

PROFILE – GRAHAM SINCLAIR

LOCAL GOVERNMENT LAWYER INTERVIEWS **GRAHAM SINCLAIR**, CO-AUTHOR OF THE UPCOMING **SWEET & MAXWELL TITLE NEIGHBOURS AND THE LAW**

COULD YOU TELL US ABOUT YOUR PROFESSIONAL BACKGROUND AND HOW YOU CAME TO BE A BARRISTER AT YOUR CURRENT PRACTICE?

When trying to focus my thoughts on career plans and university courses my father once took me to a small town solicitor's office. The thought of sitting behind a desk all day, dealing with wills and conveyancing, appalled me. I determined to go to the Bar after studying law at UCL, obtaining a criminal pupillage with a barrister (now a judge) practising in London, Kent and Sussex. I was sent unexpectedly to appear before a High Court judge at Norwich Crown Court one sunny day and liked the look of the city, so when several months later an advertisement appeared for "chambers in Colchester with Norwich annexe" I answered it and was recruited for the small northern branch of what has since expanded to become East Anglian Chambers, now with more than 60 members practising across the eastern counties – 25 from Norwich. As was common at the time I was expected to do a bit of everything – crime, civil and family law. Over the years that has gradually been whittled down to my currently specialising in particular areas of civil practice, mainly of a chancery nature, so that I now spend a lot of my time behind my desk, advising on property-related matters, wills, etc. Full circle.

CAN YOU DESCRIBE THE MOST INTERESTING CASE YOU HAVE WORKED ON?

With such a varied career it is invidious to choose just one. How can one compare being part of the prosecution team in a multi-faceted fraud trial involving the international oil and gas business, evidence from Swiss banks, and a girl being smuggled across the East German border, with my attempting for the first time ever (but unsuccessfully) to seek judicial review of a decision by the Charity Commissioners without any warning or explanation to close down a residential school for vulnerable children? Wearing my hat as an RPTS tribunal chairman, I greatly enjoyed analysing all sorts of legal and evidential issues arising from a construction contract that had gone very badly wrong – although some in my chambers would find greater enjoyment in watching paint dry.

WHY DID YOU CHOOSE TO SPECIALISE IN PROPERTY AND LOCAL GOVERNMENT LAW?

The honest answer is that I very much fell into it. I was willing to tackle landlord and tenant issues which my then colleagues didn't like. The same was true for obscure issues of local



government law, whether it be questions arising from contracted out bailiff services, liability for repairs to what was left of a pier, highways and street works, the prospects of success of a noise nuisance claim affecting the expansion and development of a fishing quay, or on deemed disposals under the Local Authorities (Capital Finance) Regs. With each of these I enjoyed the challenge, and if it could be combined with the loving study of ancient maps or documents then so much the better.

WHAT DO YOU THINK ARE THE KEY CHALLENGES FACING LAND AND PROPERTY LAW PRACTITIONERS TODAY?

Whether acting for private litigants or local government one cannot escape the problem of funding, as it affects both the ability to run a case and the court's available resources to handle it. Quite shocking delays in getting hearing dates are now becoming common, as a Cinderella County Court service has little time for or interest in non-children work. With non-court work, recent legislation such as the Housing Act 2004 has handed an arsenal of powers and duties to local authorities – although one often has to look hard for them amongst different Parts and Schedules to the Act and myriad subordinate legislation. Apart from this innate complexity the problem, as ever, is the lack of human and

budgetary resources necessary to deploy such powers effectively.

WHAT ARE THE KEY RECENT DEVELOPMENTS THAT HAVE AFFECTED THE CONTENTS OF NEIGHBOURS AND THE LAW?

People are often greatly exercised by how neighbouring land is used, and there have been many new cases dealing with noisy car racing, parking rights, town or village greens, the power of the court to permit the conversion of houses into flats despite restrictive covenants to the contrary, and nuisance caused by preserved trees. So far as legislation is concerned the Housing Act 2004, Clean Neighbourhoods & Environment Act 2005, and Commons Act 2006 all deserve mention, but the most significant has undoubtedly been the Planning Act 2008.

