

## Edwin Simpson

Called: 1990

"He has a well-regarded practice at the Bar." - Chambers UK Bar 2021

"Deals with both the factual and technical aspects of the case really well and creates a relaxed and confidence-boosting atmosphere for the client." Agriculture & Rural Affairs - Chambers UK Bar 2019



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### Practice Overview

Edwin is an expert in Highway Law and Commons and Village Green matters, with more than 20 years experience of Public Inquiries and litigation in Court at all levels. He advises on all aspects of countryside law, including easements and the ownership of hedges, ditches and even reservoir walls:

*"a dab hand when it comes to land-related matters"*

#### Chambers UK Bar

*"Key expertise in town and village green matters"*

#### Legal 500

Edwin frequently appears at heavy-weight Public Inquiries considering detailed documentary and map evidence, and contemporary evidence of user, often involving cross-examination of expert witnesses as well as members of the public. He regularly appears in the higher courts in challenges to decisions of both DEFRA and PINS, and acts for local authorities as a non-statutory 'Inspector' in Village Green applications. Recent cases include *R (Newhaven) v East Sussex CC* [2015] UKSC 7; and *R (Andrews) v SS for Environment* [2015] EWCA Civ 669.

### Property

Edwin's expertise extends to all areas of countryside and property law including Highways, Commons and Village Greens, Easements, and the mapping of access land pursuant to Countryside Act 2000; and related issues of Local Government law and Judicial Review. He advises in connection with all aspects of such work, and represents users, landowners and public authorities at Public Inquiries and in Court review proceedings arising out of them.

Recent cases include:

- *R (Newhaven Port and Properties Ltd) v East Sussex County Council* [2015] UKSC 7 - Supreme Court decision concerning whether a beach can be registered as a Village Green in which Edwin acted for Newhaven Town Council at the original Public Inquiry and all the way to the Supreme Court;
- *R (Andrews) v Secretary of State for Environment, Food and Rural Affairs* [2015] EWCA Civ 669 - test case in the Court of Appeal affecting as many as 1000 claimed rights of way in which Edwin (with George Laurence QC)

successfully represented the Ramblers' Association to establish the proper interpretation of the General Inclosure Act of 1801.

Edwin Simpson has "*Key expertise in town and village green matters*"

**Administrative & Public Law - Legal 500 2014**

Edwin is a contributor to *The Law of Freedom of Information*, (Macdonald et al, 16th ed 2016) and recently published *Sham Transactions* (ed. Simpson and Stewart, OUP 2014).

## Cases

### **Name: R (Newhaven Port and Properties Ltd) v East Sussex County Council**

**Reference:** [2015] UKSC 18

**Date:** 25th February 2015

**Court:** Supreme Court

**Comment:**

Edwin Simpson acted for Newhaven Town Council in its attempt to register a sandy beach within Newhaven harbour as a village green, from the public inquiry all the way to the Supreme Court. The Supreme Court held that the use by local people was not 'as of right' because it was impliedly permitted by the by-laws in force in connection with the land, and such registration would in any event have been incompatible with the statutory purposes of the port.

**Practice Area:** Property

### **Name: R (Andrews) v Secretary of State for Environment, Food and Rural Affairs**

**Reference:** [2014] EWHC 1435 (Admin)

**Date:** 27th February 2014

**Court:** High Court

**Comment:**

George Laurence QC and Edwin Simpson act for Mr Andrews who brings this claim with the support of the Ramblers' Association. The case concerns whether s 10, Inclosure Act 1835, authorises the setting out in inclosure awards of footpaths and bridleways at widths of less than 30 feet; and whether the effect of the ouster clause in the same act is in any event to prevent the denial of the effectiveness of such awards considerably more than a century later.

**Practice Area:** Property

### **Name: R (on the application of Godmanchester Town Council and Drain) v Secretary of State for Environment, Food and Rural Affairs**

**Reference:** [2008] AC 221

**Date:** 20th June 2007

**Court:** House of Lords

**Comment:**

These consolidated appeals concerned the interpretation and application of section 31 of the Highways Act 1980, which provides for dedication of a highway to be deemed to have occurred following a 20-year period of public use satisfying certain conditions, subject to the closing words of section 31(1) "unless there is sufficient evidence that there was no intention during that period to dedicate it" (known as "the proviso").

