



Ministry
of Justice

Judicial Review Reforms Beyond Nationally Significant Infrastructure



Government of the United Kingdom

Ministry of Justice

Judicial Review Reforms Beyond Nationally Significant Infrastructure

Presented to Parliament by the Lord Chancellor and
Secretary of State for Justice by Command of His Majesty

July 2026



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About this consultation

To:	Individuals and organisations with experience in or knowledge of the judicial review process for planning decisions made in England and Wales.
Duration:	From 16/07/2026 to 27/08/2026
Enquiries (including requests for the paper in an alternative format) to:	Judicial Review Policy Ministry of Justice 9 th Floor, 102 Petty France London SW1H 9AJ Email: JRReform@justice.gov.uk
How to respond:	Please send your response by 27 August 2026 to: Judicial Review Policy Ministry of Justice 102 Petty France London SW1H 9AJ Email: JRReform@justice.gov.uk
Response paper:	A response to this consultation exercise will be published as soon as practicable after the closing date.

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Executive summary

As set out in the Government's Plan for Change,¹ a key pillar of the Growth mission is ensuring the country has the infrastructure needed to power a modern, competitive and resilient economy. This is why the Government has committed to fast-tracking at least 150 decisions on major infrastructure projects by the end of this Parliament – more than double the decisions made during the previous Parliament.

To support delivery, the Government has already made significant changes across the planning system. This includes reforms to the judicial review process for Nationally Significant Infrastructure Projects (NSIPs) in England and Wales to tackle the delays caused by legal challenges. However, the NSIP regime is but one part of the wider planning system, and the Government intends to go further to ensure that the judicial review process for other major planning decisions is efficient, robust, and proportionate.

Legal challenges against NSIPs

A report by Lord Banner KC, published in October 2024, highlighted the impact of legal challenges against NSIPs, and recommended changes to the judicial review process to reduce any undue delays.² At the time of the report, few NSIP legal challenges had been successful in overturning development consent, but claims can take around 16 months on average to reach a conclusion.

Lord Banner concluded that this is a significant period of uncertainty for the developments in question, with considerable cost implications and delivery risks. As a result, he made a series of recommendations to streamline the judicial review process for NSIPs, reducing the possibility of delay by meritless claims and ensuring that cases are dealt with more quickly.

Following a public call for evidence on this matter,³ the Government announced in January 2025 that it would be taking forward a number of Lord Banner's recommendations.⁴ A summary of responses to the call for evidence can be found in **Annex A**, and the changes which have since been made in England and Wales are set out below.

¹ Plan for Change – Milestones for mission-led government

² Independent review into legal challenges against Nationally Significant Infrastructure Projects - GOV.UK

³ Judicial Review and Nationally Significant Infrastructure Projects - GOV.UK

⁴ Written statements - Written questions, answers and statements - UK Parliament

Changes made to NSIP judicial reviews

Section 13 of the Planning and Infrastructure Act 2025 (PIA 2025), which came into force earlier this year, requires NSIP cases to proceed directly to an oral permission hearing and removes the right of appeal for claims which are deemed totally without merit at that hearing. The effect is that there is now only one ‘bite of the cherry’ for meritless cases, instead of the three attempts that were previously available. The measure was used for the first time on 24 April 2026 in the *Stonestreet Green* case,⁵ allowing an important solar project to continue with minimal delay.

Alongside the measures in the PIA 2025, the Government also worked with the judiciary on further amendments to the Civil Procedure Rules and associated Practice Directions to ensure NSIP cases are dealt with more quickly and consistently. The changes which came into force on 1 October 2025:

- Formally designate NSIP judicial reviews as Significant Planning Court Claims, ensuring they are subject to target timescales and are heard by specialist High Court judges;
- Encourage the use of case management conferences following the grant of permission to apply for judicial review where the parties or the court consider it would be helpful to consider practical arrangements such as timetabling, the range of evidence to be considered, and the scope for narrowing the issues; and
- Introduce target timescales in the Court of Appeal for the determination of permission to appeal applications and for the hearing of substantive appeals in NSIP cases.

At its May 2026 meeting, the Civil Procedure Rule Committee approved further changes to tighten the target timescales in the High Court for NSIP cases which will be implemented on the 1 October 2026. The Government is also working with the judiciary to clarify the Court of Appeal’s allocation procedure in suitable public guidance. Taken together, these changes will provide greater speed and certainty to the judicial review process for NSIPs while ensuring access to justice in line with the UK’s domestic and international law obligations.

Going beyond NSIPs

The Nuclear Regulatory Review, commissioned by the Prime Minister to identify suitable regulatory reforms to help speed up the delivery of nuclear developments, published its final report on 24 November 2025.⁶ The Review recommended that the ‘single bite of the

⁵ R (on the application of Aldington and Bonnington Parish Council) v (1) The Secretary of State for Energy Security and Net Zero and (2) EPL 001 Limited.

⁶ Nuclear Regulatory Review 2025 - GOV.UK

cherry’ principle be extended to nuclear site licensing and permitting decisions, in light of concerns about the costly delays to nuclear developments caused by unmeritorious, repeat legal challenges across multiple regulatory stages. As set out in the response to that report on 13 March 2026,⁷ to help speed up the delivery of nuclear development, the Government will seek to extend the judicial review reforms for NSIPs, including the ‘single bite of the cherry’ measure, to nuclear site licensing and permitting decisions.

While some stakeholders have suggested that the issue of delays caused by legal challenges is not unique to the NSIP regime or nuclear site licensing and permitting decisions, it is not yet clear the extent to which this is an issue in other planning regimes. The Government is therefore using this consultation to explore whether comparable delays are occurring more widely in other planning regimes and whether the judicial review reforms taken forward for NSIPs could also be beneficial in those regimes. Any further reforms would be carefully considered following review of the evidence received. Changes would then be taken forward as a package to ensure consistency and to promote legal certainty.

Any reforms to tighten up the process and speed up the determination of judicial reviews, like those made for NSIPs, would require the prioritisation of cases and, as such, cannot be done for all planning cases. Moreover, some changes may not be necessary or desirable in all cases. Therefore, reforms will need to be suitably targeted to prioritise cases involving developments of considerable scale and importance, where potential delays by an unsuccessful legal challenge could lead to significant uncertainty, increased costs, and delivery risks.

The Government has initially identified two planning regimes for which judicial review reforms may be beneficial: the Town and Country Planning Act 1990 (TCPA 1990) and the Transport and Works Act 1992 (TWA 1992). They can both be used to approve/give consent to developments of considerable scale and importance, where potential delays by an unsuccessful legal challenge could lead to significant uncertainty, increased costs, and delivery risks.

Being the principal planning regime in England and Wales, the TCPA 1990 is responsible for most infrastructure projects outside of the NSIP regime. It also provides the framework for other developments, including prisons, hospitals, and large residential projects. Although fewer developments are consented through the TWA 1992, it provides wide-ranging powers and can often be used for substantial infrastructure schemes, in particular rail.

⁷ Building our nuclear nation: government response to the Nuclear Regulatory Review 2025 (accessible webpage) - GOV.UK

Depending on the decision being challenged, decisions under the TCPA 1990 and TWA 1992 can be challenged by either judicial review or statutory review. In this consultation, the term “judicial review” is used throughout to refer to both types of challenge.

Scope of consultation

The aims of this consultation are:

- To assess whether there are current or anticipated issues with delays to major infrastructure projects consented under the TCPA 1990 and the TWA 1992 regimes which are caused by legal challenges and which may be mitigated with changes to the judicial review process; and
- To determine how reforms should be targeted to support delivery of these developments, while ensuring access to justice and avoiding undue burden on the courts’ resources.

The Government is therefore looking for evidence on the potential benefits of further targeted judicial review reforms, as well as any potential risks or practical implications, to inform the development of future policy. Views of stakeholders with experience or knowledge of legal challenges against major infrastructure projects consented under the TCPA 1990 and the TWA 1992 regimes are particularly welcomed.

