



Falcon Chambers



## Gavin Bennison

Called 2015



Falcon Chambers

- Tel +44 (0)20 7353 2484
- [clerks@falcon-chambers.com](mailto:clerks@falcon-chambers.com)
- [falcon-chambers.co.uk](http://falcon-chambers.co.uk)

## Practice Summary

Gavin Bennison practises in all areas of residential, agricultural and commercial property law. He has developed a busy court and advisory practice across the full breadth of Chambers' work in both England and Wales. He particularly enjoys dealing with rural property matters, cases where the geography of the land assumes importance, and disputes with a historical dimension.

Led by Stephen Jourdan QC, Gavin appeared in the Court of Appeal in *Rees v Windsor-Clive* [2020] EWCA Civ 816, an agricultural case concerning the proper approach to the interpretation of a landlord's right of entry in a lease. Led by Janet Bignell QC, Gavin acted for the claimants in *INEOS Upstream Ltd & Ors v Persons Unknown* [2017] EWHC 2945 (Ch), a landmark case on the use of civil injunctions to protect shale gas operators from unlawful protest.

In addition to the court work listed below, Gavin's recent cases as sole counsel have included:

- a claim under section 14 of TOLATA to dispense with the need for the consent of a co-owner prior to serving notices under the Agricultural Holdings Act 1986;
- a wide-ranging, ongoing agricultural landlord and tenant dispute concerning, inter alia, payment for milk production, farmyard manure and grazing; and the recovery of possession of farm cottages, in which Gavin succeeded in setting aside a statutory demand served by the tenant;
- the successful defence in the Chancery Division of an application to restrain the presentation of a winding-up petition, thereby securing payment to two tenants of sums due under a Rent Repayment Order obtained in the First-tier Tribunal;
- an ongoing agricultural arbitration concerning the alleged redundancy of farm buildings with listed status under the Planning (Listed Buildings and Conservation Areas) Act 1990;

- obtaining a vesting order in favour of long residential leaseholders under section 1017 of the Companies Act 2006 following the disclaimer of a head lease by the Crown, and a number of other cases concerning disclaimer and/or escheat;
- advice as to the status of agricultural workers claiming the protection of the Rent (Agriculture) Act 1976 or an assured agricultural occupancy;
- work for private residential estates in relation to prescriptive rights of way; the lawfulness of proposed schemes for the regulation of traffic (including number plate recognition, key fobs and gated access); and the enforcement of freehold covenants restricting development;
- advice as to responsibility for the maintenance of a highway constructed over a reservoir in North Wales governed by a private Act of Parliament;
- advice as to responsibility for the repair of ditches and riverbanks; the rights and duties of riparian landowners; interference with the flow of watercourses; and landowners' rights and obligations when defending against floodwater.

Gavin also writes regularly for legal periodicals and delivers talks and training on a wide range of property law matters.

- [Education](#)

MA Geography (Part I) and Law (Part II), St John's College, Cambridge: First with Distinction (Geography), First Class (Law)

BPTC, City Law School: Outstanding

Eastham Scholarship (Lincoln's Inn, 2015)

Buchanan Prize (Lincoln's Inn, 2015)

Lord Denning Scholarship, Harwicke Entrance Scholarship, Accommodation Award (Lincoln's Inn, 2014)

McMahon Law Studentship (St John's College, Cambridge, 2014)

McAulay Scholarship, Wright Prize, named Year Prize for highest achieving undergraduate (St John's College, Cambridge, 2011, 2012, 2013, 2014)

Philip Lake Prize (highest attaining second year student, Department of Geography, University of Cambridge, 2012)

Andrew Hall Prize (highest achieving first year student, Department of Geography, University of Cambridge, 2011).

- [Professional](#)

Gavin enjoys both the teaching and practice of law. He taught equity and trusts to final year undergraduates at the University of Cambridge during the 2018-2019 academic year, whilst in full-time practice. He has previously volunteered as a mentor on the Bar Council's Bar Placement Scheme, which offers sixth form students from widening participation backgrounds the opportunity to spend a week shadowing a barrister.

Prior to commencing pupillage, Gavin worked as a paralegal for the property litigation team at Stephenson Harwood LLP and volunteered as a trainee duty advisor at Willesden County Court, representing defendants in summary possession hearings.

He is a member of the Property Bar Association, the Chancery Bar Association and the Agricultural Law Association.

