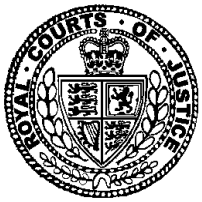

Neutral Citation Number: [2018] EWHC 2896 (Admin)

Case No: CO/1583/2018

**IN THE HIGH COURT OF JUSTICE**
**QUEEN'S BENCH DIVISION**
**PLANNING COURT**

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 1 November 2018

**Before** :

**JUSTINE THORNTON QC SITTING AS A DEPUTY HIGH COURT JUDGE**

- - - - - - - - - - - - - - - - - - - - -

**Between :**

**THE QUEEN** **Claimant**
**on the application of**

**BERKSHIRE ASSETS**
**(WEST LONDON) LIMITED**

**- and –**

**LONDON BOROUGH OF HOUNSLOW** **Defendant**

- - - - - - - - - - - - - - - - - - - - -
- - - - - - - - - - - - - - - - - - - - -

**Rupert Warren QC** (instructed by **CMS Cameron McKenna Nabarro Olswang LLP**) for the **Claimant**
**Saira Kabir Sheikh QC** (instructed by **London Borough of Hounslow**) for the **Defendant**

Hearing date: 10 October 2018

- - - - - - - - - - - - - - - - - - - - -

# Judgment Approved

**Justine Thornton QC, Deputy High Court Judge:**

## Introduction

1. This is an application for Judicial Review of the decision by the London Borough of Hounslow (the Defendant) to refuse three applications for prior approval made pursuant to Part 3 Class O of the Town & Country Planning (General Permitted Development)

Order 2015, relating to a property known as Park View on Great West Road, Brentford ("the Property").

2. The claim turns upon a point of interpretation: whether a Direction, issued by the Defendant pursuant to the Town and Country Planning (General Permitted Development) (England) Order 2015 (2015/596) ("the Hounslow Article 4 Direction") is to be construed as removing permitted development rights affecting the Property from the date of the Direction onwards. The Defendant contends that it does. The Claimant contends that it does not because the site benefits from extant permitted development rights.

## Background Facts

3. The Claimant is the freehold owner of the Property. The Defendant is the local planning authority within whose administrative area the Property is located and is referred to as 'the Council' in this judgment. The Property has a lawful use as offices and has been vacant for a number of years.

4. In 2013, permitted development rights which permit the conversion of offices to residential use, without planning permission and subject only to the lighter touch prior approval procedure, were inserted into the 1995 General Permitted Development Order. The objective was to target underused commercial properties and stimulate the development of residential properties as part of a drive to build new homes.

5. Since the legislative change, the Council has seen a high number of applications for prior approval for the change of use from offices to residential use, with the result that the London Borough of Hounslow has lost significant employment floorspace in key employment locations.

6. Accordingly, on the 5th January 2017, the Council made the Hounslow Article 4 Direction giving notice of its intention to remove the permitted rights, as it was entitled to do under the legislative scheme. The Direction would not come into effect until it was confirmed at least a year later.

7. On the 27th October 2017, a planning inspector allowed two appeals against the refusal of prior approval by the Council in relation to the Property. The grant of the prior approvals had the result that, pursuant to Part 3 Class O of the GPDO, the use of the Property could lawfully change from offices to 213 residential units or 171 residential units, depending upon which scheme is built out.

8. In order to maximise the development potential of the Property, the Claimant submitted three further applications for prior approval on 22 December 2017. These were schemes for:

   (a) 213 self-contained residential flats (C3 use) together with associated parking facilities; and

   (b) 252 self-contained residential flats (C3 use) together with associated parking facilities; and

   (c) 274 self-contained residential flats (C3 use) together with associated parking facilities.

9. On the 10th January 2018 the Council confirmed the Hounslow Article 4 Direction. It came into effect on the 11th January 2018.

10. On 12th and 13th March 2018 the Council issued refusal notices in respect of the Claimant's three applications for prior approval. The operative part of all the notices states:

> "*The London Borough of Hounslow, as local planning authority, hereby confirm that the Council has assessed your application in respect of proposed development at the address shown below, as described by the description below, and concluded that prior approval is hereby* ***Prior Approval Does Not Comply.*** *[sic]*"

11. The Notices also all state the following in the "reasons" section:

> "*Reasons:*
>
> *The prior approval of the Council is refused: The site is subject to an Article 4 direction withdrawing permitted development rights afforded by Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (As amended) and therefore Planning Permission is required for the development."*

## Permitted Development Rights

12. Planning permission is required in order to carry out the development of land (section 57(1) of the Town and Country Planning Act 1990 ("the 1990 Act")). Development, for the purposes of the 1990 Act, includes the making of material change of use of land (section 55 of the 1990 Act).