Introduction

This consultation seeks views on the extension of the recent judicial review reforms for Nationally Significant Infrastructure Projects to other planning regimes in England and Wales, to support infrastructure and housing delivery. We are particularly interested in major infrastructure projects and other strategically important developments consented under the Town and Country Planning Act 1990 and the Transport and Works Act 1992.

The Government welcomes views from local planning authorities, developers, community and environmental groups, legal practitioners, academics, and any other stakeholders with experience in or knowledge of legal challenges against major infrastructure projects in England and Wales. The Government will also be seeking views from the judiciary to assess the impact of further judicial review reforms on the operation of the courts.

Copies of this consultation paper are being sent to:

- The Master of the Rolls
- The President of the King's Bench Division
- The Law Society of England and Wales
- The Bar Council
- Canal & River Trust
- Environment Agency
- Energy UK
- Great British Energy
- Historic England
- National Grid
- Natural England
- Nuclear Industry Association
- Office for Nuclear Regulation
- Renewable UK
- Solar Energy UK
- Transport for London
- UKTram

However, this list is not meant to be exhaustive or exclusive, and responses are welcomed from anyone with an interest in or views on the subject covered by this paper.

Background

1. The Government's Plan for Change⁸ and 10-year Infrastructure Strategy⁹ set out our commitment to determine at least 150 major economic infrastructure projects ('major infrastructure projects') by the end of this Parliament. As set out in the 10-year Infrastructure Strategy, these projects are developments of strategic importance for national economic growth, including:
 - Nationally Significant Infrastructure Projects (NSIPs) decided under the Planning Act 2008;
 - projects determined under other processes where they met the thresholds of an NSIP on 5 December 2024 (when the Government published the Plan for Change), such as solar projects over 50MW;
 - projects decided under other processes where they have been directed out of the NSIP regime, through section 35B of the Planning Act 2008 (a power added by section 13 of the Planning and Infrastructure Act 2025); and
 - certain projects consented by Special Development Order (SDO) where the Government specifically deems that the development in question is a major infrastructure project.
2. We are making good progress, with 41 decisions on major infrastructure projects made so far this Parliament, giving the green light to a number of important schemes such as the Lower Thames Crossing. Aside from those explicitly defined as nationally significant infrastructure projects, there are also other strategically important developments which are essential to driving economic growth, securing the UK's energy supply, and powering our transition to Net Zero. Such strategically important developments could include onshore wind projects over 50MW and under 100MW, electricity network projects and large grid-scale battery storage projects with a capacity over 100MW, all of which are currently determined under the Town and Country Planning Act 1990.
3. To secure the intended benefits of these major infrastructure projects and strategically important developments, we need to ensure they can be promptly delivered post-consent. This is why the Government has made it a priority to improve infrastructure and housing delivery, through sustained investment in the planning system and targeted reforms, including to the judicial review process.

⁸ Plan for Change – Milestones for mission-led government

⁹ CP 1344 – UK Infrastructure: A 10 Year Strategy

Judicial review of planning decisions

4. Judicial review is a constitutionally important mechanism which allows an individual or organisation affected by a decision taken by a public body to challenge the lawfulness of that decision in court. Any person seeking to challenge the validity of a planning decision must make an application to the High Court usually within six weeks of that decision being made. It is up to the Court to consider the application and determine whether the claim should be heard; this is commonly known as the 'permission stage'. At the permission stage the court will consider several factors, including whether it has a reasonably arguable ground for judicial review with a realistic prospect of success.
5. Judicial reviews of planning decisions are considered by the Planning Court, a specialist sub-division of the High Court with selected High Court Judges who are specifically authorised to hear planning cases. Following the substantive hearing, should the court find the decision to be unlawful, it will usually overturn (or 'quash') the decision. Should a claimant wish to challenge the High Court's decision to refuse permission for judicial review and should either party wish to challenge the High Court's judgment following the substantive hearing they may seek to appeal in the Court of Appeal and subsequently in the Supreme Court, where appropriate. Following changes made in the Planning and Infrastructure Act 2025, NSIP claims which are refused permission for judicial review and deemed totally without merit at the oral permission hearing have no right of onward appeal.

Judicial review reforms for NSIPs

6. The Planning Act 2008 introduced a distinct consenting process for Nationally Significant Infrastructure Projects (NSIPs) in the fields of energy, transport, water, wastewater, and waste Planning consent for NSIPs is granted through the NSIP regime in the form of a development consent order (DCO), by the relevant Secretary of State.
7. The review by Lord Banner KC, and the Government call for evidence which followed, highlighted the issue of delays to NSIPs resulting from legal challenges against DCO decisions. In response, the Government made provision in the Planning and Infrastructure Act 2025 (PIA 2025) to streamline the permission stage for NSIP judicial reviews, requiring the removal of the paper permission stage in all cases so that they proceed straight to an oral permission hearing and removing the right of appeal for any claim deemed by the High Court as totally without merit at the oral permission hearing.
8. The Government also worked with the judiciary on amendments to the Civil Procedure Rules (CPR) and associated Practice Directions to ensure NSIP cases are dealt with more quickly. This includes formally designating these cases as significant planning court claims, introducing new target timescales in the High Court and Court of Appeal,

and facilitating the use of case management conferences. Most of these changes came into force on 1 October 2025, with the revised timescales in the High Court expected to come into force on 1 October 2026.

9. We have already started to see the benefits of this package of reforms. In the recent *Stonestreet Green* case, a totally without merit claim was swiftly despatched by the High Court at the oral permission hearing, preventing months of needless delay to a major solar project that will power around 42,000 homes. The NSIP judicial review reforms, once fully implemented, will help to save up to six months of court time for cases which progress through the substantive hearing and appeal stages.
10. On 20 May this year, the Government announced plans to introduce two optional mechanisms to the current process for consenting NSIPs, subject to detailed design and the passage of underpinning legislation. The proposals, which are intended to further limit the impact of unmeritorious legal challenges, are:
 - a **parliamentary authorisation** mechanism, which would be intended to provide the greatest degree of legal certainty for a narrow category of the most critical energy projects identified on a case-by-case basis by the Energy Secretary, and where Members of Parliament then judged this appropriate; and
 - a **challenge window** mechanism, which would allow Secretaries of State to respond in a more agile fashion to potential issues before publishing their final decision and limit the ability to raise other issues after the final consent was published.
11. These reforms raise important practical and legal questions on which the Government will separately engage with developers, investors, legal practitioners, local authorities, and affected communities as the policy is developed and implemented. The Government will also be engaging the judiciary to consider the impact of these proposals on the administration of justice.

Beyond NSIPs

12. As set out in the government response to the report by the Nuclear Regulatory Review, we will be seeking to extend the recent NSIP judicial review reforms to nuclear permitting and site licensing decisions. In this consultation, we are seeking views on whether these reforms should also be extended to other types of planning decisions. We are looking for evidence of both the potential benefits of further targeted judicial review reforms as well as any potential risks or unintended implications that may arise from reforms.
13. In considering any further reform to the judicial review process, we are committed to ensuring the public can continue to challenge the lawfulness of planning decisions

taken by the Government and planning authorities. It is the Government's view that the reforms to the judicial review process which we have been taking forward for NSIPs strike the right balance between improving efficiency and maintaining access to justice.

14. When considering other types of planning decisions, aside from the Planning Act 2008, there are two main legislative frameworks for planning approvals: the Town and Country Planning Act 1990 and the Transport and Works Act 1992.

Town and Country Planning Act 1990

15. The Town and Country Planning Act 1990 (TCPA 1990) provides the principal legislative framework for the consenting of infrastructure, commercial and housing developments in England and Wales. Most infrastructure projects outside of the NSIP regime are consented through the TCPA 1990 process, which can also be used for other major developments, including prisons, hospitals, and large-scale residential projects.
16. Planning approvals under the TCPA 1990 are ordinarily determined by the local planning authority whose decision may be appealed to the Planning Inspectorate. To speed up decision-making on important energy generation and transmission projects, the Government announced on 20 May 2026 plans to allow applications for certain energy projects to be made directly to the Planning Inspectorate. This measure is not part of this consultation.
17. Planning permission can currently also be granted by the Secretary of State in certain circumstances, including called-in applications, applications for Crown Development, and Special Development Orders.