HOW DO YOU THINK NEIGHBOURS AND THE LAW WILL HELP ITS READERS IN THEIR WORK

The author team make no pretence about the function of this book: when an unusual question arises take **Neighbours and the Law** off the shelf, see if the point is covered (and there is a very good chance that it is), and then look where the footnotes point for more detailed analysis, whether to the Act, regulation or case law. The book may provide sufficient answer

to the reader's enquiry, but while judicial approbation is always welcome we do not expect to see Neighbours cited in any skeleton argument, let alone a judgment.

WHAT DO YOU SEE AS THE KEY FEATURES OF THE TITLE THAT WILL SET IT APART FROM ITS COMPETITORS?

Quite simply, the breadth of coverage: from liability for animals to chancel repairs; flood prevention to control of graffiti, and from access to open country to proceedings before the Adjudicator to HM Land Registry. Also, from roughly six months after each edition is published, depending on the volume of new case law or legislative change, I provide a free on-line updating supplement on my chambers website: www.ealaw.co.uk/neighbours/

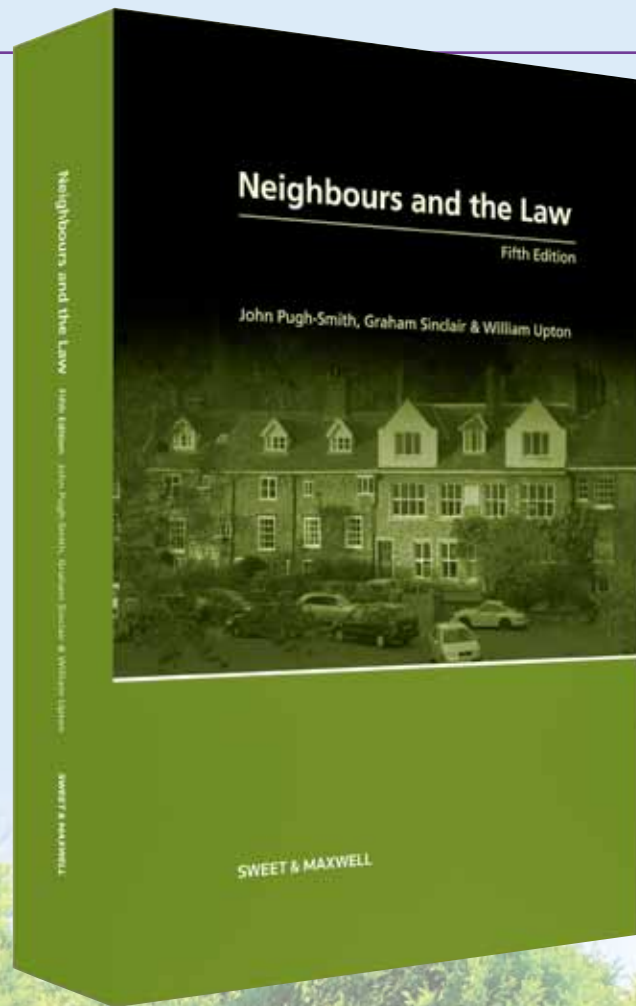
DO YOU HAVE ANY OTHER WRITING PROJECTS ON THE HORIZON?

Thankfully, no.... other than the preparation of a course which I am currently planning with a colleague in chambers on management issues involved with long leasehold flats.



AUTHOR INFO

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NEIGHBOURS AND THE LAW

- Draws together the basic legal principles governing most kinds of concerns and disagreements affecting owners and occupiers of neighbouring properties
- Provides practical assistance, with advice on possible causes of action and remedies, guidance for those involved in the role of the professional witness, and a selection of precedents
- Covers issues as varied as boundary disputes, rights of way, air and support, positive and restrictive covenants, fences and hedges, litter, planning and building controls

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September 2009, 978 1 847 03723 7

£125