13. Section 59(1) of the 1990 Act provides power to the Secretary of State to grant planning permission by order known as a "development order". A development order may grant planning permission for development specified in the order or for development of any class specified within it (see section 59(2) of the 1990 Act).

14. The Town & Country Planning (General Permitted Development) Order 1995 (SI 1995/418) (GPDO 1995) was made pursuant to these powers and it granted permission for a number of classes of development. The GPDO 1995 was amended with effect from 30 May 2013 so that the conversion of office buildings to residential use without express planning permission could take place, subject to a number of limitations.

15. The GPDO 1995 was replaced by the Town and Country Planning (General Permitted Development) Order 2015 (SI 2015/596) ("the 2015 GPDO") with effect from 15 April 2015.

16. Article 3 of the GPDO provides, so far as is relevant:

> *"(1) Subject to provisions of this Order…, planning permission is hereby granted for the classes of development described as permitted development in Schedule 2.*
>
> *(2) Any permission granted by paragraph (1) is subject to any relevant exception, limitation or condition specified in Schedule 2.*
>
> *(3) References in this Order to permission granted by Schedule 2 or by any Part, Class or paragraph of that Schedule are references to the permission granted by this article in relation to development described in that Schedule or that provision of that Schedule.*
>
> *(4) Nothing in this Order permits development contrary to any condition imposed by any planning permission granted or deemed to be granted under Part 3 of the Act otherwise than by this Order."*

17. Thus, the GPDO grants planning permission for the classes of development set out in Schedule 2, subject to any relevant exception, limitation or condition specified in that Schedule.

18. Schedule 2 Part 3 Class O to the GPDO re-enacts Class J of the GPDO 1995. It includes the following description of development:

> *"Development consists of a change of use of a building and any land within its curtilage from a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order, to a use falling within Class C3 (dwellinghouses) of that Schedule."*

Schedule 2 Part 3 Class O paragraph O.1 to the GPDO sets out a number of conditions which are not relevant to the matters in issue in the present claim.

19. Schedule 2 Part 3 Class O Paragraph O.2 to the GPDO states:

> *"(1) Development under Class O is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to –*
>
> *(a) transport and highways impacts of the development,*
>
> *(b) contamination risks on the site,*
>
> *(c) flooding risks on the site, and*
>
> *(d) impacts of noise from commercial premises on the intended occupiers of the development,*

> *And the provisions of paragraph W (prior approval) apply in relation to that application.*
>
> *(2) Development under Class O is permitted subject to the condition that it must be completed within a period of 3 years starting with the prior approval date."*

20. Accordingly, it is a condition of Class O that before beginning the development which it permits, an application for a determination whether prior approval of certain matters will be required must be made. The provisions of paragraph W then apply.

21. Paragraph W of the GPDO specifies that development pursuant to Class O may begin once one of three events occurs:

> *"(a) the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required;*
>
> *(b) the receipt by the applicant from the local planning authority of a written notice giving their prior approval; or*
>
> *(c) the expiry of 56 days following the date on which the application under sub-paragraph (2) was received by the local planning authority without the authority notifying the applicant as to whether prior approval is given or refused."*

22. Accordingly, a person can carry out development pursuant to Class O where they have been told that prior approval is not required, where prior approval is granted or where the 56-day period has expired without the authority responding to the application one way or another.

## Removing Permitted Development Rights

23. The GPDO contains a procedure whereby a local planning authority may make a direction, known as an "Article 4 Direction" to remove the ability to rely upon permitted developments specified in Schedule 2 of the GPDO.

