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Merrow Golden

Call: 2014 **Public Access**

Practice areas:

Environment, Planning, Public Law, Major Infrastructure Projects, Highways, Commons and Open Spaces, Compulsory Purchase and Compensation, Rating, Local Government



Practice Profile

Merrow is ranked by Legal 500 as a leading junior at the London Planning Bar (2023) and as a “rising star” at the Environmental Bar (2023, 2022), and by Chambers and Partners as an “up and coming” barrister in Planning (2023, 2022). She has also been ranked as one of the top rated planning juniors under 35 (Planning Magazine 2020, 2019).

Merrow joined Chambers in 2017 and has built up an impressive practice across Chambers’ practice areas, with a particular focus in environmental, planning, public and highways law. She has acted on behalf of local authorities, non-governmental organisations and private developers and welcomes instructions to act individually or as part of a team.

Merrow studied Social and Political Sciences at Cambridge before going on to study law. She has a First Class law degree from City Law School, London, and a masters degree from Columbia Law School, New York. Prior to starting her pupillage, Merrow worked as a Foreign Law Clerk for Justice Edwin Cameron at the Constitutional Court of South Africa and she is a qualified attorney in the state of New York.

Environment

Merrow has gained significant experience advising on environmental law and has acted in a number of cases concerning how climate change impacts of decision-making have been addressed. For example, she has acted as junior counsel in:

- ***R (Cox) v Oil and Gas Authority*** [2022] EWHC 75 (Admin) (acting for the Claimants, junior to David Wolfe KC) – a challenge to the Oil and Gas Authority’s revised strategy on the basis that it frustrated the statutory purpose of section 9A of the Petroleum Act 1998 through the definition it gave to the term “economically recoverable” and that this definition was irrational in light of the Secretary of State’s duty to achieve net zero emissions by 2050.
- ***R (Bain) v Secretary of State for Transport*** CO/642/2021 (acting for Ms Bain, junior to David Wolfe KC) – successful challenge to the grant of a Development Consent Order which had approved a major junction improvement scheme on the A38 in Derby; the Secretary of State conceded that he had failed to provide a reasoned conclusion as required by the relevant Environmental Impact Assessment regulations.
- ***R (ClientEarth) v Secretary of State for Business, Energy and Industrial Strategy*** [2021] EWCA Civ 43 (acting for ClientEarth, junior to Gregory Jones KC; on appeal from the High Court in *R (ClientEarth) v Secretary of State for Business, Energy and Industrial Strategy* [2020] EWHC 1303 (Admin)) – a challenge to the Secretary of State’s decision to grant a development consent order for the development of two gas-fired power stations in Selby, North Yorkshire, which raises important issues inter alia on how the development’s greenhouse gas emissions are to be considered under the Overarching National Policy Statements for Energy (EN-1) and the National Policy Statement for Fossil Fuel Electricity Generating Infrastructure (EN-2) and statutory framework (permission to appeal has been granted by the Court of Appeal).
- ***R (Packham) v Secretary of State for Transport*** [2020] EWCA Civ 1004 (acting for Chris Packham, junior to David Wolfe KC; on appeal from the Divisional Court in *Packham v*

Secretary of State for Transport [2020] EWHC 829 (Admin)) - a challenge to the government's decision in February 2020 to go ahead with the HS2 project following the Oakervee Review, on the basis that the government had failed to lawfully consider the project's environmental effects and climate change impacts.

- *R (Berks, Bucks & Oxon Wildlife Trust) v Secretary of State for Transport and Another* [2019] EWHC 1786 (Admin) (acting for BBOWT, junior to Ned Westaway) - a challenge to the Secretary of State's decision to approve recommendations from Highways England, concerning the preferred corridor area for the Oxford to Cambridge Expressway, on the basis that the Secretary of State had unlawfully failed to carry out both (i) a Strategic Environmental Assessment and (ii) an appropriate assessment under the Habitats Directive.

Merrow also acted for the claimant in a challenge in 2019-2020 to Cumbria County Council's resolution to grant planning permission for a new underground metallurgical coal mine in Whitehaven, Cumbria (junior to David Wolfe KC). The High Court granted permission on all grounds, including that the Council failed lawfully to consider the development's greenhouse gas emissions and the Net Zero target. The claim was withdrawn after the developer submitted a revised planning application and Cumbria County Council confirmed that it will no longer rely on the decision challenged.

