

James Findlay QC



Contact Details

Tel (Clerk): 0131 260 5830 Fax (Clerk): 0131 225 3642

Email: james.findlay@terrafirmachambers.com

Address

Terra Firma Chambers, Parliament House, Edinburgh, EH1 1RF
DX 549302, Edinburgh 36; LP 3, Edinburgh 10

James specialises in local government, planning, environment, administrative and licensing law. Since calling at the Scottish Bar, James has developed a busy practice both in the Court of Session and at inquiry whilst maintaining his English practice. He has recommendations in the Scottish Bar for both Planning, Environmental and Licensing and the Civil Liberties, human rights, public inquiries and public and administrative law in the latest edition of Legal 500 (2019) and in the Planning & Environment, Real Estate Litigation and Administrative & Public law sections of Chambers UK (2019). He also undertakes a broad range of commercial work, recently having completed a number of high value compensation cases in the Lands Tribunal and acted for Disclosure Scotland in a lengthy commercial court proof. Comments in the Guides include:-

"Renowned for his experience, knowledge and gravitas" Chambers UK, 2019

"Charismatic, good with clients and excellent on his feet." "His expertise is second to none. He really knows his stuff and has the ear of the court." "A very clear orator." Chambers UK, 2018

"He has a good breadth of knowledge and he is very hard-working. He is always well organised and is an especially skilful cross-examiner." Chambers UK, 2017

He is also recommended under Planning, Environment, Local Government, Public & Administrative and Licensing Law in Legal 500 2018 and Chambers UK 2019 for his work at the English Bar, work which he also undertakes in Scotland.

"Brilliant to work with, approachable and commercial" Chambers UK, 2019

"He's extremely bright and is able to take all the legal issues apart and take the right approach. Extremely approachable, he's very pleasant to deal with, very clear and plainspoken with his advice." Chambers UK, 2018

He is Chair of the Scottish Planning, Local Government and Environmental Bar Group (SPLGEBG) and lectured on "Environmental Law and Policy" at PEBA's 2018 annual spring event.

Biography

Planning and environment

James acts for a large number of both private and public clients at inquiry and in the courts. He has appeared in the Supreme Court for Dundee City Council in *Tesco v Dundee* when it successfully resisted Tesco's appeal. He acted for Mrs Uprichard in March 2013 on her ultimately unsuccessful appeal against the decision of the Inner House dismissing her challenge to the Fife Structure Plan, but for which she obtained a Protective Expenses Order. He most recently appeared in *Trump v Scottish Ministers* for Trump. Most recently he obtained permission to appeal to the Supreme Court in the

Elsick challenge but did not subsequently appear.

Private client

Retail: He has advised on or acted in several "supermarket battles" for landowners and/or developers including for the Co-Op over a site in Glasgow. He acted for British Land in an Inquiry concerning Fort Kinnaird and recently obtained permission for retail development adjacent to Inshes roundabout in Inverness.

Housing: He represented a number of housing developers successfully resisting a challenge to the Cairngorms National Park Local Plan in both the Inner and Outer Houses. He has also acted for and advised many other private clients including Hallam Land, Grahams Dairies and the Lamberkin Trust in respect of major housing developments in central Scotland. He appeared for the Lamberkin Trust to resist a challenge to the refusal of a permission for a rival developer - Pilkington Trust v Scottish Ministers and is advising various landowners in South Lanarkshire and elsewhere to secure major housing developments.

Windfarms & quarries: He acted for Fauch Hill in their s.36 application in West Lothian and recently for Cemex at the second inquiry into their promotion of an expansion of their quarry close to the New Lanark World Heritage Site (outcome awaited). He acted for Cemex at the first inquiry and in the appeal which led to the negative result being quashed by consent. Recently he acted for Ecotricity in Perthshire seeking a s.36 consent at Dulater and likewise in Argyll at Upper Sonachan. He acted for third party groups in respect of fresh applications at Dorenell and Fallago Rig and challenged the decision in respect of Craig Rhiabac.