Transport and Works Act 1992

18. Under the Transport and Works Act 1992 (TWA 1992), the relevant Secretary of State (or Welsh Ministers) can make orders (TWAOs) to authorise the construction, operation and maintenance of guided transport systems such as railways, tramways, monorails, and guided busways. TWAOs can also be made to authorise works for inland waterways, including bridges, piers and tunnels.
19. TWAOs provide significant and wide-ranging powers, including compulsory purchase, temporary possession, street closure, byelaws and statutory undertaker diversions. The TWA 1992 process is used less frequently than the TCPA 1990 route, with only 14 TWAO decisions issued by the Department for Transport between 2022 and 2025 for schemes in England. However, TWAOs can be used for substantial transport and water-related projects in England and Wales.

The case for further reform

20. The NSIP regime is but one of the processes through which major infrastructure projects can be consented, with TCPA 1990 and the TWA 1992 playing an increasingly important role following the recent reforms in the PIA 2025. With the increase in NSIP threshold to 100MW for onshore wind and solar projects as of 31 December 2025, our current pipeline estimates at least six onshore wind and / or solar developments meeting the previous 50MW NSIP threshold are expected to be consented through the TCPA process by the end of this Parliament. This is expected to grow significantly as the pipeline of projects continues to develop following removal of the de facto ban on onshore wind in England and updates to the NSIP thresholds for onshore wind and solar projects.
21. The power introduced in the PIA 2025 which allow NSIP-scale developments to be redirected to other planning processes may lead to an increase in the number of major infrastructure projects being consented through the TCPA 1990 and the TWA 1992 processes. All grid-scale battery storage projects are determined through the TCPA process, unless they are deemed associated development as part of an NSIP application. Many critical elements of electricity network projects are also determined under the TCPA, including construction of substations (or extensions to existing substations), converter stations and other ancillary works, which are vital for transforming and transporting electricity from the point of generation to end users.
22. In response to the judicial review reforms made for NSIPs, some stakeholders have called for these to be extended to other planning processes, noting that the issue of delays resulting from legal challenges is not unique to the NSIP regime. A number of non-government amendments were also tabled during passage of the PIA 2025 seeking to extend the effect of the judicial review provision to the TCPA 1990, the Planning (Hazardous Substances) Act 1990 and the Planning (Listed Building and Conservation Areas) Act 1990. These amendments were resisted on the grounds that there was insufficient evidence at that time to support the extension of the measure to those other planning regimes.
23. While the Government is aware of a small number of specific projects being delayed as a result of legal challenges, we are looking for additional evidence of the impact of legal challenges on the delivery of major infrastructure projects and other strategically important developments consented through the TCPA 1990 and the TWA 1992 processes. Further judicial review reforms must support delivery of important developments, while ensuring access to justice and avoiding undue burden on the courts' resources. We are therefore seeking views on the types of development which should be in scope of reform as changes to tighten up the judicial review process, like those made for NSIPs, require prioritisation and cannot be done for all planning cases.

24. In addition to major infrastructure projects, as defined in paragraph 1, it is the Government's view that other strategically important developments should also be in scope of consideration for reform. For energy schemes, this would include onshore wind projects over 50MW, electricity network projects and large grid-scale battery storage projects with a capacity over 100MW, all of which are currently determined under the TCPA 1990. There may be a case for other types of developments such as significant housing developments (e.g. schemes with more than 150 homes) to also be in scope.

Questions

1. Do you think that the NSIP judicial review reforms should be extended to other planning regimes? Please explain your response with reference to the potential benefits and risks of doing so.
2. Do you agree that consideration for further judicial review reforms should be limited to 'major infrastructure projects' consented under the TCPA 1990 and the TWA 1992 and other 'strategically important developments' (as defined by this consultation)?
3. Do you agree that onshore wind projects over 50MW and under 100MW, electricity network projects and large grid-scale battery storage projects with a capacity over 100MW, all of which are currently determined under the TCPA 1990 should be considered 'strategically important developments'?
4. Should other developments, such as significant housing developments, also be in scope of this review? If so, how should these developments be defined. Please explain your response with reference to the importance of these developments and the potential impact of delays resulting from legal challenge.
5. In your view, is there an issue with delays to 'major infrastructure projects' and 'strategically important developments' consented under the TCPA 1990 regime resulting from legal challenges? If so, please provide details (for example, how long does it take on average for a legal challenge against a decision to reach a conclusion; are there any specific cases of concern; what is the impact of the resulting delay).
6. Although to date there have been few challenges against TWA decisions, in your view, is there a risk that the number of challenges could increase in light of changes in the PIA? If so, what would be the potential impact on 'major infrastructure projects' consented under the TWA 1992 regime? Please provide details (for example, what is the likelihood of challenge and the expected complexity of proceedings, including the amount of evidence required; and what would be the potential impact of the resulting delay).

The proposals

Reducing the number of permission attempts

25. With the exception of NSIPs judicial reviews, applicants seeking permission from the High Court to apply for a judicial review or a statutory review of a planning decision currently have up to three attempts to obtain permission:
- The paper application: permission is initially considered on the papers by a single High Court judge, without a hearing;
 - The oral renewal hearing: if permission is refused on the papers, the claimant can request an oral renewal hearing to have the claim reconsidered by the High Court; and
 - The appeal: if permission is refused at the oral renewal hearing, or if permission is refused on the papers and the claim is certified as being totally without merit by the High Court judge, the claimant can apply for permission to appeal the decision in the Court of Appeal.
26. In relation to NSIPs, the evidence presented in Lord Banner KC's report and responses to the Government call for evidence on this matter made the case for removing the paper permission stage and for removing the right of appeal for cases which are deemed totally without merit at the oral permission hearing. That is the combined effect of section 13 of the Planning and Infrastructure Act 2025 which commenced on 18 February 2026 and the related amendments to Civil Procedure Rules (CPR) Part 54/ Practice Direction 54D ('PD 54D') which came into force on 1 October 2025.
27. At the time of Lord Banner's report, of the 11 cases which were refused permission on the papers, nine proceeded to an oral hearing. On this basis, removing the paper permission stage for NSIPs allows the claim to be properly considered at an oral hearing in the first instance, reducing the period of uncertainty for the project in question, as well as the time and costs for the parties involved. If a case is deemed as totally without merit at the oral permission hearing, removing the right of appeal would prevent any further delays from the meritless claim.
28. It is noted that the paper permission stage can in some cases provide a quick and cost-effective screening process to filter out weak claims, preventing the need for an oral hearing. Requiring all planning claims to proceed directly to an oral permission hearing would place significant additional demand on the Court. Therefore, it is the Government's view that the removal of the paper permission stage, if extended, should be limited to major infrastructure projects and other strategically important developments.

29. Extending the removal of the right of appeal for totally without merit cases to other types of planning decisions would require primary legislation. While extending this measure more widely does not appear to have the same judicial resource implications, there may be other practical considerations.

Questions

7. Should the CPRC be invited to remove the paper permission stage for other planning decisions? If so, do you agree that this change should be limited to 'major infrastructure projects' and other 'strategically important developments' only?
8. Should the removal of the right of appeal for 'totally without merit' cases be extended to other planning decisions? If so, should this change be limited to 'major infrastructure projects' and other 'strategically important developments'?

'Significant Planning Court Claim' designation

30. Claims relating to commercial, residential, or other developments which have significant economic impact, raise important points of law or generate significant public interest may be designated as Significant Planning Court claims. For these claims, there are target timescales set out in Practice Direction 54D to the Civil Procedure Rules (PD 54D) and each case is reviewed by the Planning Liaison Judge to ensure it is allocated to a judge with an appropriate level of expertise. Lord Banner KC noted that in practice, NSIP cases are designated as Significant Planning Court Claims.
31. Following the Government's request, the CPRC approved amendments to PD 54D to formally designate NSIP judicial reviews as Significant Planning Court Claims. It is the Government's view that this will help to provide the parties with greater certainty about how their claims will be handled.
32. It is likely that major infrastructure projects consented under the TCPA 1990 and the TWA 1992 are in practice being dealt with as Significant Planning Court Claims. Therefore, there may also be merit in formally designating these cases as Significant Planning Court Claims.

