



Francis Taylor Building
Inner Temple
London EC4Y 7BY

Francis Taylor Building

DX: 402 LDE

T: 020 7353 8415 F: 020 7353 7622
E: clerks@ftbchambers.co.uk W: www.ftbchambers.co.uk

Cain Ormondroyd



Year of call 2007

?He is highly effective and has an excellent grasp of the law? (Chambers and Partners Directory, 2020)

?He gives the client complete confidence? (Legal 500 Directory, 2020)

Cain Ormondroyd practices in the fields of public and planning law, with a particular focus on heavyweight land valuation disputes and contentious planning appeals. He combines work in these areas with an interest in several specialist areas including highways, commons and village greens, listed buildings, planning enforcement and ecclesiastical law. He is an acknowledged expert in the area of rating and the council tax, being one of the editors of *Ryde on Rating* and also the author of *The Rating and Council Tax Pocketbook*.

Cain acts for a broad range of clients including major public companies, developers, central and local government bodies. He is a member of the Attorney General's 'B' Panel of specialist counsel and is often instructed by HMRC. He appears most frequently at hearings in the Valuation Tribunal, Upper Tribunal (Lands Chamber) and High Court and at public inquiries, but has appeared in and accepts instructions to appear in all courts from the magistrates' court up to the Supreme Court.

He is also a member of the Planning and Environment Bar Association, the National Infrastructure Planning Association and the Compulsory Purchase Association

CPO, Land Valuation and Rating

Cain frequently advises and appears in court to deal with statutory land valuation disputes. He is an acknowledged expert in the field of rating valuation, and has a growing CPO compensation practice building on his familiarity with the Upper Tribunal and his knowledge of the fundamentals of valuation practice. Cain's clients in this area range from major public companies (such as the Tata Group and Merlin Entertainments Group), to smaller companies and individuals, to government departments (notably HMRC) and local authorities.

Recent valuation cases include the following:

- *Telereal Trillium v Hewitt (VO)* [2019] UKSC 23: Supreme Court case on nominal valuation of property at the end of its economic life. With Richard Glover QC.
- *Merlin v Cox (VO)* [2019] UKUT 406 (LC): leading case on whether economic changes can ever be 'material change of circumstances?' for rating purposes; impacts of the 'Smiler?' crash on value of Alton Towers.
- *Network Rail Infrastructure Ltd v City of London* (2018): advice on settlement of upper tribunal proceedings relating to valuation of highway land around Blackfriars Station for CPO compensation.
- *Land at South Killingholme* (2018): advising on CPO compensation issues arising out of the Able Marine Energy Park DCO.
- *United Utilities v Zammitt-Wilson (CVO)* (2017): valuation of water supply system, turning on the calculation of weighted average cost of capital. Evidence from professor of finance. Successfully defended valuation.
- *Hughes (VO) v York Museums and Gallery Trust* [2017] UKUT 200 (LC): valuation of various historic museums and galleries in York. Five-day Upper Tribunal hearing against Timothy Mould QC and Luke Wilcox.
- *Hobbs v Gidman (VO)* [2017] UKUT 63 (LC): leading case on valuation of racing stables/gallops in 2010 rating list. Successfully challenged VO's scheme of valuation.
- *Lamb (VO) v Go Outdoors* [2015] UKUT 366 (LC): valuation of a large warehouse.
- *Cable & Wireless v Subacchi* (2014): valuation of a fibre network. Against Richard Glover QC.
- *Mainline Pipeline v Subacchi; Total Lindsey Oil Refinery v Subacchi* (2014): successfully defended valuation of two large petrochemical assets in the VTE. Subsequent appeals to Upper Tribunal settled at very similar figure. Against Richard Glover QC and Guy Roots QC.
- *British Car Auctions v Hazell (VO)* [2014] UKUT 164 (LC): valuation of an airport. Against Richard Glover QC.
- *Takeley's Farm* (2013): leading case in the VTE on the correct identification of 'domestic' property based on identifying the curtilage of a house.

