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## Simon Bird QC

### Practice Profile



QC 2009

Year of call 1987

Simon specialises in planning, local government, administrative and environmental Law.

He is a member of the Planning and Environmental Bar Association the National Infrastructure Planning Association and the Parliamentary Bar Mess

Simon's past and present clients include major national house builders, port operators, international oil companies, airports, National Grid, rail freight operators, waste companies, hotel chains, executive agencies of Government, many local authorities and private clients. He has an extensive advisory, inquiry and advocacy practice.

## Testimonials

"Simon can make the most complex problems sound simple and easy to understand. He is a great choice for clients. Very commercial and focused on the things that really matter." "He is really calm, measured and very accessible. He makes himself available and is a team player; he takes into account the views from the team and is just a pleasure to work with." Chambers and Partners 2017

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"Runs a terrific practice which focuses on planning, local government, administrative and environmental law." Who's Who Legal UK Bar 2016

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"He is very client-facing and a new breed of senior barrister; he is very clever, very well prepared and always comes in with an agenda and notes". "He is a very genuine advocate, motivated to win a case but not in an aggressive or egotistical way". Chambers and Partners 2016

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"A very smooth and efficient advocate with an unbelievable command of an immense volume of information." Chambers and Partners 2015

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"He provides practical, non nonsense advice that is delivered in a friendly manner". Chambers and Partners 2015

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"A real gentleman and a team player who gives very strong, business focussed advice". The Legal 500

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## **Cases of Note**

### **Infrastructure**

- Promoting the Congleton Relied Road Compulsory Purchase Order and Side Roads Order on behalf of Cheshire East Borough Council
- Appearing before the HS2 House of Commons Select Committee on behalf of the Rail Freight Group, D B Schenker and other in support of their petitions against the draft HS2 Bill
- The promotion of the Thorpe Marsh Gas Pipeline DCO on behalf of Thorpe Marsh Power Ltd

- Appearing on behalf of Able Humber Ports Ltd before a Joint Committee of the House of Lords and House of Commons successfully to resist ABP's petitions, under Special Parliamentary Procedure, for amendment to the Able Marine Energy Park Development Consent Order.
- Represented Powys County Council at the inquiry into five windfarms schemes of national importance at Llandinam, Llaithddu, Llanbadarn Fynydd, Carnedd Wen and Llanbrynmair.
- The promotion of the Tees Crossing Replacement scheme, the reinforcement of the Ferrybridge Ring at Bramham, and a tunnel project; all for National Grid.
- Advising Plymouth City Council on the proposals for their Sub-Regional Energy from Waste plant at HM Devonport Dockyard. Simon also acted for Cardiff City Council in defence of its decision to grant planning permission for an incinerator within the City.
- Representing Rushmoor Borough Council at an inquiry into increased flights at Farnborough Airport and Biggin Hill Airport at an inquiry into new business aviation hangar. Appearing for Coventry City Council at the Coventry Airport inquiries into new passenger terminal facilities at the airport.
- Appearing for South Bucks District Council at the inquiry into Pinewood Studios proposals for expansion known as the Pinewood Studios Development Framework. He previously appeared at the inquiry into the Studio's previous proposals for "Project Pinewood".

## **Residential**

- Promoting a retirement village at Gradwell Park, Sussex on behalf of Retirement Villages Ltd
- Represented East Cambridgeshire District Council at the inquiries into new settlements at Westmere, Cambourne as well as the Mereham New Settlement proposal for 5000 dwellings.
- Appeared for Ipswich Borough Council to oppose Mersea Homes' proposals for the extension of the town into the Ipswich Northern Fringe.
- Represented the Jockey Club, Godolphin and Tattersalls at the inquiry into the extension of Newmarket onto land at Hatchfield Farm.
- Appeared for the Chatsworth Estate in its successful appeal relating to a housing proposal at King's Drive, Eastbourne.
- Presently instructed in relation to appeals by housebuilders for settlement expansions in various parts of the country

## **Waste**

- Advising the North London Waste Partnership on the emerging North London Waste Plan
- Advising Plymouth City Council and Cardiff City County Council on proposals for energy from waste plants within their areas
- Appeared for the Lidsey Landfill Company at an inquiry into their proposals to an extension to the Lidsey landfill site.
- Appeared for South Norfolk District Council at the inquiry into Norfolk County Council's proposals for a landraise site at Hardwick Airfield, Norfolk.