Questions

9. Should the CPRC be invited to amend PD 54D to formally designate 'major infrastructure projects' and other 'strategically important developments' as Significant Planning Court Claims?

Case management conferences

33. The aim of case management conferences (CMCs) is to require the parties to consider, at an early stage, practical matters such as timetabling, procedural rulings, the range of evidence to be considered, and the scope for narrowing the issues. These are already standard practice at the Planning Inspectorate for planning inquiry appeals under the TCPA 1990.
34. In relation to NSIPs, the Government invited the CPRC to encourage the use of CMCs once permission for judicial review has been granted. Not making CMCs mandatory avoids imposing an additional stage where the Court and the parties do not think it is necessary, and restricting this to cases which have been granted permission prevents meritless claims from seeking to use a CMC as an additional opportunity to cause delay.
35. A new paragraph 3.8 was included in PD 54D on 1 October 2025 to make clear that the Court may give directions immediately following the grant of permission in a NSIP challenge or convene a case management conference upon application from the parties or of its own initiative after the grant of permission. The question is therefore whether CMCs should also be encouraged in other types of planning decisions.

Questions

10. Should the CPRC be invited to amend the PD 54D to encourage the use of case management conferences following the grant of permission to apply for judicial review in other types of planning cases? If so, should this change be limited to 'major infrastructure projects' and other 'strategically important developments' consented or should it be extended more widely to all planning cases?

Target timescales in the High Court

36. For Significant Planning Court Claims, there are target timescales in the High Court which are set out in PD 54D. The Government earlier this year invited the CPRC to introduce bespoke target timescales for NSIP judicial reviews to reflect the removal of the paper permission stage and further tighten up the process.
37. The target timescales for NSIP judicial reviews now differ to those of other Significant Planning Court Claims in the following ways:
- Shortened deadlines for the service of the pre-permission documents from seven days to three;

- A target timescale for having the oral permission hearing three weeks from the claimant's deadline for filing a reply to the acknowledgment of service; and
- A shortened deadline for filing and serving the detailed grounds of defence from 35 to 28 days.

38. The changes were approved by the CPRC at its May 2026 meeting and will be coming into force on 1 October 2026. It is the Government's view that these refinements will help provide greater clarity for parties and further reduce delays to NSIPs, while ensuring the process remains workable.

39. If evidence demonstrates a consistent issue in other planning regimes, one option would be to extend these revised timescales to major infrastructure projects consented under the TCPA 1990 and the TWA 1992. However, it is worth noting that tighter target timescales would not only have resource implications for the Court, but they could also present challenges for the parties who would have to meet the shorter deadlines.

Questions

11. Should the CPRC be invited to extend the target timescales for NSIP judicial reviews in the High Court to 'major infrastructure projects' and other 'strategically important developments'? Please explain your response with reference to any potential risks and resources implications.

Target timescales in the Court of Appeal

40. There were previously no target timescales in the Court of Appeal in relation to NSIP challenges. Lord Banner KC and many respondents to the Government's call for evidence noted that target timescales could reduce delays and provide greater certainty in the expected timeframe of cases.

41. In line with the recommendation of the review by Lord Banner, the Government invited the CPRC to introduce the following target timescales for NSIP judicial reviews in the Court of Appeal:

- For permission to appeal: determination to be given four weeks from the application for permission to appeal; and
- For the hearing of a substantive appeal: four months from the application for permission to appeal.

42. These target timescales were approved by the CPRC and the associated amendments to Practice Direction 52D to the CPR (PD 52D) came into effect on 1 October 2025. These new timescales require the prioritisation of NSIP cases, and their extension will

need to be carefully targeted to avoid undue burden on the Court. As noted above, tighter target timescales would not only have resource implications for the Court; they could also present challenges for the parties who would have to meet the shorter deadlines.

Questions

12. Should the CPRC be invited to extend the target timescales for NSIP appeals in the Court of Appeal to 'major infrastructure projects' and other 'strategically important developments'? Please explain your response with reference to any potential risks and resources implications.

Glossary of Terms

Case management conference (CMC): a hearing convened by the Court which requires the parties to consider practical matters such as timetabling, procedural rulings, the range of evidence to be considered, and the scope for narrowing the issues.

Civil Procedure Rules (CPR): the CPR and practice directions (PD) govern the procedure for the initiation and progress of civil claims before the County Court, High Court and Court of Appeal (Civil Division) in England and Wales.

Civil Procedure Rule Committee (CPRC): an independent committee set up under the Civil Procedure Act 1997 to make rules of court (CPR & PD) for the Civil Division of the Court of Appeal, the High Court and the County Court.

Development consent order (DCO): an order made by the Secretary of State under the Planning Act 2008 to give consent to nationally significant infrastructure projects.

Major economic infrastructure projects ('major infrastructure projects'): These projects are developments of strategic importance for national economic growth, as defined in paragraph 1. They include but are not limited to Nationally Significant Infrastructure Projects as defined in the Planning Act 2008.

Nationally Significant Infrastructure Projects (NSIP): infrastructure projects of a certain scale within the categories of energy, transport, water, wastewater, and waste which are consented through the Planning Act 2008.

Significant Planning Court Claims: These are claims relating to commercial, residential, or other developments which (a) have significant economic impact either at a local level or beyond their immediate locality; (b) raise important points of law; and (c) generate significant public interest. PD 54D makes directions as to how these claims are handled by the Court.

Strategically important developments: projects outside the scope of nationally significant infrastructure projects which are of strategic importance to economic growth and energy security. Such developments include onshore wind projects over 50MW, electricity network projects and large grid-scale battery storage projects with a capacity over 100MW.

Questionnaire

1. Do you think that the NSIP judicial review reforms should be extended to other planning regimes? Please explain your response with reference to the potential benefits and risks of doing so.
2. Do you agree that consideration for further judicial review reforms should be limited to 'major infrastructure projects' consented under the TCPA 1990 and the TWA 1992 and other 'strategically important developments' (as defined by this consultation)?
3. Do you agree that onshore wind projects over 50MW and under 100MW, electricity network projects and large grid-scale battery storage projects with a capacity over 100MW, all of which are currently determined under the TCPA 1990, should be considered 'strategically important developments'?
4. Should other developments, such as significant housing developments, also be in scope of this review? If so, how should these developments be defined. Please explain your response with reference to the importance of these developments and the potential impact of delays resulting from legal challenge.
5. In your view, is there an issue with delays to 'major infrastructure projects' and 'strategically important developments' consented under the TCPA 1990 regime resulting from legal challenges? If so, please provide details (for example, how long does it take on average for a legal challenge against a decision to reach a conclusion; are there any specific cases of concern; what is the impact of the resulting delay).
6. Although to date there have been few challenges against TWA decisions, in your view, is there a risk that the number of challenges could increase in light of changes in the PIA? If so, what would be the potential impact on 'major infrastructure projects' consented under the TWA 1992 regime? Please provide details (for example, what is the likelihood of challenge and the expected complexity of proceedings, including the amount of evidence required; and what would be the potential impact of the resulting delay).
7. Should the CPRC be invited to remove the paper permission stage for other planning decisions? If so, do you agree that this change should be limited to 'major infrastructure projects' and other 'strategically important developments' only?
8. Should the removal of the right of appeal for 'totally without merit' cases be extended to other planning decisions? If so, should this change be limited to 'major infrastructure projects' and other 'strategically important developments'?