Cases on rate exemptions/reliefs include the following

- *Corkish (VO) v Bigwood* [2019] UKUT 191 (LC): leading case on treatment of private equestrian facilities for rating purposes. Successfully established stables were 'domestic' and therefore not rateable.
 - *Pembrokeshire CC v Cardtronics* (2018) - leading case on eligibility of ATMs for small business rate relief in Wales, in magistrates' court and High Court.
 - *Gosscow 2012 Ltd v Sheffield CC* (2017): successfully overturned liability granted in magistrates' court on appeal to High Court and defended clients from allegation of 'sham' tenancy.
 - *Walsall MBC v Emergency Aid* (2017) - successfully obtained a liability order in the magistrates' court, leading to the liquidation of Emergency Aid.
 - *Wotton v Gill (VO)* [2015] UKUT 548 (LC): case on agricultural exemption for buildings.
 - *Sleekmade Property Co Ltd v Sheffield CC* [2015] EWHC 4193 (Admin): successfully overturned refusal of magistrates' court to set aside liability orders in High Court.
 - *South Kesteven DC v Digital Pipeline* [2016] EWHC 101 (Admin): case on application of charitable relief to premises mainly empty.
 - *Milton Keynes Council v PSCT* [2013] EWHC 1237 (Admin): case establishing meaning of 'wholly or mainly used' test for charitable relief.
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Planning

This key area of practice for Chambers is one that Cain enjoys and deals in frequently. He regularly appears in longer and more complex inquiries, dealing with heritage, nature conservation and landscape issues, housing policy and town centre development. Cain is also very experienced in conducting complex enforcement notice/certificate of lawfulness appeal inquiries both for and against local councils and in appearing in the Magistrates' Court and Crown Court in enforcement notice prosecutions and s215 notice appeals. He advises on injunctions and appears in applications for injunctive relief.

Recent inquiry/hearing work include the following:

- *Holly House* (2019): complex enforcement inquiry relating to a substantial dwelling and ancillary structures built in breach of terms of planning permission in and adjoining the AONB.
- *Cross Trees Farm* (2019): enforcement notices targeting multiple commercial uses on a farm/industrial estate, raising highways and amenity issues.
- *Land at Parklands, Spencer's Wood* (2019): housing scheme for development beyond settlement boundary. Currently under challenge.
- *Watlington Road, Lewknor* (2018): successfully defended refusal of planning permission for housing development and established that SODC local plan not 'out

of date?.

- *Café Baku Bistro* (2017): enforcement and planning advice and advocacy to operators of a café offering 'shisha' smoking facilities.
- *Barkham Manor Farm* (2017): two week inquiry on mixed use scheme involving issues of landscape impact, listed buildings, lawfulness and agricultural justification.
- *Kirk Mills, Chipping* (2016): redevelopment of listed mill building into hotel and leisure development, plus enabling development of housing in AONB.
- *Lower Icknield Way, Chinnor* (2016): large housing scheme on un-allocated site.
- *Thame Police Station* (2015): demolition of redundant Police Station in a conservation area and replacement with retirement homes.
- *Griffin Close* (2014): resisting a development of 150 houses on the outskirts of Stow on the Wold for Cotswold District Council, against Anthony Crean QC
- *Hatfield Student Accommodation* (2012): for the developer in a five day case on a proposal to construct several blocks of student housing, raising issues in relation to old chalk mine workings.
- *Manor Farm* (2011): four day enforcement case on multiple breaches of planning control at a farm complex, including unauthorised buildings, uses and the tipping of waste. Successfully defeated an argument that the notice was invalid and defended the notices on the merits. Against Clive Newberry QC.
- *Smugley Farm, Goudhurst* (2011): four day inquiry relating to a large replacement dwelling in the AONB, raising landscape and policy issues against Michael Druce.
- *Land at Todenham Road, Moreton-in-Marsh* (2010): successfully opposed a proposal by the developer, Cala Homes, to build 300 new homes on the outskirts of Moreton-in-Marsh.
- *10 Bathgate Road, Wimbeldon* (2010): proposal to demolish the façade of a house in a conservation area; against James Pereira.
- *Coln Manor, Gloucestershire* (2010): nine day appeal hearing into a proposed new country house raising heritage, ecology and transport issues. Successfully upheld the local planning authority's refusal of permission.
- *The Pear Tree, Hockley* (2010): gypsy caravan appeal, recovered for determination by the Secretary of State. Successfully upheld the local planning authority's grant of temporary as opposed to permanent permission.
- *Ware Park Mill, Hertford* (2009): four day inquiry into proposal to 'recreate' a historic mill building as flats, raising heritage, ecology and green belt issues. Successfully upheld the refusal of the local planning authority, and secured a partial award of costs.