24. Article 4(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015/596 provides:

> *"If… the local planning authority is satisfied that it is expedient that development described in any Part, Class or paragraph in Schedule 2… should not be carried out unless permission is granted for it on an application, the… local planning authority, may make a direction under this paragraph that the permission granted by article 3 does not apply to –*
>
> *(a) all or any development of the Part, Class or paragraph in question in an area specified in the direction; or*

> *(b) any particular development, falling within that Part, Class or paragraph, which is specified in the direction, and the direction must specify that it is made under this paragraph."*

25. Article 4(2), which came into force on 15 April 2015, makes provision relating to the effect of an Article 4 Direction upon existing prior approvals once made. It provides:

> *"A direction under paragraph (1) does not affect the carrying out of-*
>
> *(a) development permitted by any Class in Schedule 2 which is expressed to be subject to prior approval where, in relation to that development, the prior approval date occurs before the date on which the direction comes into force and the development is completed within a period of 3 years starting with the prior approval date."*

26. The "prior approval date" is defined in Article 4(5) as meaning:

> *"the date on which-*
>
> *(a) prior approval is given;*
>
> *(b) a determination that such approval is not required is given, or*
>
> *(c) any period for giving such a determination has expired without the applicant being notified whether prior approval is required, given or refused."*

27. Thus, the effect of Article 4(2) is to preserve the ability to build out pursuant to permitted development rights where a prior approval has been granted and remains extant. The only proviso is that the development is completed within three years starting with the relevant prior approval date.

28. Article 4(2)(a) of the GPDO 2015 was a new provision and had no equivalent provision in the GPDO 1995.

29. Where a local planning authority makes an Article 4 Direction, this can, in certain circumstances, trigger a requirement to pay compensation to those who lose permitted development rights. The requirement to pay compensation can be avoided, if a local planning authority makes a "non-immediate" Article 4 direction and that order is made but only confirmed more than a year later.

30. The National Planning Practice Guidance explains in relation to Article 4 Directions:

> *"The use of article 4 directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area. The potential harm that the direction is intended to address should be clearly identified. There should be a particularly*

> *strong justification for the withdrawal of permitted development rights relating to:*
>
> - *a wide area (e.g. those covering the entire area of a local planning authority, National Park or Area of Outstanding National Beauty)…*
>
> - *cases where prior approval powers are available to control permitted development…"*
>
> (Paragraph: 038 Reference ID: 13-038-20140306)

**The Houslow Article 4 Direction**

31. The Direction begins with the following recital:

> *"WHEREAS the Council of LONDON BOROUGH OF HOUNSLOW ("the Council") being the appropriate local planning authority within the meaning of article 4(5) of the Town and Country Planning (General Permitted Development) (England) Order 2015 ("the Order"), is satisfied that it is expedient that development of the description(s) set out in Class O of Part 3 of Schedule 2 of this Order should not be carried out on the land described in the Second Schedule to this Direction and shown edged red on the attached Plans ("the Areas") unless planning permission is granted on an application made under Part III of the Town and Country Planning Act 1990 (as amended)."*

32. The Direction then states:

> *"NOW THEREFORE the Council in pursuance of the power conferred on it by Article 4 of the Order and all other powers thereby enabling*
>
> *DIRECTS THAT:*
>
> *the permission granted by Article 3 of the said Order shall not apply to development specified in the First Schedule to this Direction in respect of the Areas specified in the Second Schedule."*

33. The First Schedule reads as follows:

> *"Development consisting of a change of use of a building and any land within its curtilage (excluding any building or land in relation to which prior approval under paragraphs O.2 and W of Part 3 of Schedule 2 to the Order has been granted or under the terms of those paragraphs is treated as granted before the date this Direction is confirmed) from a use falling within Class B1(a) (offices) of the Schedule to the Town and Country*

> *Planning (Use Classes) Order 1987 (as amended), to a use falling within Class C3 (dwellinghouses) of that Schedule being development comprised within Class O of Part 3 of Schedule 2 to the Order and not being development comprised within any other Class." (underlining is Court's emphasis)*

34. The Second Schedule lists the relevant geographical areas, including the area of relevance to the present claim, listed as Great West Road Area.

35. The underlined words in the First Schedule are the words in issue in this application.

## Submissions on behalf of the Claimant

36. On behalf of the Claimant, Mr Warren submitted that the (underlined) words of the Direction are clear and unambiguous and exclude its effect on sites with extant prior approval. The underlying context supports this interpretation. The purpose of the Direction is to ban further future grants of permitted development rights on certain sites in order to preserve the supply of employment land in the area. This purpose makes little sense in the context of the Property which is already lost to the employment supply by virtue of the extant permitted development rights.