Merrow has also been involved in a number of matters related to the delivery of biodiversity net gain ("BNG"), as well as biodiversity impacts of proposed developments more generally, both at inquiry level and through the courts, including:

- *R (Hardcastle) v Buckinghamshire Council* [2022] EWHC 2905 (Admin) (acting for the Claimant, junior to Richard Honey KC) - a challenge to a decision to grant planning permission for up to 170 dwellings, which concerned (in part) how the Council had considered updated information on delivery of BNG in their decision-making;
- *Gregory Quarry, Nottingham Road, Mansfield* (2022) - successfully resisting a planning appeal for 204 dwellings at the Gregory Quarry site in Mansfield, which engaged detailed consideration of the ecological impacts of the development, including scrutiny of the developer's proposals for BNG delivery.
- *Land off Ashland Road West, Sutton in Ashfield* (2021) - representing the Local Planning Authority in resisting a planning appeal for up to 300 dwellings, involving assessment of biodiversity impacts, for which the Inspector concluded that he could not be certain that there would not be a net overall loss of biodiversity, let alone the claimed 10% net gain.

Merrow's experience in environmental law also includes:

- Representing Friends of the Earth Northern Ireland at a two-day hearing before the Planning Appeals Commission in June 2018 into the combined enforcement appeal proceedings and regionally significant planning application for the extraction, transportation and working of sand and gravel from Lough Neagh, Northern Ireland.
- Assisting a local residents' group in making representations in relation to the climate change impacts of a DCO project; and, advising a local residents' group in relation to a separate DCO project, including on air quality, noise and climate change issues.
- Advising on the scope of the section 28G duty in the Wildlife and Countryside Act 1981 in relation to a proposed development within a SSSI.
- Advising on the lawfulness of a number of different environmental policies or guidance documents, including in the context of fracking, protection of European species and afforestation projects.

- Advising a local residents' group on potential challenge grounds to an EIA screening decision, including in relation to the assessment of air quality impacts and impacts on protected species.
- Pro bono advice to a conservation NGO on the scope of environmental assessment required (including under the SEA Directive) for new national policy and plans.
- Pro bono assistance to a local residents' group in relation to the potential environmental impacts of a proposed expanded waste facility.
- Advising on an array of Aarhus costs protection matters.

Merrow regularly speaks on environmental law matters and has lectured on environmental law as part of the KCL Centre of Construction Law & Dispute Resolution's MSc in Construction Law & Dispute Resolution (2019).

Planning

Merrow has a broad planning law practice and regularly advises local planning authorities, developers and local residents on planning issues.

She regularly appears at planning inquiries and in the Planning Court, including:

- ***R (Hardcastle) v Buckinghamshire Council*** [2022] EWHC 2905 (Admin) (acting for the Claimant, junior to Richard Honey KC) – a challenge on six grounds to a decision to grant planning permission for up to 170 dwellings, including a 'Kides' challenge in relation to a number of matters, including the consideration of updated information on biodiversity net gain proposals, a breach of the 'Tameside' principle, issues regarding EIA screening and misinterpretation of NPPF policy. The claim was granted permission on the papers, being marked as a 'significant' planning case.
- *R (Lecoat) v London Borough of Barnet* CO/3519/2021 (2021-2022) (acting for the Claimant, as junior to Sarah Sackman) – a challenge to the Council's decision to adopt The Burroughs and Middlesex University Supplementary Planning Document, on the sole ground that the SPD needed to be promulgated and adopted as a Development Plan Document; permission was granted on the papers, but the matter has since settled with the Council formally withdrawing the current version of the SPD.
- *Gregory Quarry, Nottingham Road, Mansfield* (2022) – successfully resisting, on behalf of the Local Planning Authority, a planning appeal for 204 dwellings at the Gregory Quarry site in Mansfield, which engaged detailed consideration of the development's ecological impacts (including scrutiny of the developer's proposal for BNG delivery), its effect on a number of different locally designated sites and its impact on the character of the area.
- *Lisa Smith v SSHCLG* [2021] EWHC 1650 (Admin) – (acting for Liberty, pro bono, as junior to Sarah Sackman) in their intervention in *Lisa Smith v Secretary of State for Housing, Communities and Local Government* – a case which raises questions of significant public interest concerning discrimination against Gypsies and Travellers and the definition of "Gypsies and Travellers" contained in Annex 1 of the Planning Policy for Traveller Sites 2015.
- *Land off Ashland Road West, Sutton in Ashfield* (2021)– representing the Local Planning Authority in resisting a planning appeal for up to 300 dwellings, involving assessment of biodiversity impacts, for which the Inspector concluded that he could not be certain that there would not be a net overall loss of biodiversity, let alone the claimed 10% net gain.

