmental lawyer who receives accolades for being one of the leading lawyers of his generation in this field." Chambers and Partners, 2008

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"A favourite among clients for his 'bloody efficient, powerful and relentless' advocacy

skills." Chambers and Partners, 2009

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"He is an exceptional barrister with a mercurial mind." The Legal 500, 2015

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"Well known for his expertise in European law." Chambers and Partners, 2013

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"Simply an excellent advocate; quietly authoritative, he is someone judges really listen to..." Chambers and Partners, 2012.

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"He knows very well how to capture the mood of the court." Chambers and Partners, 2012

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"McCracken is renowned as 'a hugely accomplished advocate'." Chambers and Partners, 2011

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"...in high demand for his tactical aptitude in complex cases." Chambers and Partners, 2009

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"A favourite among clients for his 'bloody efficient, powerful and relentless' advocacy skills." Chambers and Partners, 2009

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"A feared opponent in some of the biggest planning cases because 'he is inventive, very effective and turns round the papers quickly.'" Chambers and Partners, 2008

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## **Cases of Note**

### **ENVIRONMENTAL**

**His Environmental work includes everything from environmental assessment at the start of a project to the waste at the end of a project.**

## Cases include

- *Environment Agency v Hennessy* [2016] EWHC 539 (QB) Voluntary bill of indictment: under what circumstances can status of exempt waste facility be lost?
- *Friends of Finsbury Park v LB Haringey* [2016] EWHC 1633 (Admin) the High Court upheld the decision of Haringey to permit the Wireless Festival in Finsbury Park
- *Coventry v Lawrence* [2015] UKSC 14 Supreme Court reviews the law of nuisance, considering the role of planning authority decisions, recognising prescriptive rights to commit nuisances and relaxing the principles governing injunctions
- *Bowen West v SSCLG and Augean* [2012] EWCA Civ 321 CA - radioactive waste and EIA
- *Shirley v Information Commissioner* ref by UT in 2012 to CJEU - question whether privatised water and sewerage companies are subject to the Environmental Information Directive
- *Ardagh v Chester* [2009] EWHC 745 Admin-mandatory order requiring enforcement action for non compliance with EIA Directive
- *R. v. Bromley Magistrates ex parte Thames Water* (ECJ) Case C 252/05 and [2008] EWHC 1763 (QB)- relationship between Urban Waste Water Treatment Directive and leakage from sewers
- *OSS v. Environmental Agency (CA)* [ 2007] EWCA Civ 611- when waste cease to be waste
- *R. v. London Borough of Bromley, ex parte Barker* (ECJ) (C-290/03) and (HL) [2006] UKHL 52 - the 'Crystal Palace' case, environmental assessment and reserved matters
- *The Barnes NE v. Newcastle City Council* [2005] EWCA 1274 - power to seek injunction for statutory nuisance without serving abatement notice
- *Burkett v. London of Hammersmith and Fulham* (HL) [2002] UKHL 23 [2002] 1 WLR 1593 - environmental assessment and time limits for challenging errors
- *Berkeley v. SSETR* (HL) [2001] 2 AC 603 - environmental assessment and extent of discretion not to quash for errors
- *R. v. Durham County Council ex parte Huddlestone* (CA) [2000] 1 WLR 1484 - direct effect of environmental assessment directive on mineral planning conditions

## PLANNING AND MAJOR INFRASTRUCTURE PROJECTS

**He has been involved in every kind of planning inquiry and examination over many years. He appeared in 2012 at one of the first NSIP Development Consent Order examinations for Associated British Ports.**

- *Able Marine Energy Park Immingham Humber NSIP Examination* (July-November 2012)
- *Peak District NPA and SSCLG v Bleaklow I L* [2009] EWCA Civ 206 difference between 'winning 'and 'working' minerals
- *South Cambridgeshire DC v SSCLG* [2008] EWCA Civ - alternative sites and burden of proof
- *Mortell v Oldham MBC* [2007] EWHC 1526 Admin -quashing of Pathfinder permission
- *R v. Minister of Planning ex p Anspach* (2006) Supreme Court of the Turks and