9. Should the CPRC be invited to amend PD 54D to formally designate 'major infrastructure projects' and other 'strategically important developments' as Significant Planning Court Claims?
10. Should the CPRC be invited to amend the PD 54D to encourage the use of case management conferences following the grant of permission to apply for judicial review in other types of planning cases? If so, should this change be limited to 'major infrastructure projects' and other 'strategically important developments' consented or should it be extended more widely to all planning cases?
11. Should the CPRC be invited to extend the target timescales for NSIP judicial reviews in the High Court to 'major infrastructure projects' and other 'strategically important developments'? Please explain your response with reference to any potential risks and resources implications.
12. Should the CPRC be invited to extend the target timescales for NSIP appeals in the Court of Appeal to 'major infrastructure projects' and other 'strategically important developments'? Please explain your response with reference to any potential risks and resources implications.
13. What do you consider to be the equalities impacts on individuals with protected characteristics of each of the proposed options for reform? Please give reasons.
14. Are there forms of mitigation in relation to impacts that we should consider?

About you

Please use this section to tell us about yourself

Full name	
Job title or capacity in which you are responding to this consultation exercise (e.g. member of the public etc.)	
Date	
Company name/organisation (if applicable):	
Address	
Postcode	
If you would like us to acknowledge receipt of your response, please tick this box	☐ (please tick box)
Address to which the acknowledgement should be sent, if different from above	

If you are a representative of a group, please tell us the name of the group and give a summary of the people or organisations that you represent.

Contact details/How to respond

Please send your response by 27 August 2026 to:

Judicial Review Policy

Ministry of Justice
Rights and Public Law Division
9th Floor, 102 Petty France
London SW1H 9AJ

Email: JRReform@justice.gov.uk

Complaints or comments

If you have any complaints or comments about the consultation process you should contact the Ministry of Justice at the above address.

Extra copies

Further paper copies of this consultation can be obtained from this address and it is also available on-line at <https://consult.justice.gov.uk/>.

Alternative format versions of this publication can be requested from JRReform@justice.gov.uk.

Publication of response

A paper summarising the responses to this consultation will be published in [insert publication date, which as far as possible should be within three months of the closing date of the consultation] months' time. The response paper will be available on-line at <https://consult.justice.gov.uk/>.

Representative groups

Representative groups are asked to give a summary of the people and organisations they represent when they respond.

Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA), the General Data Protection Regulation (UK GDPR) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Ministry.

The Ministry will process your personal data in accordance with the DPA and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

Impact Assessment, Equalities and Welsh Language

Impact assessment

The potential reforms which are subject to this consultation, if taken forward, would be to streamline and tighten the existing judicial review process for planning decisions outside of the NSIP regime, rather than introduce new processes or regulatory burdens. As such, the proposals being considered would not have a direct impact on businesses and therefore are not considered regulatory provisions in scope of the Better Regulation Framework.

More detailed assessments will be provided following the outcome of this consultation and ahead of any reforms being implemented.

Equalities

In developing this consultation, we have considered the public sector equality duty in section 149 of the Equality Act 2010. As above, the proposals under consideration are intended to streamline and tighten the existing judicial review process for planning decisions beyond the NSIP regime. If taken forward, they would apply equally to all parties bringing or defending claims, including individuals, community groups, developers and public bodies. They are not intended to restrict the ability of individuals or organisations to challenge the lawfulness of planning decisions taken by the relevant public authority.

The Government notes that some of the proposals being considered, such as tighter target timescales and a requirement for cases to proceed directly to an oral permission hearing, may present difficulties for inexperienced claimants and litigants in person. It is currently unclear how this might impact on individuals with different protected characteristics. This is why we are seeking views in this consultation to determine the types of planning decisions that should be in scope of judicial review reforms.

The analysis set out here is preliminary, and we welcome views, supported by evidence where possible, on any potential equalities impacts that we have not yet identified. A fuller equality impact assessment will be developed following consideration of consultation responses and ahead of any decision to implement reforms.

Consultation principles

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the Cabinet Office Consultation Principles 2018 that can be found here:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691383/Consultation_Principles__1_.pdf

Annex A: Summary of Responses to the Government Call for Evidence on the Recommendations of Lord Banner KC

1. The report by the independent review by Lord Banner KC ('the Review') was published by the Ministry of Housing, Communities and Local Government on 28 October 2024. The report sets out several potential options for reform to the judicial review process which the Review suggests could help to reduce delays to NSIPs resulting from legal challenges. The Ministry of Justice published a call for evidence on the same day as the report was published, seeking views on the recommendations put forward by the Review and inviting suggestions for additional options for reform.
2. When the call for evidence closed on 30 December 2024, a total of 33 written responses to the call for evidence were received. Around a third were from legal practitioners and associated bodies (12), and another large proportion was from infrastructure and energy organisations (10). The remainder included responses from the senior judiciary, NGOs, charities, and legal academics. There were two joint responses: a response from Balfour Beatty to which 14 other construction companies were signatories, and a response from Wildlife & Countryside Link to which a total of 10 environmental NGOs were signatories.
3. Alongside the written call for evidence, the Ministry of Justice also consulted a number of planning lawyers in writing and held two roundtable discussions with academics with expertise in planning and administrative law. A list of those who responded to the call for evidence or were otherwise consulted can be found in **Annex B**. The responses received have been analysed with regards to the strength of support for each of Lord Banner's recommendations, the potential benefits and risks which were identified or highlighted, and any alternative options which were suggested.
4. Most respondents agreed that there was a case for reforming the process to reduce the delays caused by legal challenges. There was broad support for those recommendations which are intended to provide greater certainty and to ensure cases are dealt with more quickly. Many respondents however expressed reservations about recommendations which could limit access to justice or prevent arguable claims from being heard. There was little support for recommendations which involved new additional processes due to concerns about the risk of causing further delays.

The case for intervention

Q1. Do you have any comments regarding the Review's methodology or its findings?

Q2. Do you agree with the Review's conclusion that there is a case for streamlining the process for judicial reviews of DCO decisions? Please provide evidence, where available, to support your answer.

5. On question 1, several respondents commended the thoroughness of the Review's analysis given the complexity of the issue and the limited time that was available. Some said they would have liked to see more analysis into the causes of legal challenges which they argue would better inform the changes to be taken forward. Several responses noted the lack of formal consultation by the Review and welcomed the government call for evidence in addressing this limitation. Some commented on the absence of expert statistical analysis, stating that whilst this may not be necessary for DCO judicial reviews considering the small number of these cases, this would be needed to inform any changes to wider categories of judicial review. One respondent noted that the Review had to rely on evidence provided by individual interviewees to track the progression of cases and argued that this demonstrated the paucity of publicly available data on DCO judicial reviews.
6. On question 2, some responses considered that the Review's analysis does not provide a clear indication of a systemic issue and consequently does not present a convincing case for change. Others said that the current process is already finely balanced and that any changes must be carefully considered to ensure they can lead to material improvements without impacting on access to justice and the rule of law. However, the majority of responses agreed with Lord Banner that there is a case for streamlining the process for DCO judicial reviews, noting the current delays to projects caused by unsuccessful legal challenges. A common theme among many of the responses, irrespective of whether they are supportive of changes to the judicial review process, is that there are other areas in the NSIP regime to which changes would produce greater benefits in terms of reducing delays.

The government response

7. Although the number of DCO decisions and the number of legal challenges to these decisions will continue to be an evolving picture, the Review provided a clear snapshot of the issue at the time of reporting. It helped to illustrate the inefficiencies in certain parts of the process for DCO judicial reviews and how the process may be improved. The anecdotal evidence included in many of the responses received provide firm support for the Review's findings and conclusion in this regard.

8. As announced on 23 January 2025, the Government is persuaded that there is a case for reforming the judicial review process for NSIPs to reduce the delays to these major infrastructure projects resulting from unsuccessful legal challenges. The Government recognises that the judicial review process is not the only part of the NSIP regime in which improvements can be made. This is why we have legislated in the Planning and Infrastructure Act 2025 (PIA 2025) to implement a broad range of reforms for the NSIP regime, including the judicial review process for these cases to support the delivery of these important projects.

Reducing the number of permission attempts

Q3. Do you agree with the Review that the number of permission attempts should be reduced for judicial review of DCO decisions? If so, should this be reduced to two (maintaining the right of appeal) or just one?