- Represented the Royal Horticultural Society at the Surrey County Council Waste Core Strategy in opposition to proposals for an incinerator at Wisley Airfield.

## **Heritage Assets**

- Represented the Burghley House Preservation Trust at an inquiry into their proposals for a high tech development just outside the Park and within the setting of Stamford.
- Represented Waltham Forest District Council at the inquiry into the Universal Church of the Kingdom of God's proposal to convert the Grade I EMD cinema in Walthamstow into a place of worship.
- Represented Elmbridge Borough Council in the High Court and Court of Appeal in defence of their decision to grant planning permission for the redevelopment of the Jolly Boatman site within the setting of Hampton Court Palace (see *Garner v Elmbridge Borough Council* [2011] EWCA Civ 891)
- Represented Tendring District Council in defence of its refusal of planning permission for enabling development to contribute towards the restoration of St Osyth Priory, a Grade I listed building.
- Currently advising Hart District Council in relation to development proposals at the former Police Staff Training College, Bramshill a Grade 1 Listed Building and a Registered Park and Garden.

## **Development Plans**

- Represented Bedford Borough Council at the independent examinations into their Core Strategy, their Town Centre Area Action Plan and their Allocations and Designations DPD.
- Advising South Bucks District Council, the Royal Borough of Kensington and Chelsea and Rotherham Borough Councils on their successful Core Strategy preparation.
- Appearing for Cheltenham, Gloucester & Tewkesbury, Vale of White Horse, Ipswich, Camden and Stevenage Councils at independent examinations into their Local Plans.
- Simon is currently advising three local planning authorities at various stages in their Local Plan preparation.

## **Community Infrastructure Levy**

- Advised London Borough of Camden on their CIL Charging Schedule and appeared at the CIL examination on its behalf
- Advised Bedford and Plymouth on their draft charging schedules

## **High Court**

Cases include:

- *Robinson v SSCLG* [2016] EWHC 634 (Admin) on behalf of various charities, successfully defending the decision of the Secretary of State's Inspector to grant

planning permission for residential development against a "mistake of fact" challenge based on the omission of the local planning authority to provide the Inspector with its most up to date assessment of housing land supply

- *Ellaway v Cardiff CC* [2014] EWHC 836 (Admin) appearing successfully to defend Cardiff County Council's grant of planning permission for Viridor's Energy from Waste facility within the City.
  - *R (oao) Roberts v Elmbridge Borough Council* [2013] EWHC 2107 appeared for the Council to defend its decision to discharge planning conditions attached to the planning permission for the redevelopment of a brownfield site directly opposite Hampton Court Palace.
  - *R(oao Stevenage Borough Council) v SSCLG* [2011] EWHC 3136 represented North Hertfordshire District Council in an important case relating to the powers of an inspector to find a development plan document unsound.
  - *R(oao Garner) v Elmbridge Borough Council* [2011] EWCA Civ 891 represented Elmbridge Borough Council concerning the adequacy of its discharge of the duty under section 66(1) of the Listed Buildings and Conservation Areas Act 1990.
  - *Ashwell Property Group v Cambridge City Council* [2008] EWCA Civ 1151 appeared for the City Council successfully to defend a challenge to the adoption of their Local Plan.
  - *Ramblers Association v Coventry City Council* [2009] 1 All ER 130 appeared for Coventry City Council in the first challenge to a gating order made under the Highways Act 1980.
  - *R (oao Plimsoll Shaw Brewer) v Three Rivers District Council* [2007] EWHC 1290 (Admin) appeared for the planning authority in an important case relating to the making of tree preservation orders.
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## **Experience**

Beyond the major inquiry, examination and Parliamentary work, Simon continues to be involved in a large number of schemes throughout all stages of their progress from advising on the content of Environmental Statements, Habitats Regulations Assessments and application supporting documents through to appearing at inquiry. He is presently instructed on a variety of schemes raising issues as diverse as Green Belt, the adequacy of supporting environmental information, the effect of development on Special Protection Areas, housing and affordable housing, retail, employment development the effect on listed buildings, highways and waste. The schemes include proposals for new and re-aligned overhead power lines, a bypass road scheme and for several thousand dwellings in various parts of the country.