- *Castlewood Grange Business Park, Sutton in Ashfield* (2021) – successfully representing the Local Planning Authority, in resisting an appeal for a mixed-use development comprising a drive through restaurant, 3 retail units and a lorry fuelling and EV station. Matters included the proposed development’s retail impact, highways impact and whether the site had reasonable prospects of being used for employment use.

Further work includes:

- Advising (with Richard Honey KC) a Parish Council on the lawfulness of the grant of planning permission for the relocation of a farm business and temporary agricultural dwelling (two decision notices had been issued, one of which was subsequently quashed via a consent order and the other revoked by the Council).
- Advising a developer on a number of planning considerations arising out of a housing development scheme, including on the prospects of potential reserved matters applications and on the possible implementation of multiple, and overlapping, permissions.
- Advising a local authority on an application for prior approval for permitted development (change of use) and whether a previous planning condition had withdrawn such rights.
- Advising a local authority on the correct interpretation of a permission and its conditions, in circumstances where the underlying planning documents conflict.
- Advising a local authority on whether a permission granted under section 73 of the Town and Country Planning Act 1990 triggered liability for CIL, having regard to the exception in regulation 6(1)(c) of the CIL Regulations.
- Advising a developer on whether affordable housing contribution could be sought on a development based on the NPPF’s definition of “major developments”.
- Advising various parties on matters relating to viability, including the application of the Exceptional Circumstances Relief test under the CIL Regulations and the lawfulness of proposed viability reviews following the judgment in *McCarthy & Stone* [2018] EWHC 1202.
- Advising multiple clients on the merits of proposed CLEUD applications.

Enforcement

Morrow regularly advises on matters relating to enforcement appeals and the application of enforcement notices, including for example:

- Representing the Local Planning Authority at a two-day enforcement inquiry concerning the residential use of an outbuilding in a London borough (2022).
- Successfully representing the Local Planning Authority at a one-day enforcement hearing concerning the residential use of outbuildings in a London borough (2021).
- Successfully representing a defendant against a criminal enforcement prosecution, in which the prosecution was dropped before trial (2021).
- Representing the Local Planning Authority at a four-day inquiry into a combined enforcement and planning appeal concerning the use of a residential unit in a London borough (2021).
- Successfully representing a Highways Authority in prosecuting against the wilful obstruction and disturbance of a highway, caused in relation to the building of a new development (2020).
- Representing Friends of the Earth Northern Ireland at a two-day hearing before the Planning Appeals Commission into the combined enforcement appeal proceedings and regionally significant planning application for the extraction, transportation and working of

sand and gravel from Lough Neagh, Northern Ireland (2018).

- She has also gained experience of the Proceeds of Crime Act 2002 and its application in relation to planning enforcement offences, having acted for both a local authority and a defendant in confiscation proceedings in the Crown Court.

Plan-making

Merrow has experience in local plan and neighbourhood plan-making processes. This includes assisting in advising local authorities on their preparation of local plan documents and on the local plan-making and neighbourhood plan-making processes. She has also assisted in the review of draft neighbourhood plans prior to examination.

Public Law

Merrow is developing a broad and varied public law practice, both within the context of environmental law and beyond.