37. To the extent that one should look at extrinsic evidence at all, the evidence shows a disconnect between the Council's intention in enacting the Direction, which appears to have been to restrict any further exercise of permitted development rights irrespective of the site's planning history and what the Council actually did, which was to rely on wording used by the Secretary of State in 2014 for a wider purpose, namely to remove uncertainty for developers.

## Submissions on behalf of the Defendant

38. On behalf of the Defendant Ms Sheikh submitted that the only logical and common sense interpretation is that the words merely seek to protect specific development that already benefits from grants of prior approval at the time the Article 4 Direction was confirmed. The wording of the Direction is plainly intended to withdraw permitted developments rights where they have not already accrued. Such an approach would fully accord with the judgment of the Supreme Court in *Trump*.

39. The Council was clear in its purpose in issuing the Direction which is to protect the bank of employment buildings and sites. It is not sensible to interpret the exemption as the Claimant seeks to do, as applying literally to any building or site to which any prior approval has been granted in the past. Such an interpretation could have far reaching consequences for the Council in allowing sites with lapsed prior approvals granted many years ago, to escape the restrictions in the Direction.

## Discussion

40. There are two competing and mutually inconsistent interpretations of the Direction advanced by the parties:

a) The Claimant says that if a prior approval has been granted in relation to a site or a building on the site, the Direction's effect is excluded in relation to that site or building; certainly in relation to extant prior approvals and therefore further applications for permitted development rights are able to be made.

b) The Defendant says that the exclusion simply protects existing permitted development right accrued on sites or in relation to the buildings at the date of the Direction, and therefore no further scope exists for further applications for permitted developments rights to be made, even on such sites or in relation to such buildings.

41. The Court's approach to interpretation of public law documents in the planning field is set out in *Trump International Golf Club Scotland Limited v Scottish Ministers* [2015] UKSC 74:

> *"When the court is concerned with the interpretation of words in a condition in a public document such as a section 36 consent, it asks itself what a reasonable reader would understand the words to mean when reading the condition in the context of the other conditions and the consent as a whole. This is an objective exercise in which the court will have regard to the natural and ordinary meaning of the relevant words, the overall purpose of the consent, any other conditions which case light on the purpose of the relevant words, and common sense"* (Lord Hodge at paragraph 34).

42. The decision is now treated as part of planning law and has been applied to the construction of planning permissions and conditions *(R(Skelmersdale Limited Partnership v West Lancashire Borough Council* [2016] EWCA Civ 1260 and *Lambeth v Secretary of State for Communities and Local Government* [2018] EWCA Civ 844).

43. The reasonable reader must be notionally equipped with some knowledge of planning law and practice. In *Lambeth v Secretary of State* (citation above) the knowledge was said to extend to the Government's planning guidance; the well known distinction between a limited description of a permitted use and a condition; the general structure of the planning permission; the relevant planning history and the line of authority beginning with *I'm your Man Ltd v Secretary of State for the Environment* (1998) 77 P&CR 251.

44. There is only limited scope for the use of extrinsic material in the interpretation of a public document such as a planning permission where third parties may have an interest. Public documents differ in this respect from contractual documents where the shared knowledge of the parties to a contract is relevant to interpretation (Lord Hodge in *Trump* at paragraph 33).

45. Applying the legal framework to the present case the following propositions emerge.

46. Although the caselaw before the Court applies the *Trump* doctrine in the context of planning permissions and conditions, I see no reason why the same framework should not apply to the Hounslow Article 4 Direction. Ms Sheikh pointed to statements by Lord Hodge in *Trump* emphasising the relevance to the process of interpretation of the fact that a failure to comply with a condition in a public law consent may give rise to criminal

liability. She sought to draw a distinction between a planning condition and the Hounslow Article 4 Direction which simply removes permitted development rights granted by secondary legislation. However, Lord Hodge and Lord Carnwath emphasised the modern tendency in the law to break down divisions in the rules on the interpretation of different kinds of documents. As regards interpretation of documents, the central distinction drawn by the Court was between public and contractual documents. The Hounslow Article 4 Direction is a public document which the Claimant has relied on to govern its commercial activities, as others may have done. Where I do accept Ms Sheikh's submissions is that the context and purpose of the Hounslow Direction is relevant to interpretation and I consider the Council's purpose in issuing the Direction below.