Court work includes the following:

- *Stroud v NW Leicestershire DC* [2018] EWHC 2886 (Admin): successfully defended grant of permission for takeaway use; meaning of 'main town centre uses' considered.
- *Travis Perkins (Properties) Ltd v Westminster City Council* [2017] EWHC 2738 (Admin) (with Saira Sheikh QC) - defending grant of permission for conversion of builders' yard into retail/residential. Scope of duty to consider 'heritage assets' under NPPF.
- *R v Akhtar (Syed Moshin)* [2015] EWCA Crim 1430 - successfully upholding effectiveness of planning condition in Court of Appeal.
- *Westminster v SSCLG* [2015] EWCA Civ 482 - challenge to a Secretary of State's

decision letter concerning the definitions of 'hotel' and 'hostel' in planning law. Appeared in High Court and Court of Appeal.

- *Fordent Holdings Ltd v Secretary of State for Communities and Local Government* [2013] EWHC 2844 (Admin) - leading case on the interpretation of provisions in the National Planning Policy Framework on the meaning of inappropriate development in the Green Belt.
 - *Bayliss v Secretary of State for Communities and Local Government* [2014] EWCA Civ 347 (with Douglas Edwards QC). Challenging a decision to grant permission for a wind farm on the grounds of impact on an Area of Outstanding Natural Beauty.
 - *Canterbury City Council v Barratt* (2011): successfully varied injunction to protect established use rights.
 - *Simpson v Secretary of State for Communities and Local Government* [2011] EWHC 283 (Admin): challenge to enforcement notice appeal decision in respect of mooring of boats, considering the correct approach to the 'fall back' position in planning law.
 - *Rutland County Council v Hinch* (2010): successfully opposed application for an injunction to remove a dwelling required to be destroyed under the terms of a s106 agreement on the basis that the local authority did not come with 'clean hands'.
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Highways, Commons and Village Greens

Cain has a particular interest in these related fields of law. He regularly advises on highway points and appears at rights of way inquiries. He has appeared at numerous village green inquiries for landowners and applicants.

Recent advocacy experience includes the following:

- *St Ives Cycle Tracks Order* (2017): promoted cycle track order on behalf of Cambridgeshire County Council.
- *Mill Field, Exwick* (2017): successfully resisted registration as a village green on behalf of the Environment Agency and Exeter City Council.
- *Roswell Pits, Ely* (2008, 2014): representing local people at a four day inquiry to register land as a town or village green. On the application being dismissed, successfully representing the same group at a second four day inquiry and arguing that res judicata did not apply to prevent their application being considered.
- *Land at Hob Hill, Saltburn* (2011, 2014): appearing for the local authority landowner to resist the registration of land said to be held as public open space. Successfully resisting two successive applications.
- *Seaton Meadow, Kent* (2013): appearing for the applicant for registration of a pasture meadow as a village green.
- *Bell Street, Henley-on-Thames* (2012): appearing for the developer in a three day stopping-up order inquiry raising issues of safety and complicated legal points about the extent of pedestrian and other rights under the proposed 'shared surface' scheme.
- *R (Lewis) v Redcar and Cleveland Borough Council* [2010] UKSC 11, [2010] 2 A.C.