The appellants had applied by way of judicial review claims for the quashing of two decisions by an inspector appointed by the respondent under schedule 15 to the Wildlife and Countryside Act 1981. In each case, the inspector had refused to confirm an order made on the appellant's application under section 53 of that Act to modify the definitive map and statement of public rights of way by adding a footpath. The basis of both refusals was that there had been sufficient public user of the requisite quality and duration, but the proviso to section 31(1) had been satisfied. The piece of evidence held to suffice for that purpose in Godmanchester Town Council's case was a letter written by the landowner's land agents to the local planning authority referring to concerns about pedestrian trespass on the claimed footpath. In Dr Drain's case, the evidence consisted of a clause in an agricultural tenancy agreement affecting the land crossed by the claimed footpath which required the tenant to "warn and keep off all unauthorised persons from trespassing and not to allow any footpaths to be created."

The principal ground of challenge to the decisions was that the letter and tenancy agreement were private documents, of which users of the respective paths had no knowledge. The appellants contended that on its proper construction, the proviso could only be satisfied by evidence of acts by the landowner evincing no intention to dedicate which came to the attention of users. They appealed to the House of Lords following the rejection of that contention by the Divisional Court and the Court of Appeal and the dismissal of their judicial review claims.

**Held:**

Allowing the appeal, that on the proper construction of the provision to section 31 (1) for there to be "sufficient evidence that there was no intention during that period to dedicate" to rebut the presumption of dedication arising from 20 years' uninterrupted as of right public user, there must be evidence that during the 20 year period the landowner took advantage of the specific methods of negating intention to dedicate prescribed in section 31(3), (5), and (6), or did other acts demonstrating to users of the way that he had no such intention. "Intention" meant what users of the way would reasonably have understood the landowner's intention to be. The inspector's decisions were quashed.

In this decision on the construction of section 31 of the Highways Act 1980 (deemed dedication of highways), in particular the proviso to section 31(1) ("sufficient evidence that there was no intention during that period to dedicate"), the House of Lords preferred the approach taken in obiter dicta by Lord Denning MR in *Fairey v Southampton County Council* [1956] 2 QB 439 to that adopted in *R v Secretary of State for the Environment, ex p Billson* [1999] QB 374 and *R v Secretary of State for the Environment, Transport and the Regions, ex p Dorset County Council* [2000] JPL 396. The landowner must communicate to the public that he has no intention to dedicate if the proviso is to be satisfied

**Practice Area:** Property

**Name:** R (on the application of Godmanchester Town Council and Drain) v Secretary of State for Environment, Food and Rural Affairs

**Reference:** [2006] QB 727; [2006] 2 WLR 1179; [2006] 2 All ER 960; [2006] 1 EG 98 (CS); [2005] NPC 149

**Date:** 19th December 2005

**Court:** Court of Appeal

**Comment:**

A landowner's lack of intention to dedicate for the purpose of the proviso to section 31, Highways Act 1980 can be demonstrated from evidence neither available, nor likely to come to the attention, of members of the public who use the claimed way.

**Practice Area:** Property

## Publications

Date	Title	Contributors
14th April 2016	Macdonald on the Law of Freedom of Information Third Edition Oxford University Press	John Macdonald QC Ross Crail Edwin Simpson Simon Adamyk Adrian Pay Charlotte Ford
31st October 2013	Sham Transactions 2013 Oxford University Press	Edwin Simpson Nicholas Le Poidevin QC
30th May 2009	The Law of Freedom of Information 2009 Oxford University Press	John Macdonald QC Ross Crail Stephen Schaw Miller Edwin Simpson Mark Hubbard Adrian Pay Charlotte Ford

**Date****Title****Contributors**

20th  
March  
2003

The Law of Freedom of Information 2003  
Oxford University Press

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Ross Crail  
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Edwin Simpson  
Mark Hubbard  
Adrian Pay

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