



## Robert McCracken QC

Year of call: 1973 (QC 2003)



### Practice Profile

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 Planning Magazine and by Chambers Directory in the fields of Environment, Planning and Local Government.

"Loved by clients for his 'tremendous advocacy skills'"

".....in high demand for his tactical aptitude in complex cases."

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

Chambers and Partners, 2009

"Specialist environmental lawyer who receives accolades for being ones of the 'leading lawyers of his generation in this field'"

"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

"Really good"

Legal 500

"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 & Partners

### Experience

#### 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

- *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 Huddleston* (CA) [2000] 1 WLR 1484 - direct effect of environmental assessment directive on mineral planning conditions
- *Warboys Hazardous Waste Inquiry* - inquiry into hazardous waste landfill proposal for Cambridgeshire County Council

## PLANNING

- *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
- *Bodleain Library Inquiry*
- *Smithfield General Market Building Inquiry*

## LOCAL GOVERNMENT AND HUMAN RIGHTS

- *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

- *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

## Publications

- Co-author of 'Statutory Nuisance Law & Practice' Tottel [2001] 2nd Ed [2008]
- 'EIA and Judicial Review: Some Recent Trends' [2003] JR 31

- '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

#### Qualifications and Appointments

- Visiting Fellow of the Centre for European Law , King's College, London
- MA (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