Q4. If you agree that the number of permission attempts should be reduced for judicial review of DCO decisions, do you think that this change should also be applied to judicial review of other planning decisions?

Q5. What would be the impact on access to justice if the number of permission attempts were reduced, either for just DCO judicial reviews or wider categories of judicial review?

9. Claimants for judicial review currently have up to three attempts to obtain permission: (1) in writing before the High Court, (2) at an oral permission hearing before the High Court if permission is refused at the written stage, and (3) at a hearing before the Court of Appeal if permission is refused at the oral permission hearing.
10. In his report, Lord Banner argues that retaining all three attempts is not necessary to ensure fair and effective handling of claims, and that each attempt extends the duration of a judicial review claim by several weeks or, in some cases, several months. On this basis, he recommends that the number of permission attempts ('bites of the cherry') for DCO judicial reviews be reduced to either two or just one. In both scenarios, the written stage would be eliminated, meaning that a claim would proceed directly to an oral permission hearing. With just one permission attempt, there would be no right of appeal against a refusal of permission at the oral permission hearing.
11. Whilst Lord Banner acknowledged the 'superficial attraction' of having just one bite of the cherry, he said that maintaining the right of appeal may be preferable in practical terms. The Review cited stakeholders' concerns that with only one opportunity to consider permission, judges may be more inclined to err on the side of caution and grant permission in marginal cases and, on the other hand, that there could be a

greater risk of unchecked mistakes (i.e. claims being refused permission based on an error). It noted that around half of the cases which had been refused permission at the oral permission hearing were subsequently granted permission by the Court of Appeal – so the appeal stage is important from an access to justice point of view.

12. Almost all the responses received highlight the importance of the permission stage in filtering out unarguable cases. Whilst the majority agreed that there was scope to streamline the existing process, a few expressed the view that the permission stage should not be reformed at all, arguing that any changes could have an impact on both efficiency and access to justice. One argument is that the paper permission stage is a cost-effective way for the courts to grant permission where a claim is clearly arguable, to provide clear reasons for refusing permission or to certify the claim as totally without merit (which means the claim cannot be renewed at an oral hearing). Another argument is that requiring requests for permission to be determined at an oral hearing could potentially increase the costs for all parties, therefore affecting access to justice.
13. The majority of respondents supported the Review's suggestion of removing the paper permission stage. Many noted the inefficiency of the paper stage in the context of DCO judicial reviews, namely that the vast majority of cases which were refused permission on the papers proceeded to an oral renewal hearing (nine out of 11). On this basis, many argued that having claims proceed directly to an oral permission hearing would help to reduce time and costs for all parties involved in the claim and could more importantly reduce the period of uncertainty for the projects in question. One respondent said that with the removal of the paper permission stage, judges should be able to certify claims as 'totally without merit' at the oral permission hearing and those cases which are deemed as such should not be able to appeal to the Court of Appeal.
14. With regard to also removing the right of appeal, few considered that this would be a good idea. Most responses echoed the access to justice risks identified by the Review about leaving the decision of whether the claim should be allowed to proceed to be made by a single judge with no possibility of review. Others argued that having the oral hearing in the High Court as the only attempt to obtain permission could be counterproductive, noting the potential for judges to err on the side of caution and the likelihood that this could lead to the oral hearing being more onerous for the parties. It is suggested that claimants would urge the judge at the oral permission hearing to conduct a far more intensive assessment of the claim and that the judge would likely oblige given the significant public interest in NSIPs.
15. One respondent suggested an alternative option of removing the oral permission hearing instead of the paper stage. The academics and legal practitioners consulted on this option were unanimous in their view that this would not be a good idea. They said that if the oral permission hearing were to be removed, the right to appeal to the Court of Appeal would have to be kept in order to provide claimants an opportunity for their

case to be considered at an oral hearing. It was suggested that under this option, given the low success rate at the paper permission stage, most cases would proceed to be heard at the Court of Appeal, which is likely to result in greater delays due to the more limited capacity in the Court of Appeal.

16. Another respondent put forward a more radical alternative that the permission stage should be removed altogether. This respondent noted the Review's finding that around 70 per cent of claims which have had a permission decision were granted permission to proceed on at least some grounds. It is argued that the removal of the permission stage would therefore be most effective in reducing the current delays without impacting on access to justice. This is a minority view since, as noted above, almost all respondents considered the permission stage to be an important feature of the DCO judicial review process in filtering out unarguable claims.
17. Question 4 of the call for evidence also asked whether the change proposed by Lord Banner should be applied to other planning cases. Those who responded to this part of the question were all of the view that there are significant variations between the different planning regimes and therefore any changes to the judicial review process for other planning decisions would require detailed analysis and further consultation.

The government response

18. In view of the responses received, the Government has made changes to the permission stage of NSIP judicial reviews. Section 13 of the PIA 2025, supplemented by relevant changes to the Civil Procedure Rules, requires all DCO claims to proceed directly to an oral permission hearing and removes the right of appeal for claims which are deemed totally without merit at that hearing.
19. Allowing DCO claims to proceed directly to an oral permission hearing will allow the merit of the claims to be properly presented by the parties and thoroughly considered by the Court in the first instance. Arguable cases which might not be able to present sufficient evidence on the papers will be able to fully present their case in court in the first instance and potentially obtain permission sooner. For claims which are totally without merit, the changes which we are taking forward will mean that the court's determination at the oral permission hearing will be final.
20. The measures which we have taken forward will help to reduce the period of uncertainty for all parties and ensure claims which are totally without merit cannot hold up projects by exhausting the permission appeals process. The measure was used for

the first time on 24 April 2026 in the *Stonestreet Green DCO*¹⁰ case, allowing an important solar project to continue with minimal delay.

Raising the permission threshold

Q6. Do you think the CPRC should be invited to amend the CPR to raise the permission threshold for judicial review claims challenging DCOs?

Q7. What, if any, are the potential benefits of raising the permission threshold for judicial review claims challenging DCOs?

Q8. What, if any, are the potential impacts on access to justice of raising the threshold for judicial review claims challenging DCOs?

21. Lord Banner considered whether the threshold for permission to apply for judicial review of DCO decisions should be raised so that only those claims likely to succeed are allowed to proceed to a substantive hearing. The aim would be to prevent arguable but weak or mediocre claims from reaching a full hearing. In his report, Lord Banner highlighted a concern raised by some stakeholders that the more granular consideration of the merit of the claim which would be necessary with a higher permission threshold would make the permission stage more cumbersome, potentially reducing its utility. He also noted the risk of a mismatch between the test for permission for judicial review challenging DCO decisions and the test for permission in other judicial review and statutory review cases.
22. In the call for evidence, we noted that in addition to the practical risks highlighted in the report, there is a more fundamental concern that raising the permission threshold in this way could unduly restrict the right of access to justice. As expressed in the judgment of the Supreme Court in the *Unison*¹¹ case: “the right of access to justice...is not restricted to the ability to bring claims which are successful. Many people, even if their claims ultimately fail, nevertheless have arguable claims which they have a right to present for adjudication” (paragraph 29).
23. Some respondents indicated support for a higher threshold to remove more cases at the permission stage, citing concerns with repeat challenges and the low success rates for judicial reviews in relation to NSIPs. Certain respondents also suggested that many judicial review claims are made simply to delay projects, rather than seeking to

¹⁰ R (on the application of Aldington and Bonnington Parish Council) v (1) The Secretary of State for Energy Security and Net Zero and (2) EPL 001 Limited.

¹¹ R (on the application of UNISON) (Appellant) v Lord Chancellor (Respondent)

challenge the lawfulness of the DCO decision. However, the majority of respondents said that this option should not be pursued, noting the concerns identified by Lord Banner. A number of respondents also noted that in the absence of any evidence of the potential benefit, introducing a higher permission threshold would unduly restrict access to justice and be in breach of the UK's international law obligations under the Aarhus Convention.

