



Ministry
of Justice

Lord Ponsonby of Shulbrede
Parliamentary Under-Secretary
of State for Justice

The Baroness Drake CBE
Chair of the Lords Constitution Committee
House of Lords
London
SW1A 2AU

MoJ ref: SUB118407

28 October 2024

Dear Lady Drake

LORD BANNER'S REVIEW INTO LEGAL CHALLENGES TO NATIONALLY SIGNIFICANT INFRASTRUCTURE PROJECTS

I am writing to inform you that earlier today the government published the report of the Review into Legal Challenges against Nationally Significant Infrastructure Projects which the previous administration commissioned from Lord Banner KC. Alongside the report we have also, today, published a call for evidence seeking views on Lord Banner's recommendations.

The Nationally Significant Infrastructure Project regime was established by the Planning Act 2008. It is a streamlined decision-making process by which major infrastructure projects of specified categories secure planning approval, in the form of a development consent order (DCO), from the relevant Secretary of State rather than from the local planning authority. DCO decisions are made in accordance with National Policy Statements which are subject to formal consultation and parliamentary approval.

Since the introduction of the regime, there have been 137 DCO decisions, with a quarter facing judicial review challenges. A successful challenge requires the court to overturn the decision and the Secretary of State to reconsider the DCO. Although few judicial reviews against DCO decisions have been successful to date (just four out of 34 challenges), unsuccessful claims can cause major delays with significant downstream implications, including holding back the delivery of essential benefits to the country and imposing additional costs.


Early this year, the previous government appointed Lord Banner to lead an independent review into the delays to Nationally Significant Infrastructure Projects caused by legal challenges. In his report, he presents a number of potential options for reform to the judicial review process.

There is a pressing need to tackle the costly delays to nationally significant infrastructure projects but we must ensure that any changes to judicial review maintain access to justice in line with our domestic and international legal obligations. This requires careful consideration, and we want to open the discussion more widely before taking decisions on options for reform.

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The call for evidence will run until 30 December to gather further insights into the potential benefits and risks associated with the options identified in Lord Banner's report and to invite suggestions for additional reform options. The government will carefully consider all responses received before making a decision on any changes to be taken forward.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Ponsonby', is centered on the page. The signature is written in a cursive style with a large initial 'P'.

LORD PONSONBY OF SHULBREDE

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