A few recent examples include:

- *R (Cox) v Oil and Gas Authority* [2022] EWHC 75 (Admin) (acting for the Claimants, junior to David Wolfe KC) – a challenge to the Oil and Gas Authority’s revised strategy on the basis that it frustrated the statutory purpose of section 9A of the Petroleum Act 1998 through the definition it gave to the term “economically recoverable” and that this definition was irrational in light of the Secretary of State’s duty to achieve net zero emissions by 2050.
- *R (Raw) v The Parole Board of England and Wales* [2021] EWHC 1934 (Admin) (acting for the Defendant Parole Board, junior to Sarah Sackman) – successfully defending a judicial review challenge to the Parole Board’s decision to refuse a prisoner’s release in circumstances where that prisoner has continued to maintain his innocence in relation to the crime he was convicted of.
- *Lisa Smith v SSHCLG* [2021] EWHC 1650 (Admin) – (acting for Liberty, pro bono, as junior to Sarah Sackman) in their intervention in *Lisa Smith v Secretary of State for Housing, Communities and Local Government* – a case which raises questions of significant public interest concerning discrimination against Gypsies and Travellers and the definition of “Gypsies and Travellers” contained in Annex 1 of the Planning Policy for Traveller Sites 2015.

Education

In the past few years, Merrow has built up particular experience appearing before the First-tier Tribunal (Special Educational Needs and Disability) in SEN appeals. These have primarily concerned contents and placement appeals, relating to the contents of education and health care plans, but Merrow also has experience of appeals concerning education otherwise than in school and extended appeals for recommendations for social and health care provision. She recently appeared in the Upper Tribunal resisting an appeal made against the decision of the First-tier Tribunal (2022). She has also assisted in research into the procedure governing school exclusions and when legal challenges may be appropriate.

Major Infrastructure Projects

Transport and Works Act Schemes

Merrow has gained considerable experience of the Transport and Works Act procedure. She represented the Ramblers at the 11-week Inquiry into the Proposed Network Rail (Essex and Others Level Crossing Reduction) Order (October 2017 – February 2019) and at the Inquiry into the Proposed Network Rail (Cambridgeshire Level Crossing Reduction) Order (November 2017– February 2018).

Merrow also represented Suffolk County Council and West Suffolk Councils at the 7-week Inquiry into the Proposed Network Rail (Suffolk Level Crossing Reduction) Order (February – May 2018).

The decisions for all three orders have now been published: see [here](#) for Essex, [here](#) for Suffolk, and [here](#) for Cambridgeshire. In relation to the Suffolk order, the Secretary of State decided to remove from the order all 8 of the crossings Suffolk County Council and West Suffolk Council objected to. In relation to the Cambridgeshire order, the Secretary of State decided to remove from the order all 5 of the crossings the Ramblers objected to. In relation to the Essex order, the Ramblers were successful in objecting to 16 of the crossings, which were removed from the order.

The decisions and the underlying Inspectors' reports raise a number of interesting issues in considering the scope of section 5(6) of the Transport and Works Act 1992 and the importance of the Public Sector Equality Duty in section 149 of the Equality Act 2010 for decision-making in this area.

Development Consent Orders

Merrow has gained experience of Development Consent Orders, including assisting in advising on the scope of statutory entry powers in relation to a highways DCO project. She has gained particular experience in legal challenges to DCOs, for example acting for ClientEarth (junior to Gregory Jones KC) in *R (ClientEarth) v Secretary of State for Business, Energy and Industrial Strategy* [2021] EWCA Civ 43 (both in the High Court and Court of Appeal), (a challenge to the Secretary of State's decision to grant a development consent order for the Drax development of two gas-fired power stations in Selby, North Yorkshire) as well as for the Claimant (junior to David Wolfe KC) in *R (Bain) v Secretary of State for Transport* CO/642/2021, (a successful challenge to the grant of a Development Consent Order which had approved a major junction improvement scheme on the A38 in Derby). She has further advised in relation to the possible environmental impacts and the legality of environmental assessments of both prospective and granted DCOs.

Highways, Commons and Open Spaces

Rights of Way and Highways

Merrow gained significant experience of rights of way law, most notably through her involvement in the Proposed Network Rail (Essex and Others Level Crossing Reduction) Order, the Proposed

Network Rail (Cambridgeshire Level Crossing Reduction) Order and the Proposed Network Rail (Suffolk Level Crossing Reduction) Order.