The government response

24. The responses received highlighted the access to justice implications and practical risks of this proposal, as well as the lack of clear evidence of its potential benefit. Therefore, it is the Government's view that the case for raising the permission threshold for judicial reviews challenging DCOs is not yet made.

Specialist NSIP judges in the High Court

Q9. What, in your view, are the potential benefits of introducing an NSIP ticket which would restrict the ability to hear judicial review cases concerning DCO decisions to a small specialist pool of judges (four to six judges)?

Q10. What would be the impact on the operation of the Planning Court if an NSIP ticket were to be introduced?

25. Lord Banner considered whether an 'NSIP ticket' should be introduced in the High Court. This would restrict the ability to hear judicial review cases concerning DCO decisions to a small specialist pool of judges (four to six judges), rather than all those who are currently authorised to hear planning cases (39). He said that some stakeholders felt that this would be justified due to the heightened public interest in NSIP cases and their particularly specialist nature.
26. In his report, Lord Banner noted a risk of creating a bottleneck for judicial resources. The report also highlights the fact that in practice, judicial reviews concerning DCO decisions have all been treated as Significant Planning Court Claims which are all reviewed by the Planning Liaison Judge to ensure they are allocated to judges with an appropriate level of expertise. On balance, the Review concluded that the case for an 'NSIP ticket' is not yet made.
27. The idea of introducing a more specialised planning court to speed up the processing of NSIP judicial reviews is supported by some respondents who cited precedent in the use of specialised courts to handle intellectual property litigation and immigration cases. Others commented that they do not see an issue with judicial capacity and

expertise at the High Court, but rather it is at the Court of Appeal where they would welcome cases being heard by judges with planning experience.

28. Many respondents noted that given the broad demands on the High Court and the Court of Appeal, creating a pool of judges dedicated to hearing DCO judicial review cases would inevitably have an impact on the progression of other cases. In their view, how the courts' limited resources should be prioritised is a matter best left to the judiciary.

The government response

29. Having considered the responses received, the Government decided not to invite the CPRC to introduce an 'NSIP ticket' in the High Court. As noted by Lord Banner, there are existing provisions in Practice Direction 54D which make clear that Significant Planning Court Claims should be dealt with by judges with significant experience due to the volume and nature of the technical material involved. As NSIP judicial reviews are now designated as Significant Planning Claims (see below), cases would be reviewed by the Planning Liaison Judge to ensure they are allocated to judges with the relevant experience.
30. In relation to the Court of Appeal, the Government is working with the judiciary to clarify the current allocation procedure in suitable public guidance, such as the Court of Appeal (Civil Division) Guide.

'Significant planning court claim' designation

Q11. Do you agree with the Review that the CPRC should be invited to amend the CPR so that DCO judicial reviews are automatically deemed Significant Planning Court Claims?

Q12. The report states that in practice all DCO judicial reviews are treated as Significant Planning Court Claims. What would be the benefit of formalising this existing practice? In particular, how would this change help to reduce delays or the impact of delays?

31. For Significant Planning Court Claims, there are target timescales set out in PD 54D. Noting that in practice all judicial review cases concerning DCO decisions have to date been treated as Significant Planning Court Claims, Lord Banner recommended that this should be put on a formal footing by amending PD 54D to provide greater certainty for stakeholders in the NSIP regime.
32. Given the national significance of NSIPs and the complexity of the claims against them, there is a case for formalising the existing practice of designating all judicial review

cases concerning DCO decisions as Significant Planning Court Claims. Respondents were overall supportive of this proposal but noted that as this is already happening in practice, there may not be any significant benefits.

The government response

33. It is the Government's view that formally designating NSIP judicial reviews as Significant Planning Court Claims will help to provide the parties with greater certainty about how their claims will be handled. This is why the Government last year invited the CPRC to make the necessary rule changes. Following the CPRC's approval, amendments have been made to PD 54D to formally designate NSIP judicial reviews as Significant Planning Court Claims. The changes came into force on 1 October 2025.

Case management conferences

Q13. Do you agree with the Review that the CPRC should be invited to consider amending the CPR to introduce automatic case management conferences in judicial review claims challenging DCOs? If so, do you agree that case management conferences should be convened in the way suggested by the Review, including the requirement for pre-permission case management conferences and further case management discussion once permission for judicial review or permission to appeal has been granted?

34. The aim of case management conferences (CMC) is to require the parties to consider practical matters such as timetabling, procedural rulings, range of evidence to be considered, and the scope for narrowing the issues. These are already standard practice at the Planning Inspectorate for all planning inquiry appeals under the Town and Country Planning Act 1990. Lord Banner suggested that CMCs in DCO judicial reviews could help to ensure the efficient running of cases when they progress through the courts. He recommended the introduction of pre-permission CMCs which would reconvene once permission for judicial review has been granted and again if permission to appeal has been granted.
35. There was broad support for the idea of having CMCs in DCO judicial reviews for the reasons set out by the Review, though several respondents were concerned about the risk of creating an unnecessary additional stage if this were to be mandatory. Many respondents suggested that if CMCs were to be introduced to DCO judicial reviews, they should be held post-permission only, to avoid wasted costs and additional delays if permission is not granted.

36. One respondent questioned the need for CMCs in DCO judicial reviews, arguing that the comparison between these cases and planning inquiries is inapt. They said that planning inquiries involve many active participants and expert witnesses which means timetabling can be a challenging matter for the inspector to manage, whereas the parties to DCO judicial reviews are said to have usually been participants in the consent process. It was also noted that although CPR Part 54 does not provide for formal CMCs in judicial review proceedings, the parties may apply for an interim order, or the Court may make case management orders with or without a hearing.

The government response

37. On balance, the Government considers that there is merit in making clear the availability of CMCs in NSIP judicial reviews and that their use should be encouraged, though only where the parties or the Court consider it would be beneficial and only once permission for judicial review has been granted. This would avoid the risk of any applicant who is challenging a DCO decision in bad faith using a CMC as an additional opportunity to cause delay, whilst providing the flexibility for parties to request a CMC upon permission being granted where they think their case requires active case management.
38. Following the CPRC's approval last year, a new paragraph 3.8 was included in PD 54D on 1 October 2025 to make clear that the Court may give directions immediately following the grant of permission in a NSIP challenge or convene a case management conference upon application from the parties or of its own initiative after the grant of permission.

Introducing target timescales

Q14. What, in your view, are the factors leading to the length of time currently taken by the Court of Appeal and the Supreme Court to determine an application for permission to appeal and to deliver a judgment on that appeal with regards to judicial review claims against DCO decisions?

Q15. Do you agree with the Review that the CPRC and the President of the Supreme Court should be invited to consider introducing target timescales in the Court of Appeal and the Supreme Court, respectively?

Q16. What would be the impact on the operation of the appellate courts if the target timescales proposed by the Review were to be introduced?

39. Lord Banner noted in his report that there are currently long average turnaround times for both the Court of Appeal and the Supreme Court to determine an application for

permission to appeal and to deliver a judgment on that appeal in judicial reviews against DCO decisions. The report also highlights a concern raised by many stakeholders that there is a lot of uncertainty regarding how long it would take for a case to be dealt with in the Court of Appeal.

40. On that basis, Lord Banner recommended that there should be target timescales in the Court of Appeal and the Supreme Court for judicial review cases concerning DCO decisions and that there could be a case for such timescales to be applied to all appeal cases designated as Significant Planning Court Claims. The proposed target timescales are as follows.

- For permission to appeal: determination to be given four weeks from the application for permission to appeal; and
- For the hearing of a substantive appeal: four months from the application for permission to appeal.

41. Overall, respondents from across the NSIP system were in favour of having clear target timescales in the Court of Appeal and, to a lesser extent, in the Supreme Court. Respondents welcomed the transparency and predictability this would bring. However, many respondents noted that the courts would need to be properly resourced in order to meet the timescales, otherwise prioritisation of DCO judicial reviews would come at the expense of other types of cases. Respondents noted that the resourcing implications would be particularly acute in the Supreme Court given the small number of Supreme Court Justices.