- [Recent Cases](#)

- **Daniell v Porthleven Harbour & Dock Company** (First-tier Tribunal, July 2021): successfully acted for the applicant at the four-day hearing of an application for first registration of unregistered harbour land in Porthleven, Cornwall, on the basis of adverse possession. The case raised an under-explored issue of law as to the circumstances in which land will be held to have been abandoned by the adverse possessor during the limitation period, as well as historic title issues.
- **Isaac v Dunward Properties Limited** (County Court in Central London, April 2021): successfully acted for the claimant, the former long lessee of a first-floor residential flat in Clapham, at the three-day trial of his claim against his lessor. Judgment obtained in respect of £105,000 diminution in value caused to the flat by the redevelopment of the ground floor commercial premises into a drinking establishment, in breach of covenant limiting the lessor's ability to do so.
- **Malik v 22/23 Hyde Park Place Freehold Ltd** (First-tier Tribunal, March 2021): successfully acted for the long lessee of a West London residential flat challenging over £27,000 of administration charges demanded by the freeholder-lessor on account of legal and professional fees incurred by it in its management of the building, allegedly "in proper contemplation of forfeiture". Following a two-day hearing, none of the purported administration charges claimed were found to be payable.
- **O'Donnell & Ors v APRA** (Guildford County Court, August 2020): led by Jonathan Gaunt QC, acted for the Defendants in the three-day trial of a claim in respect of interference with a right of way allegedly acquired on a private residential estate in the 1930s. Successfully opposed the Claimants' claims based on prescription by lost modern grant, implied grant under the rule in Wheeldon v Burrows, and section 62 of the Law of Property Act 1925.
- **Rees v Earl of Plymouth** [2020] EWCA Civ 816: led by Stephen Jourdan QC, acted for the tenant in an agricultural appeal concerning the proper approach to the interpretation of the scope of a landlord's right of entry in a tenancy agreement.

- [Recent Advisory Work](#)

### **Agricultural Property**

- The validity of a number of notices to quit served on a tenant of an agricultural holding under the Agricultural Holdings Act 1986, requiring consideration of Case B (redevelopment) and the validity of an early resumption clause in the tenancy agreement.
- Advice as to status, rights and obligations of an agricultural occupant claiming the protection of the AHA 1986, requiring consideration of the preservative effect of section 4(1)(f) of the Agricultural Tenancies Act 1995 and the practicalities of recovering possession.
- Advice in relation to a number of contested agricultural succession applications under the AHA 1986, including as to the compatibility of the definition of "close relative" with Articles 8 and 14 of the European Convention on Human Rights
- Written submissions in a rent review arbitration in respect of a farm business tenancy, successfully contending that the landlord's statutory rent review notice under section 10 of the Agricultural Tenancies Act 1995 was invalid.
- Advice as to the prospects of recovering possession of arable farmland let under a farm business tenancy following the loss of organic status

## Residential Property

- Advising as whether an express right to park created an easement or contractual licence and the implications for its enforceability against successors in title.
- Advice on a number of Party Wall etc. Act 1996 matters, requiring close consideration of the relationship between the Act and common law causes of action.
- Defence of a claim brought against a lender of bridging finance on various bases, including claims for redemption (including allegations of “clogging the equity of redemption”), rescission, restitution, equitable compensation, and relief under s.140B of FSMA 2000.
- The nature of a “right of joint user” granted to neighbouring residential properties in respect of a courtyard, requiring consideration of the law of recreational easements and accommodation of the dominant tenement
- ‘Airspace’ and feasibility issues in the upward development of residential blocks.

## Commercial Property

- Apportionment of rent following the compulsory purchase of part of commercial premises under the Compulsory Purchase (Vesting Declarations) Act 1981.
- Rectification of a deed of transfer of commercial property for common, alternatively unilateral, mistake and prospects of consequential rectification of the land register.
- [Publications](#)
  - "Boundary matters: 'Reasonable belief as to boundary?'" 170 NLJ 7905 (9 October 2020)
  - “The (messy) law of receivership” NLJ (1 November 2019)
  - “Springing interest or successive re-grant? The nature of a periodic tenancy” (2018) L&TR 22(2) 60-64
  - "Possession claims against trespassers (Part 2) – Occupation of part” NLJ (2 March 2018)
  - “Possession claims against trespassers (Part 1) – Injunctions” NLJ (23 February 2018)
  - “A very bold fraudster”, co-authored with Stephanie Tozer; UK Finance legal issues e-zine, September 2017.

## Published Comments

‘ For a junior of this level of call, incredible maturity, good in conference, and very good on paper. Also able in court. ’*Legal 500 2022*