

FALCON CHAMBERS

ELECTRONIC COMMUNICATIONS CODE MOOT

IN THE MATTER OF A REFERENCE UNDER  
SCHEDULE 3A TO THE COMMUNICATIONS ACT 2003  
AND  
IN THE MATTER OF THE  
ELECTRONIC COMMUNICATIONS CODE

SPECTRECOMM v MI5 [2021] UKUT 007 (LC)

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BUNDLE OF AUTHORITIES

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**Representation**

For the Operator: Stephanie Tozer Q.C. and Oliver Radley-Gardner Q.C.

For the Site Provider: Barry Denyer-Green and Fern Schofield

**Cases Referred To**

*Issue One: Should there be an MSV and an Interim Build?*

1. The University of London v Cornerstone Telecommunications Infrastructure Limited  
[2019] EWCA Civ 2075, at para 78
2. Cornerstone Telecommunications Infrastructure Ltd v University Of The Arts London  
[2020] UKUT 248 (LC)

3. EE Ltd & Anor v London Underground Ltd [2021] UKUT 128 (LC)

*Issue Two: Should the Operator Be Allowed to Alter What It Is Seeking?*

1. Prest v Secretary of State for Wales [1983] 1 EGLR 17 per Lord Denning MR at p.18.
2. R(Sainsbury's Supermarkets Ltd v Wolverhampton City Council [2011] 1 AC 437 SC, at [71-72], [84]
3. Sovmots Investments Ltd v SofS for Environment [1979] AC 144 HL, at 187E-G, 179B, 183B-C and 185C, and per Ld Edmund-Davies, at p178G-179A.
4. Cornerstone Telecommunications Infrastructure Ltd v The University Of London [2018] UKUT 356 (LC)
5. Cornerstone Telecommunications Infrastructure Ltd v Keast [2019] UKUT 116 (LC), at para 29
6. The University of London v Cornerstone Telecommunications Infrastructure Limited [2019] EWCA Civ 2075
7. Cornerstone Telecommunications Infrastructure Ltd v London & Quadrant Housing Trust [2020] UKUT 282 (LC), para 43.

## Stephanie Tozer QC



Stephanie has specialised in property litigation throughout her 25 year career, undertaking all types of real property and landlord and tenant work – though more recently with a particular focus on telecoms disputes: she appeared in the first case on the New Code in the Court of Appeal (*Cornerstone v Compton Beauchamp* [2019] EWCA Civ 1755), and, having secured permission to appeal, is briefed to appear for the operator in the first telecoms case in the Supreme Court, early next year.

She also has a special interest in fixed charge receivership work and co-authored a popular book on the topic.

Her strengths are recorded in Chambers and Partners (Real Estate litigation) in the following terms: "Stephanie is extremely bright and commercial and her advice is always accessible." "Quick and responsible, Stephanie always takes care to give careful consideration to all angles of a case." "She is very astute, straight-talking and looks at the whole picture." She is also recommended for Telecommunications, and, in another publication, for professional negligence. Stephanie took silk in 2019.

## Oliver Radley-Gardner QC



Oliver practices in all areas of the law of real property, with a particular specialism in relation to the Electronic Communications Code.

He is recommended in Chambers and Partners, Legal 500 and Who's Who Legal for real estate, telecommunications and agriculture & rural affairs. He was the Chambers and Partners Real Estate Junior of the Year in 2020.

Oliver appeared in the first reported case under the Electronic Communications Code - *Cornerstone v University of London* on interim rights to survey - and has appeared in several of the leading cases on issues under the Code.

## Barry Denyer-Green



The principal part of Barry Denyer-Green's practice concerns compulsory purchase and compensation; his book on the subject, widely used by practitioners, is now in its ninth edition. He regularly appears in the Lands Tribunal, and has appeared in the Court of Appeal, the House

of Lords and the Privy Council on cases concerning compensation issues.

He was chairman of the Compulsory Purchase Association in 2008-2009. His practice also includes other local government and public highways matters, as well as those concerning landlord and tenant, restrictive covenants, easements, common land, village greens, development agreements, and other aspects of land law and conveyancing.

### **Fern Schofield**



Fern Schofield (née Horsfield-Schonhut) practises in all areas of real property and landlord and tenant law, in both commercial and residential contexts. She has particular expertise in telecoms law and appeared as junior counsel, led by Wayne Clark, in the first case under the New Code to be heard in the Court of Appeal.