47. The starting point of the reasonable reader test must be the plain meaning of the words. Mr Warren contended that Ms Sheikh was forced to ignore the plain meaning of the words in the Direction and focus exclusively on the surrounding context to arrive at her interpretation. I return to Ms Sheikh's difficulties in this respect below.

48. Counsel were agreed that the reasonable reader of the Hounslow Article 4 Direction is to be regarded as equipped with the report to Cabinet recommending the Direction be confirmed; letters issued by the Secretary of State in 2014 modifying similar Directions issued by the London Boroughs of Merton and Sutton as well as Planning Practice Guidance on permitted development rights. All the documents referred to are in the public domain

49. Given the limited scope for taking account of extrinsic evidence, Counsel were agreed that internal emails within the Council discussing the drafting of the exemption in the Direction were not public documents and the Court should not take account of them. I do not do so and have in any event found sufficient assistance from the publicly available documents.

*The plain meaning of the words in the Hounslow Direction*

50. I accept Mr Warren's submission that the Direction is to be read as excluding sites with extant prior approvals, granted before 11th January 2018, from the restrictions on permitted development rights introduced by the Direction. This is apparent from the reference to 'any building or land in relation to which prior approval.has been granted ...before the date this Direction is confirmed'. The Council's more restrictive interpretation, which limits the effect of the exclusion to specific development with extant prior approval, would require the word 'development' to be substituted for 'any building or land' in the wording of the Direction.

51. The narrower interpretation contended for by the Council is contained within the wording of Article 4(2) of the 2015 GDPO Order itself. It provides that

*(2) A direction under paragraph (1) does not affect the carrying out of –*

*(a) development permitted by any Class in Schedule 2 which is expressed to be subject to prior approval where in relation to that development the prior approval dates occurs before the date on which the direction comes into force and the development is completed*

*within a period of 3 years starting with the prior approval date (underlining is Court's emphasis)*

52. As Ms Sheikh accepted, the wording of the Article 4(2) Direction and the Hounslow Article 4 Direction is materially different in this regard. Ms Sheikh sought to argue however that the differences did not constrain the interpretation of the Hounslow Article 4 Directive as it must be interpreted according to its context and purpose.

*Context and purpose*

53. I accept that the purpose and context of the Direction is relevant to the Court's interpretation.

54. I also accept (as did Mr Warren) that the Council's purpose in issuing the Direction was to protect its employment land. Ms Sheikh identified the relevant parts of the Cabinet report which justify the need for restrictions on permitted development in compelling terms. However it is not clear how far this takes matters. The issue between the parties is the scope of the exemption, or carve out, from the newly introduced restrictions on permitted development. The Cabinet report does not address the scope of the exemption. Nor does the Planning Practice Guidance on removal of permitted development rights which Ms Sheikh also relied on. In any event, it is not clear to me that the Council's purpose of protecting employment land is furthered in the present case where the property in question benefits from extant prior approvals. The Council has already lost control of the site which can be converted from employment to residential use without the need for any further approval by the Council.

55. The scope of the exemption in the Hounslow Direction mirrors the wording provided by the Secretary of State to the London Boroughs of Merton and Sutton in July 2014 by way of a modification of Article 4 Directions issued by those planning authorities. The Secretary of State's rationale for the chosen wording is illuminating:

*6 Permitted development rights which allow offices to convert to residential use have been an important stimulator to the macro UK economy, Figures published in May 2014 by Knight Frank demonstrate that prior approval applications have been secured for over 3.2 million square feet of office conversions. Despite this positive progress, developers face uncertainty whenever local planning authorities issue non-immediate Article 4 directions. This is particularly the case when prior approval has been granted by a local planning authority but a developer has not completed development before a non-immediate Article 4 direction comes into force.*

*7 The prior approval process set out in paragraph J,2 of part 3 of Schedule 2 to the 1995 Order gives the London Borough of Sutton Council an opportunity to consider the impacts of the change of use in particular cases. We consider therefore, it is unreasonable for the Council to disapply the permitted development right by the Article 4 direction in relation to premises which have secured prior approval before the direction comes into force.*

*Decision*

*8 The Secretary of State has decided to modify the Article 4 direction to exclude any office premises which have secure (sic) prior approval before 29th January 2015 and we attach a direction to that effect.*

56. I accept Mr Warren's submission that this surrounding context tends to support the Claimant's broader interpretation of the Hounslow Direction. The Secretary of State's rationale was to protect developers in relation to development with prior approval which had yet to be completed when the relevant Directions came into force. This is the exactly the position with the Property.