70 (with Charles George QC and Jeremy Pike): landmark Supreme Court case in the law of town and village greens, abolishing the concept of 'deference'.

Environmental/Regulatory

Cain has a keen interest in the environment and in the loose collection of areas known as 'environmental' law (e.g. water, waste, contaminated land, Environmental Impact Assessment). He is the author, jointly with Robert McCracken QC, of the chapter in Civil Appeals on 'environmental appeals', and he frequently gives talks and training sessions on various aspects of environmental law (most recently, on developments in waste law). He is a member of the Environmental Law Foundation, the UK Environmental Law Association and the Planning and Environment Bar Association. He has spent several months on secondment with the Environment Agency.

Experience includes the following:

- *EA ONE* offshore wind farm (2014): appearing for the Joint Nature Conservation Committee at a DCO hearing in respect of impacts on sea birds from proposed offshore windfarm.
 - *R (Redland Minerals Ltd) v Secretary of State for Environment, Food and Rural Affairs* [2010] EWHC 913 (Admin); [2011] Env.L.R. 2 (with Gregory Jones QC): challenge to remediation notices issued under s78E of the Environmental Protection Act 1990. The first case to come to court following a public inquiry under the contaminated land regime.
 - Advice on the application of the definition of waste in the context of planning enforcement and the construction of large 'bunds' on agricultural land.
 - Prosecution and defence work in relation to environmental offences (fly tipping, food hygiene, waste disposal).
 - Advice to public authorities on securing continued remediation of a landfill site where the owner/operator had become insolvent.
 - Advice on availability of Transport and Works Act 1992 procedures in the context of a discharge pipe permitted by the River Humber Act 1986.
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Ecclesiastical Law

Cain is Chancellor of the diocese of Winchester, having been appointed in 2017 at the relatively very young age of 35. As such he presides as judge over the consistory court of the diocese, with jurisdiction over all changes to church land and buildings. He also practices as an advocate in the specialist field of ecclesiastical law, with a particular specialism in high profile church re-ordering schemes. Notable cases include the following:

- Re Bath Abbey (2017): two day consistory court hearing for the petitioners in relation to a proposal to remove the nave pews from this grade I listed church.
 - Re St John's, Waterloo (2016): four day consistory court hearing for the petitioners in relation to a proposed comprehensive re-ordering of this grade II* listed church.
 - Re St Peter Heversham (2015): successfully obtained faculty allowing removal of pews from a listed church following a full consistory court hearing.
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Recent Publications

- Editor, *Ryde on Rating and the Council Tax*
 - *The Rating and Council Tax Pocketbook* (Routledge, 2017)
 - Civil Appeals chapter on 'Environment Appeals' (with Robert McCracken)
 - Contributing author to *The Law of Regulatory Enforcement and Sanctions*, Norris and Phillips.
 - *Alternative Sites in Planning Law* [2010] JPL 852 (with Robert McCracken).
 - *Security for Costs and (Un)Incorporated Claimants* [2010] JR 92.
 - Equalities and Human Rights booklet for Environmental Law Foundation (with Robert McCracken).
 - Recent Solicitor's Journal updates on Environmental Law, Ecclesiastical Law.
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Awards, Scholarships & Qualifications

- Magdalen College, University of Oxford - B.A. (Hons) in Modern History (First class).
- UWE, Bristol - CPE (Distinction), BVC (Outstanding, top mark in year).
- Western Circuit Advocacy Prize, for best advocacy on BVC.
- Lord Bowen, Walter Wigglesworth and Hardwicke scholarships from Lincoln's Inn.

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