She regularly appears for applicants, objectors and order-making authorities in a variety of rights of way inquiries, some recent examples include:

- Representing Persimmon Homes (North West), as applicant, at a section 257 Highways Act 1980 inquiry, relating to a stopping up order on the basis that it was necessary to enable development to be carried out (2023) (decision awaited)
- Representing a landowner objector at a 3-day inquiry into a section 53 DMMO application, pursuant to the Wildlife and Countryside Act 1981, for a byway open to all traffic in Thompson, Norfolk (2022) (decision awaited)
- Successfully representing a specialist land-based college, as applicant, at a 2-day inquiry into concurrent stopping up and creation orders pursuant to sections 26 and 118 of the Highways Act 1980 (2022).
- Successfully representing Newmarket Town Council at both a 9-day inquiry into a section 53 DMMO application over the Weatherby level crossing (2021), and a subsequent 2-day paragraph 7 and 8 inquiry (2022).
- Successfully representing at inquiry an applicant for a section 53 DMMO order which related to a historical public footpath in Middle Rasen, Lincolnshire (2019).
- Representing the order-making authority at inquiry for a section 119 of the Highways Act diversion order (2019).

Recent experience also includes:

- Advising a local authority on matters relating to a public footpath diversion order under section 257 of the Town and Country Planning Act 1990, which was later confirmed.
- Advising a local authority on procedural matters relating to the application of section 37 of the Highways Act 1980 (whereby highways created by dedication may become maintainable at public expense).
- Acting as junior counsel to Richard Honey KC for Dorset County Council in response to a claim for judicial review against the decision to maintain an advisory one-way routing system of HGV traffic. The claim was subsequently withdrawn.
- Advising a developer on the appropriate application of section 278 agreements to be entered into with the highways authority.

Village Greens and Commons

Marrow has been involved in a variety of matters relating to the law on village greens and common land. Marrow's experience includes:

- Advising a local authority on the scope of section 19(2)(a) of the Commons Act 2006 (concerned with correcting a mistake made by the commons registration authority in making or amending an entry on the register) and procedural matters related to this.
- Advising a local authority on when and how prescriptive rights of way may be acquired over land subject to public rights.
- Assisting in drafting the skeleton argument for an objector to a village green inquiry, addressing a number of procedural issues including the operation of "trigger events" under Schedule 1A of the Commons Act 2006.
- Assisting in advising registration authorities on the existence of implied powers both in relation to their dealings with village green applications and to orders to de-register and/or

exchange common land.

- Providing pro bono advice to a local residents' group in relation to the requirements for an application to de-register common land.

Compulsory Purchase and Compensation

Merrow has gained wide experience of CPO-related matters. She recently acted as junior counsel in:

- *Pro Investments Ltd v Hounslow LBC* [2021] UKUT 201 (LC) (acting for Pro Investments Ltd, junior to Richard Glover KC) – the Upper Tribunal Lands Chamber determined the compensation payable to Pro Investments Ltd, as the Claimant landowner, following a five-day hearing (see also the related cost decision [2022] UKUT 54 (LC)). The reference concerned land compulsorily acquired for Brentford Football Club's new stadium scheme and followed on from the Upper Tribunal's previous decision allowing Pro Investments Ltd's CAAD appeal (in which Merrow also acted for Pro Investments Ltd, as junior to Guy Roots KC) (see [2019] UKUT 319 (LC)).
- *Anixter Ltd v Secretary of State for Transport* [2020] EWCA Civ 43 (acting for the Secretary of State for Transport, junior to Richard Honey KC) – the Court of Appeal confirmed the meaning of a "long tenancy which is about to expire" under section 2(2) of the Compulsory Purchase (Vesting Declarations) Act 1981 and the meaning of "served" in paragraph 5(a) of Schedule 2A of the Compulsory Purchase Act 1965 (regarding time-limits for the service of material detriment counter-notices).

Her experience also includes:

- Assisting in drafting a defence to a claim made under Part 1 of the Lands Compensation Act 1973.
- Research work into the powers of local authorities to CPO land outside of their area.
- Assisting in assessing the scope of a highway authority's CPO powers over Crown land.