## **Planning and Infrastructure Projects**

Simon provides advice and advocacy in relation to applications, orders and appeals of all kinds.

He advises on all stages of the application and hearing processes. This includes

guidance on consultation requirements, on the content of applications and draft orders, the drafting of statements of reasons and advising on the adequacy of supporting information including Environmental Statements and Habitats Regulations Assessments.

He has substantial hearing and inquiry experience (including major inquiries and DCO examinations).

### **Conditions and Obligations**

Simon routinely advises on the adequacy of proposed conditions and planning obligations and the steps required to discharge conditions.

He is experienced in dealing with Regulation 122 compliance issues including on the evidence necessary to justify a variety of contributions including those relating to affordable housing, highways, education, health, libraries, waste collection, museums and archives.

He has advised a number of authorities on the implications of regulation 123 of the CIL regulations.

### **The Conservation of Habitats and Species Regulations 2010**

Simon has considerable experience of advising of proposals where the effect on a Special Protection Areas (SPA's) or Special Areas of Conservation (SAC's) is a central consideration. This includes advising on the mechanisms required to put in place SANG provision to meet the requirements of Natural England.

He has guided Plymouth County Council's consideration of MVV's proposals for a major Energy from Waste plant at HM Devonport Dockyard; the proposal had the potential to affect a number of Natura 2000 sites, both SPAs and SACs including:

- The Tamar Estuaries Complex SPA
- The Plymouth Sound & Estuaries SAC
- Dartmoor SAC
- South Dartmoor Woods SAC

As an appropriate authority for the purposes of the Habitats Regulations, Plymouth City Council had to assess whether the proposed development would be likely to have any significant effect on any of these European sites and whether an appropriate assessment under the Habitats Regulations would be required.

Simon advised the Council on their statutory responsibilities, on the scope of the screening assessment required, on the test to be applied in that screening process and on the adequacy of the evidence base used to inform the Council's conclusion. He also advised on the consultations necessary in order to reach a legally robust conclusion and to minimise the risk of challenge. Simon worked as part of a multi-disciplinary team guiding the assessment.

Natural England accepted the conclusions of the screening assessment that there would be no likely significant effect on any European site

National Grid's scheme to replace and re-route the ZZA 400kV overhead line comprising the Tees Crossing passed over the Tees and Cleveland Coast SPA and Ramsar site and over the Tees and Hartlepool Foreshore and Wetlands SSSI. Simon advised on both the application for consent (which required the undertaking of an Appropriate Assessment) and on the applications for necessary wayleaves. He appeared at the wayleave hearing in November 2011 following which the Secretary of State granted consent and the necessary wayleaves in February 2012.

Simon has also advised an airport operator on the screening assessment process necessary to reach a conclusion on whether an increase in air traffic movements would be likely to have any significant effect on two nearby Special Protection Areas over-flown by aircraft arriving and departing from the airport. The airport operator was one of the appropriate authorities for the purposes of the Habitats Regulations and has the responsibility of carrying out the assessment.

At a strategic level Simon has advised numerous authorities on the requirements of the Habitats Regulations in relation to the preparation of their Development Plan Documents and on the adequacy of the assessments undertaken.

## **Aviation**

Simon has a wide range of experience in relation to planning matters relating to airports and aviation.

He has acted for the Heathrow Hub in relation to their proposals for additional capacity at Heathrow, Biggin Hill Airport Limited, Southend Airport and was instructed on behalf of the CAA in relation to the proposed Stansted second runway. He has acted for Coventry City Council in relation to proposals for a passenger terminal at Coventry Airport and for Rushmoor Borough Council in relation to proposals for increased weekend flights at Farnborough Airport.

He is well versed in the issues raised by aviation proposals including assessments of need and economic/employment benefit, noise and air quality and climate change.

## **Roads**

Simon has extensive experience of promoting road schemes ranging through plan-making, the development management process and at compulsory purchase and side roads order inquiries.

He has recently promoted the side roads and compulsory purchase orders necessary to deliver the Congleton Link Road, a road required to unlock the development potential of land to the north of Congleton and to ease congestion and its effects on the town itself.