- Caicos Islands (ouster clause and jurisdiction of courts over Government)
- *Meyrick v. SSETR* [2005] EWHC 2618, - principles governing inclusion of land within New Forest National Park
- *Eco Energy v. SSE and Durham County Council* [2004] EWCA Civ 1566 - standing to challenge planning appeal decisions
- *Whinash* wind farm inquiry - inquiry into major windfarm on edge of Lake District
- *The Queen (O'Dwyer) v Westminster CC* (HC) EWHC Admin (noise nuisance and planning permission)
- *Windermere Speed Limit* Inquiry
- National Grid *East London Overhead Power Lines* Hearing
- *Heathrow Terminal 5* Inquiry
- *Otterburn Training Area* Inquiry for the Northumberland National Park Authority
- Promotion at public inquiry of the London Borough of *Harrow UDP, the Ipswich, King's Lynn and Oxford Local Plans*
- *Stonehenge* Inquiry
- '*Walkie Talkie*' Fenchurch Street Inquiry
- *Bodleian Library* Inquiry
- *Smithfield General Market Building* Inquiry

## **LOCAL GOVERNMENT AND HUMAN RIGHTS**

**He understands both the difficulties which local authorities face and the importance of transparency and participatory decision making.**

- *Calver v Public Service Ombudsman for Wales* [2012] EWHC 1172 Admin - Article 10 ECHR (free speech) trumps councillors' Code of Conduct
- *Pascoe v SSCLG* (HC) [2006] EWHC (2356) Admin - Pathfinder CPO and human rights
- *R v North Yorkshire ex p Orme and Richardson* [2003] EWCA Civ 1860-conflict of interest, councillors' homes and the Model Code of Conduct
- *Pye v Oxford City Council* [2002] EWCA Civ 1116 - lawfulness of social housing supplementary guidance
- *R. v. Flintshire County Council, ex parte Armstrong Braun* (CA) [2001] LGR 344 - lawfulness of standing orders preventing lone councillor from placing items on agendas
- *Porter v. South Buckinghamshire* (CA) [2001] EWCA 1549 - effect of Human Rights Act 1998 on injunctions under sec. 187B TCPA 1990
- *Burkett* [2002] UKHL 23 - compatibility of CPR 54 requirement for promptitude with ECHR
- *Councillor Brian Woodrow's* Adjudication Panel - ability of councillors to comment on planning applications despite the Model Code of Conduct

## **OTHER CASES OF NOTE**

**He has an appetite for difficult points of law.**

- *Williams v Devon CC* [2016] EWCA Civ 419 Court of Appeal clarifies road traffic regulation legislation and upholds quashing of order which interfered with 'Bob the Bus's' route through Totnes

- *Coventry v Lawrence* [2015] UKSC 50 Supreme Court upholds recovery of conditional fee uplifts and After The Event insurance premiums (now before the European court of Human Rights in Strasbourg)
  - *Fry v Broads Authority* [2015] EWHC 4139 (Admin) Divisional Court upholds right of Broads authority to levy charge on boat which does not leave marina
  - *Manchester Ship Canal v United Utilities* [2014] UKSC 40 Supreme Court holds that privatised water and sewerage undertakers do not retain after privatisation an entitlement to create new discharges into canals
  - *Seal v. Chief Constable of South Wales* (HL) [2007] UKHL 31 consequences of failure to obtain leave under the Mental Health Act (now with the European Court of Human Rights at Strasbourg)
  - *Re Bleak House Flegg v. City of London Building Society* (HL) 1988 AC 453 - Overreaching of interest of occupiers of property by fraudulent legal trustees
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## Qualifications, Appointments and Publications

### Qualifications and Appointments

- Visiting Professor at King's College London
- Quondam Fellow of the Centre for European Law, King's College, London
- MA (Worcester College, Oxford)
- Legal Associate of the Royal Town Planning Institute
- Chairman of the United Kingdom Environmental Law Association 1995-97
- Secretary of the Planning and Environment Bar Association 1992-94
- Member of the Administrative Bar Association
- Reviewer for the Bar Pro Bono Unit
- Called to the Bar of Northern Ireland

### Publications

'Standing and Discretion in Environmental Challenges: Walton A Curate's Egg' [2014] JPL 304

'Making The Most Effective Use of EU law' Solicitors Journal 22 October 2013

Co-author of 'Statutory Nuisance Law & Practice' (Bloomsbury 3rd ed 2012)

'SEA, EIA, and AA Present Position: Where Are We Now?' [ 2010] JPEL 1515

'Infrastructure planning commission: Challenge or Opportunity?' [2010] JPEL Occasional Paper 37

Alternative Sites in Planning Law [2010] JPEL 852

'The Aarhus Convention' [2003] JPL 802

'Article 8, Gypsies and Some Remaining Problems after South Buckinghamshire' [2003]

JPL 382

'Standing and Fundamental Rights: a South Asian Perspective' [2002] JR 172

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