Rating

Merrow has gained experience of a number of rating and council tax matters. In particular, she has assisted in advising HMRC on a number of matters, ranging from the implementation of council tax schemes to interpretation of valuation provisions in the Local Government Finance Act 1988. More recently, she advised (with Sarah Sackman) the respondent in a valuation appeal which subsequently settled

Local Government

Merrow has experience of a number of matters involving local government law. This includes:

- Advising on the lawfulness of changes to local election scheduling.

- Assisting in a judicial review against a local authority's exercise of its powers under sections 1 and 4 of the Localism Act 2011.
 - Assisting in preparing grounds of challenge against the decision of a local planning authority to exclude the public and press from a planning committee meeting and/or to refuse disclosure of a report to be discussed at that meeting.
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Qualifications

- Columbia Law School, LLM (2014-2015)
 - City Law School, BPTC (Very Competent) (2013-2014)
 - City Law School, Graduate Entry LLB (First Class - top of the year) (2011-2013)
 - St. John's College, University of Cambridge, BA(Hons) Social and Political Sciences (Second Class, Upper Division) (2007-2010)
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Scholarships and Awards

- Harlan Fiske Stone Scholar, Columbia Law School (2015)
 - Parker School Recognition of Achievement, Columbia Law School (2015)
 - McMahon Law Studentship, St. John's College, Cambridge (2013)
 - The City Lawyer Excellence Award, City Law School (2013)
 - The Honourable Society of the Inner Temple BPTC Exhibition Award (2013)
 - Allen & Overy Prize for International Economic Law (2013)
 - City Law School Home Student Scholarship (2012)
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Previous Experience

Prior to coming to the Bar, Merrow spent six months clerking for Justice Edwin Cameron at the Constitutional Court of South Africa, where she worked on a number of different cases dealing with complex matters of constitutional law and human rights.

During her studies, she interned for the Administrative Law Division of New York City's Law Department (2015), where she represented New York City agencies and was responsible for her own caseload. She also interned with the UK Mission to the United Nations in New York (2014), the Codification Division of the United Nations Office of Legal Affairs in New York (2012) and the United Nations Development Programme (2013-2014).

Merrow has worked on a pro bono basis for the Free Representation Unit and the Iraqi Refugee Assistance Project. In addition, she has worked as a volunteer case worker at Victim Support.

Professional Memberships

Merrow is a member of the following associations:

- Administrative Law Bar Association (ALBA)
- The Planning & Environmental Bar Association (PEBA)
- UK Environmental Law Association (UKELA)

Bar Admission: New York

Publications

Columbia Journal of Transnational Law, Vol 55, Number 2, 101 "Could a Code of Conduct Work? The Prospects of the French Proposal Limiting the Veto on the United Nations Security Council" (published 12 September 2017)

Interests

Merrow is a British/American who was born and raised in London with a strong connection to the North Cornish coast. She has a passion for travel and for experiencing different cultures (and cuisines!) but most of all she enjoys spending time with family and friends from all over the world.

Privacy Notice

Quotes

"She has scored some notable victories for the underdog, and you can be sure that the research will be thorough and the advice clear and thought through."

The Legal 500, 2023

"Merrow has a busy and thriving practice as a junior and is always in demand. She's really good at bringing ideas from her wide experience to bear on a case. Merrow has a built-up an impressive track record in acting in planning and environmental judicial reviews in the high court, but also has a good practice in inquiry and tribunal advocacy where she is an effective cross-examiner."

The Legal 500, 2023

"She is very quick to assimilate facts and complex technical issues, and she has a real passion for environmental law."

The Legal 500, 2023

"Merrow is a junior barrister who will go far. She has been very innovative and creative in developing legal arguments on complex points of law. Merrow is developing a broad practice

with a significant public/environmental focus."
The Legal 500, 2022

"Her written work is always brilliant, she is really easy to work with and she goes the extra mile."
Chambers and Partners, 2022

"She is great - much more experienced than her years of call would suggest."
Chambers and Partners 2022

"Morrow is sharp, efficient and pleasant to work with." "Morrow is sharp, efficient and pleasant to work with."
Chambers and Partners 2022

"Ms Golden came highly recommended to us by another body and in future I will certainly be recommending her to others in turn. Her highly professional support, specialist knowledge and undaunted advocacy were utterly invaluable at all stages of a lengthy and frequently complex public inquiry."
Local Authority Solicitor