57. Ms Sheikh submitted that the Claimant's interpretation would lead to the absurd consequence that any prior approval would exempt a property from the strictures of the Direction, irrespective of when it was granted and whether it had lapsed. In response, Mr Warren submitted that the Council's concern does not arise on the facts of this case which concerns a property with extant prior approvals. I agree, but find it necessary to return to the question of lapsed permitted development rights in the context of the relief sought by the Claimant.

*What did the Council in fact do?*

58. In *Lambeth v Secretary of State* (citation above), Lewison LJ posed the following rhetorical question:

> *"As I have said it is clear what Lambeth meant to do in a very broad sense. But that is not the question. The question is 'what did Lambeth in fact do?'*
>
> *"The objective of the exercise is not to determine what the parties meant to do in the broad sense but what a reasonable reader would understand by the language they in fact used"* (see paragraph 38)

59. The 'reasonable reader' test for interpretation of public documents is an objective test. The essential difficulty that Ms Sheikh faced in her submissions was that the Council's interpretation requires the Court to ignore the natural and ordinary wording of the Direction, as well as the surrounding context and focus exclusively on the purpose behind the wording.

60. I am sympathetic to the position Hounslow finds itself in. The Council relied on wording supplied by the Secretary of State to other London boroughs for their Article 4 directions. Unfortunately for the Council, the wording relied on provided broader protection for developers than the Council intended. The result is that the Council did not do what it meant to do.

## Relief

61. By virtue of the reasoning above I am prepared to grant the order sought by the Claimant quashing the Council's decision refusing the three applications for prior approval relating to the Property.

62. The Claimant also sought the following relief:

    a) A declaration that the Hounslow Article 4 Direction which came into effect on the 11th January 2018 does not apply to the Property so as to remove Part 3 Class O permitted development rights in respect of that Property so that it still enjoys those permitted development rights

    b) A declaration that, since there has been no lawful determination of the applications for prior approval within the relevant 56 day period for determination and that period has expired without the authority notifying as to whether prior approval is given or refused the development identified in the December Prior Approval Applications may now begin

63. I am not prepared to grant the declarations sought. The wording of the declaration sought in a) would extend the protection enjoyed by the Property indefinitely, beyond the lapse, after three years, of the prior approvals granted in October 2017. For the purposes of this claim I have not found it necessary, and Mr Warren contended that it was not necessary, to decide whether the exclusionary effect of the Direction extends to lapsed prior approvals. Ms Sheikh's submissions suggested this issue is of particular concern to the Council. Without needing to decide the point, it seems to me that the wording of the exclusion is ambiguous in this respect in requiring 'has been granted' to be read as 'was once granted'. Furthermore, the context and purpose of the Direction may not support the same answer in relation to lapsed permitted development rights as I have arrived at in relation to extant prior approvals.

64. Nor am I am prepared to grant the declaration sought at b) which does not in my view reflect the legislative scheme in Paragraph W (Procedure for applications for prior approval under Part 3) of Part 3 of Schedule 2 of 2015 GPDO Order which provides that development must not begin before:

    *The expiry of 56 days following the date on which the application under subparagraph (2) was received by the local planning authority without the authority notifying the applicant as to whether prior approval is given or refused*

65. Mr Warren sought to rely on this provision but I take the view it is not applicable in circumstances where Council issued a notice of refusal within the 56 day period. Mr Warren conceded, properly, that there was no direct authority on the point and that the argument he sought to advance could be construed as a departure from the legislative scheme.

66. Moreover I was informed by the parties during the hearing that the Claimant has appealed the notices of refusal. Ms Sheikh confirmed on instruction that the Council intends to engage with the appeal process in the event the Court quashes the impugned decisions and I consider this to be the appropriate way forward.

## Conclusion

67. By virtue of the reasoning above, I grant an order quashing the Defendant's decisions dated 12 and 13 March 2018 where it purported to refuse three applications for Prior Approval made pursuant to Part 3 Class O of the Town and Country Planning (General

Permitted Development) Order 2015 relating to a property known as Park View, Brentford. I decline to grant the declarations sought.