The government response

42. In light of the responses received and having discussed the resource implications of Lord Banner's proposed target timescales, the Government decided to invite the CPRC to amend the rules of court to introduce the proposed timescales in the Court of Appeal. The target timescales were approved by the CPRC and the associated amendments to Practice Direction 52D to the CPR (PD 52D) came into effect on 1 October 2025. It is the Government's view that these new timescales will help to reduce the current delays and uncertainty associated with these cases.

43. In relation to the Supreme Court, having consulted Lord Reed (the President of the UK Supreme Court), it is Government's view that bespoke target timescales for DCO judicial reviews are not required given that there are existing target timescales in the Supreme Court and there is the option of requesting for expedition in urgent cases.

Performance indicators

Q17. Do you agree with the Review that the Planning Court and the Court of Appeal should be invited to publish regular data on key performance indicators as outlined in the report? Please provide any evidence of likely benefits and potential costs, where available, to support your answer.

44. Noting that data on the progression of judicial review claims against DCO decisions from the High Court to the appellate courts is not currently published in an easily accessible format, Lord Banner recommends that key performance indicators are published on a three-month rolling basis by the Planning Court and the Court of Appeal. He suggests that this could include data on the percentage of cases which have met the target timescales for NSIP cases and/or Significant Planning Court cases generally and on the average timescales of cases. Lord Banner noted that although improving the way data is published would not directly address the issue of delays, it could provide greater transparency and help to inform consideration of future reforms.
45. Many respondents said they would welcome the publication of clearer data as this could help to inform research and provide a better understanding of where the challenges lie and what changes could be most effective. However, there were concerns raised with the suggestion that the Government would be requiring the Courts to publish data on 'key performance indicators' as the review of the courts' performance is a matter for the leadership judges.

The government response

46. Noting the potential benefits of having clearer data on case progression, the Government will be discussing with the judiciary to consider how data can be published in light of the changes being taken forward to improve accessibility and transparency.

Other options for reform

Q18. Are there any other potential changes to the judicial review process which could help reduce judicial review related delays to the delivery of NSIPs that have not been considered by the Review?

Q19. What are the likely benefits of the proposed change(s)?

Q20. What are the implications for access to justice arising from the proposed change(s)?

47. A number of respondents identified additional options for reform which the Government has considered in consultation with legal practitioners and academics. The Government has also discussed these proposals with the judiciary to consider the implications on the administration of justice. The following section sets out the Government's consideration of these potential options.

Reduce the time limit

48. Currently, an application for judicial review of a planning decision must be brought within six weeks of when the decision was taken. One proposal is that this time limit should be reduced to 28 days to limit the period of uncertainty for developers and stakeholders. It was argued that given the ease of information exchange owing to the internet and social media, it is now easier for planning authorities to publicise their decisions and for affected parties and interest groups to share information about relevant decisions.

49. Some stakeholders noted that the time limit for judicial review of planning decisions is already shorter than the default three-month period and said that any further reduction would require clear justification, as this could have access to justice implications. Others have highlighted that a shorter time limit would result in parties being less able to engage in pre-action measures which could otherwise avoid the need for the case going to court or serve to narrow the issues in proceedings if the case proceeds. It was suggested that with a shorter time limit potential claimants, when in doubt, may be more likely to submit a judicial review claim just in case.

The government response

50. It is the Government's view that the two-week timesaving is outweighed by the potential access to justice implications and the risks of preventing pre-action engagement by and encouraging protective applications by potential claimants.

Conditional quashing order

51. This option involves introducing the ability for judges to delay the effect of a quashing order and set certain conditions which, if considered by the court as having been met by a set date, would result in the decision being upheld. Some stakeholders argued that a conditional quashing order in cases where a decision was struck down on the basis of minor procedural defects would allow the Secretary of State to simply address those defects without having to undertake the full re-determination process, reducing delays and associated costs.

52. This idea was considered as part of the 2021 Judicial Review Reform Consultation. It was then decided that this option would not be pursued given the practical implications. In determining whether a condition has been complied with, a second hearing would be required. This would increase the length of proceedings and create practical difficulties in relation to costs and appeals. It was therefore considered that the extremely limited

circumstances in which this remedy would be suitable do not justify the uncertainty and practical difficulties associated with this proposal.

53. Many stakeholders echoed the concerns raised in the 2021 consultation and said that a conditional quashing order should not be pursued. Some argued that should the Court wish to, it may use the existing remedies, such as the suspended quashing order, to deliver a similar effect.

The government response

54. It is the Government's view that the case for conditional quashing orders is not yet made. There is currently insufficient evidence of the potential benefits to justify the uncertainty and practical difficulties associated.

Partial quashing order

55. This option involves introducing an explicit provision for judges to be able to issue a partial quashing order. The suggestion is that this may be helpful in relation to schemes which have multiple sections or distinct parts (e.g. extended road networks with clearly delineated sections) of which only one or a few elements have been found to be unlawful. In such cases, the court would quash only the part of the DCO which was found to be unlawful, leaving the remainder of the scheme to stand. The intended benefit is to limit the quashing effect to only those elements which have been found to be unlawful, leaving the remainder to be progressed. With only part of the scheme subject to the re-determination process, any subsequent challenges would also be restricted to this part of the scheme.

56. Other stakeholders have questioned the utility of a partial quashing order given that determination for development consent is based on a holistic assessment of the scheme's overall benefits and impacts and as such it would be challenging to maintain the justification for a scheme if one of its constituent parts were to be quashed. They also noted that the various parts of a development, though separate, are interdependent (e.g. power generation and means of transmission) and developers would be reluctant to undertake work on one part of the scheme if there is uncertainty about whether the other elements being able to proceed.

The government response

57. It is the Government's view that the case for partial quashing orders is not yet made. There is currently insufficient evidence to demonstrate the need for this new provision. As some stakeholders noted, if part of a decision was truly severable, the court may feel it can quash just that part under its existing powers. For example, this was seen in the case of *R (on the application of Arthur) v Barnet London Borough Council* [2022] EWHC 2933 (Admin), which was concerned with a planning decision under the TCPA 1990.

List of Respondents

- Action with Communities in Rural England (ACRE) – Jeremy Leggett
- Balfour Beatty PLC – joint response signed by 14 CEOs of major construction firms
- The Bar Council of England and Wales – Eleanore Lamarque
- The Carbon Capture & Storage Association – Maximilian Musing
- David Wolfe KC – Matrix Chambers
- Elizabeth O’Loughlin, Durham Law School
- Maurice Sunkin, Essex Law School
- EDF Energy – Vicky Andrews
- Energy UK – Chris Friedler
- Institute of Civil Engineers – Richard Bayfield
- Herbert Smith – Catherine Howard
- Herbert Smith – Matthew White
- The Infrastructure Forum – Callum Doyle
- JUSTICE – Philip Armitage
- The Law Society of England and Wales– Hazel Blake
- Leigh Day LLP – Judy Zoradey
- Linklaters – Patrick Robinson
- National Grid – Simon Best
- National Highways – Clare Barras & Sally Keith
- Transport Action Network
- Ørsted – Eleni Antoniou
- National Infrastructure Planning Association – Robbie Owen, Pinsent Masons LLP
- Planning and Environmental Bar Association – Richard Kimblin KC
- Public Law Project – Lee Marsons
- Renewable UK – Friederike Andres
- Richard Buxton Solicitors – Adele Gisby
- Richard Honey KC – Francis Taylor Building
- Sizewell C PLC – David Fletcher
- Statera Energy – Phoebe Finn
- Town Legal LLP – Simon Ricketts & Juliet Munn
- UK Environmental Law Association – Dr Paul Stookes
- Sam Guy – Lecturer, University of Sheffield
- Wildlife & Countryside Link – Matt Browne (joint response with 10 NGOs)
- YIMBY Alliance – Kane Emerson & John Myers
- Dame Victoria Sharp DBE – President of the King’s Bench Division
- The Hon. Mr Justice Chamberlain, Judge in Charge of the Administrative Court
- The Hon. Mr Justice Mould, Planning Liaison Judge
- The Office of the Master of the Rolls

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