## **Energy**

Simon's work includes representing Powys County Council at the Mid Wales Windfarm Inquiry, the UK's largest inquiry into onshore wind and advising Plymouth City Council in relation to the proposals for an Energy from Waste plant at HM Dockyard Devonport.

In terms of energy transmission, Simon has worked for National Grid on their proposals for reinforcement of the transmission network at Bramham and on their scheme for the replacement of the Tees Crossing, Stockton on Tees adjacent to a top tier COMAH site. He also acted for Powys County Council in relation to SP Manweb's Mid Wales Connection Project resisting proposals for an entirely overhead line solution for a 132kV OHL to serve the proposed Llandinam Windfarm

He is familiar with all the policy and technical issues arising from such proposals including the need case, noise, air quality, effects on SACs and SPAs, safety issues including the effects of EMF's, traffic.

## **Overhead Lines and the Effect on Values of Residential Developments**

Simon has advised applicants for necessary wayleaves on the valuation aspects of the oversailed, undeveloped land which the landowner had earmarked for residential development. This has involved the preparation of and valuation of alternative schemes on a with and without overhead line basis and the identification of a range of diminution in value figures.

## **Environmental Assessment**

Simon has been involved with many EIA developments both at application stage and on appeal.

Examples relating to major infrastructure proposals include Project Pinewood, Hatchfield Farm, Newmarket, Ipswich Urban Expansion, Farnborough Airport, the Devonport Energy from Waste plant and National Grid's reinforcement of the Ferrybridge Ring.

His work has included reviewing the adequacy of screening opinions and environmental statements, advising on requests for further information and on challenges to decisions based on claimed failures to comply with the EIA Regulations.

He appeared successfully to defend Ipswich Borough Council's decision to grant planning permission for a major regeneration project at Grafton Way, Ipswich which was challenged on the basis of alleged defects in the Council's screening opinion.

## **Green Belts and Countryside**

He is familiar with all aspects of Countryside and Green Belt policy and recent experience of developments within the Green Belt includes Project Pinewood within the South Bucks Green Belt and the promotion of the new Dye, London Golf Course at Barnet and



National Grid's scheme for network reinforcement at Bramham.

He also has substantial experience of dealing with the landscape effects of proposals within protected or designated landscapes including schemes within AONB's, Areas of High Landscape Value and areas protected by more local designations.

He has experience of a wide range of development proposals in the Green Belt including housing, airports, equestrian establishments, golf courses, waste proposals, transport depots, houseboat moorings and agricultural buildings.

### **Heritage Assets**

Simon's experience includes dealing with development proposals in some of the most sensitive heritage areas within the UK.

These include the proposals for the Jolly Boatman site opposite Hampton Court Palace, St Osyth Priory, Baramshill House and developments adjacent to Grade I, II\* and II listed buildings and scheduled ancient monuments and development in a wide variety of Conservation Areas.

He has promoted developments in archaeologically sensitive areas including an extension to the Lidsey Landfill site, West Sussex and a business park close to Burghley House. He has advised on the adequacy of Environmental Statements in relation to a wide variety of heritage interests.

### **Residential**

Simon's recent experience ranges from a dwelling on the end of a seaside pier up to new settlements of several thousand dwellings.

He is presently involved in proposals totalling thousands of homes in a number of administrative areas acting for both local authorities and developers.

He has experience of dealing with sites in Conservation Areas, adjacent to Listed Buildings and which impact on other sensitive areas in including the Thames Basin Heath SPA.

He is experienced in dealing with all issues likely to arise in relation to housing proposals including flood risk, noise, air quality, vibration and traffic generation.

He also has experience dealing with less common issues such as health and safety issues relating to fuel storage and electricity transmission, the effects of development on equestrian uses and the likely impacts of hydrogen re-fuelling.

### **Waste**

Simon advises planning authorities, waste operators and regulators on a wide variety of waste planning issues.

This includes advising on the soundness of waste planning policies, on the preparation

and content of waste permit applications and on specific waste development proposals.

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## **Qualifications & Appointments**

- LLB(Hons)
  - Judge of the First Tier Tribunal, General Regulatory Chamber including Environment and Asset of Community Value appeals
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## **Publications**

- Aviation and Planning Policy - Current and Future Flight Paths [2012] JPL 105
- The NPPF - Panacea, Pariah or Placebo JPL Occasional Papers 2013

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