CPO: He is currently advising a number of clients on a wide variety of CPO matters, including Electricity Act claims, and appeared in the Lands Tribunal relating to compensation claim arising from the Edinburgh tram works and two cases concerning wind turbines. Related to one of those claims, he acted for Auquhirie Land Company in the Inner House, successfully resisting an appeal against a decision in their favour by the Lands Tribunal. Most recently he has acted for an objector to the A96 Inverness to Nairn dualling CPO inquiry.

Environment: He acted for the RSPB in their recent challenges concerning offshore windfarms, and he acted for Dawnfresh in the Court of Session seeking to uphold their permission for a new fish farm in Loch Etive. He appeared in the appeal by Bova and Christie in the Inner House which raised procedural issues concerning delay in challenges and flooding. He acted for Mr Gibson in his appeal in the Inner House against a refusal for a PEO. He is currently acting in several judicial reviews and planning appeals before the Court of Session.

Local planning authorities

Wind farms: He has appeared for Highland Council at many inquiries resisting wind farms in Caithness and elsewhere, most recently being successful at Cnoc an Eas, Culachy, Druim Ba, Caplich and West Garty. He has advised in respect of several other inquiries which did not go to a hearing or inquiry, including Daviot. He is awaiting the result of three further inquiries. He acted for PKC in the Tullymurdoch and Banff and Crossburns windfarm appeals and for Cairngorms National Park Authority at Dorenell. He acted for Angus Council resisting two turbines in Montrose. He also advised a number of other authorities on wind and mining issues, including East Ayrshire. He has also appeared for SNH, sometimes jointly with Highland Council, and is due to appear for them and South Lanarkshire Council at an inquiry in early 2019.

Quarries and waste: He appeared for Highland Council in respect of a proposed quarry near Muir of Ord and at the WTE application at Invergordon and has appeared at a further WTE inquiry for PKC (appeal dismissed).

Historic Buildings: He is acting for East Ayrshire Council in the Loudoun inquiry, which concerns the extent of enabling development to stabilise a ruined castle. Outcome awaited.

General local government

He has considerable general local government expertise in nearly all areas of such work.

In local government matters he has successfully appeared in the Outer House for Clackmannanshire

Council resisting a claim for damages by Sidey Limited following a flawed procurement exercise. He appeared as Junior Counsel with James Mure Q.C. in the Inner House and Supreme Court in an appeal on the interpretation of an option in a lease - *Multilink v North Lanarkshire Council* - successfully on both occasions. He appeared with Roy Martin Q.C in *Portobello Park Residents* appeal to the Inner House concerning the Council's attempt to appropriate inalienable common good land and more recently in *East Renfrewshire Petitioner*. In terms of advice work, James has advised on numerous other planning matters, including the impact of a SPA on peat extraction permissions, various supermarket matters and other similar issues.

Licensing

Amongst various licensing matters he appeared throughout for BP, led by Sir Menzies Campbell Q.C., in its appeals relating to the sale of alcohol in shops on garage forecourts. He also subsequently acted for BP against Falkirk and recently succeeded in a challenge against Stirling's licensing board. He represented Corinthian Clubs in the review of their casino premises licence and is currently acting for MAB bookmakers in their appeal against a refusal of a betting office in Orkney.

Commercial

He acted for Disclosure Scotland in a £5M plus breach of contract claim which settled during proof and is acting for North Lanarkshire Council on a similar claim. He has recently advised in a contentious cross border dispute between three professional bodies.

Appointments

Standing Junior to the Scottish Government, 2013 to 2017
Vice-Chairman, Terra-Firma Chambers, 2017

Memberships

Chairman of the *Scottish Planning, Local Government and Environmental Bar Group* (SPLGEBG), 2014 to date

Recent Articles and Events

Real Prospects of Success for the New Judicial Review Process?
Tesco Stores Ltd v Dundee City Council a Retrospective and Implications for Scottish Planning Policy & Local Development Plans
Development Agreements and Procurement

Recent Cases

House of Lords/Supreme Court cases:

Trump v Scottish Ministers [2015] UKSC 74
Uprichard v Scottish Ministers [2013] UKSC 21
Tesco Stores Ltd v Dundee City Council [2012] UKSC 13
Welwyn Hatfield v SOSCLG [2011] UKSC 15, [2011] 2 A.C. 304
Multilink Leisure Developments v North Lanarkshire Council [2010] UKSC 47
R (Sacker) v West Yorkshire Coroner [2004] UKHL 11
Al-Ameri v RBKC [2004] UKHL 4
Birmingham v Oakley [2001] 1 A.C. 617

Scottish Cases:

William Grant & Sons Distillers, Petitioner [2018] CSOH 27
Byrom v City of Edinburgh Council [2018] CSIH 3
Byrom v City of Edinburgh Council [2017] CSOH 135
Wildland v Scottish Ministers [2017] CSOH 113
SHEP plc v Auquhirie Land Co Ltd [2017] CSIH 39
RSPB v Scottish Ministers [2017] CSIH 31
Douglas v Perth and Kinross Council [2017] CSIH 28
Walgate & Raeshaw v Scottish Natural Heritage [2017] CSOH 50 & 51
Douglas v Perth and Kinross Council [2016] CSOH 167
Angus Estates (Carnoustie) LLP v Angus Council [2016] CSOH 145
North Lanarkshire Council v Scottish Ministers [2016] CSIH 69
Auquhirie Land Co Ltd v Scottish Hydro Electric Transmission Plc Lands Tribunal 10 August 2016
RSPB v Scottish Ministers [2016] CSOH 103-6
Co-operative Group Ltd v Glasgow City Council [2016] CSOH 88
Gibson v Scottish Ministers [2016] CSIH 31
STEPAL v Fife Council [2016] CSIH 22
Glenmorrie Wind Farm Ltd v Scottish Ministers [2016] CSOH 34
Scarborough Muir Group Ltd v Scottish Ministers [2016] CSIH 5
Stewart Milne Group Ltd v Scottish Ministers [2015] CSIH 89
BAM Properties v City of Edinburgh Council 2015 S.L.T. (Lands Tr) 207
Retail Property Holdings Ltd v Renfrewshire Council & Scottish Ministers [2015] CSIH 69
Coal Pension Properties Ltd v Scottish Ministers [2015] CSIH 57
Trump International Golf Club Scotland Ltd v Scottish Ministers [2015] CSIH 46
Friends of Loch Etive v Argyll and Bute Council [2015] CSOH 61
St Andrews Environmental Protection Association Limited [2015] CSOH 27
Tummel Valley Leisure Ltd v Scottish Natural Heritage 2015 S.L.T. (Land Ct) 117
Tesco Stores Ltd v Perth & Kinross Council [2014] CSOH 153
Highland Council v Scottish Ministers [2014] CSIH 74
East Renfrewshire Council (Petitioner) [2014] CSOH 129
Friends of Loch Etive, Petitioner [2014] CSOH 116
Pilkington Trustees v Scottish Ministers [2013] CSOH 147
Asif v Scottish Ministers [2013] CSOH 132
Cairngorms Campaign & Others v the Cairngorms National Park Authority [2012] CSOH 153, [2013] CSIH 65
Portobello Park Action Group Association v City of Edinburgh Council [2012] CSIH 69
Packard v Scottish Ministers [2011] CSOH 93
Bova and another v The Highland Council and BDW East Scotland Limited [2011] CSOH 140; [2013] CSIH 41
Sidey Ltd v Clackmannanshire Council [2011] CSOH 194, 2012 SLT 334
Uprichard v Fife Council [2010] CSOH 105, [2011] CSIH 77 (now on appeal to Supreme Court)
Dawn Developments Ltd v South Lanarkshire Council [2011] CSOH 170
BP Oil (UK) Ltd v City of Edinburgh [2011] CSIH 29 (and in Sheriff Court)
Roadsense v Scottish Ministers [2011] CSOH 10, 2011 SLT 889
Multi Link Leisure Developments Ltd v North Lanarkshire Council [2009] CSIH 96
Sainsbury's Supermarkets Limited v Perth and Kinross Council [2009] CSOH 138

English & Welsh cases:

See Cornerstone Barristers website