

WORSHIPFUL COMPANY OF WATER CONSERVATORS

FURTHER RESPONSE TO THE MINISTRY OF HOUSING, COMMUNITIES AND LOCAL GOVERNMENT, AND DEFRA

WORKING PAPER ON DEVELOPMENT AND NATURE RECOVERY AND IN RESPONSE TO GOVERNMENT STATEMENTS ON PLANNING JANUARY 2025

1 The Worshipful Company of Water Conservators ('WCWC') is a City of London Livery Company focussed on the long-term health of our water resources and the broader environment. Our members include senior professionals from water, environmental and related industries and regulators, along with others who share our concern for water and the environment. Our experience and knowledge ranges from the complexities of environmental sciences, through the application of engineering to deliver the goals identified by those sciences, and the subsequent management of the assets created. The WCWC's purpose is *promoting a diverse and sustainable environment*.

2 As part of that purpose, the WCWC has been responding to relevant consultations particularly on matters relating to water conservation. These are archived on its website.

<https://waterconservators.org/policies-and-practices/>

3 This includes a response to the consultation by the Ministry of Housing, Communities and Local Government (MHCLG) on the proposed changes to the National Planning Policy Framework in September 2024. And the response to the Defra/MHCLG Working Paper on Planning and Nature Recovery.

4 The principal response on the Working Paper was made on January 17th to meet the deadline of the 24th January. But on January 23rd the Government issued a Statement.

<https://www.gov.uk/government/news/prime-minister-clears-path-to-get-britain-building>

SkyNews described this as Environmental Bodies being stripped of powers.

<https://news.sky.com/story/environmental-bodies-to-be-stripped-of-powers-to-delay-building-13294266>

Tim Baker with SkyNews, a political reporter, wrote [Stارmer vows to 'take on NIMBYs' and halt delays for major building projects](#)

Sir Keir Starmer is vowing to take on "the NIMBYs" by reducing legal challenges to infrastructure building - with a new approach stopping "newts and bats" from blocking construction.

Sir Keir Starmer said: "For too long, blockers have had the upper hand in legal challenges - using our court processes to frustrate growth.

"We're putting an end to this challenge culture by taking on the NIMBYs and a broken system that has slowed down our progress as a nation.

"This is the government's plan for change in action - taking the brakes off Britain by reforming the planning system so it is pro-growth and pro-infrastructure."

The government claims more than 58% of all decisions on "major infrastructure" get taken to court - something that is "getting in the way of the government's central mission to grow the economy".

And it says each challenge takes around a year and a half to resolve.

As part of the government's plans, so-called "unarguable cases" will only be able to be brought back to courts once - rather than the current three.

The first attempt, the "paper permission stage" will be scrapped, and a new law will allow a High Court judge to deem a case "totally without merit", preventing appeals.

The government also says it wants to "end the block and delay to building homes and infrastructure from current environmental obligations".

Instead, a new "nature restoration fund" will allow developers to pay into a central fund which will ensure the environment is protected, rather than each individual project having to carry out its own mitigations.

"The new common-sense approach doesn't allow newts or bats to be more important than the homes hard-working people need, or the roads and hospital this country needs," the government said.

The planning changes come following a review carried out last year by planning lawyer Lord Charles Banner - who recommended a streamlined system.

And so the WCWC would like to add some relevant comments relevant to water conservation.

Judicial Reviews and Appeals

5 It supports a revision of the Judicial Review and Appeal Processes. In its submission in the Autumn of 2024 to the consultation on the NPPF it stated that

The WCWC considers that it is essential that the Government takes action to address cases where the judicial review system is misused simply to thwart or obstruct planning decisions which have been through due democratic and legal processes (as opposed to those where there are genuine questions of misuse of process). Such 'vexatious' calls for judicial reviews are a major barrier to environmental investment and economic growth; they impose huge costs on developers and councils alike. One of the members of the WCWC had 10 significant renewable energy projects delayed by such reviews all of which were thrown out by the judges and none of which were upheld; indeed in one case costs were awarded against the appellant (though this is not a regular occurrence); however because of delays in an overloaded legal system, the net result was that investment in each case was delayed by a year or more with consequent inflationary cost increases, sometimes of tens of millions of pounds, which had to be picked up by the council for whom the investment was being made.

Indeed, it could be argued that judicial reviews are a bigger issue than the planning system itself which already provides significant due process, consultation and democratic scrutiny. Changes to the planning system which do not at the same time address the issue of judicial reviews will not yield the benefits targeted.

The WCWC recognises that this is a long standing and very difficult problem, but it is a growing one. It is essential that the citizen has protection against misuse of power and failure of due process by planning authorities. The WCWC makes the following suggestions:

- an analysis of the 'success rate' of different categories of judicial reviews should be undertaken; if it is proven that a large majority were upheld then we need to learn from the mistakes made by the relevant bodies and ensure such failures of due process are not repeated; if on the other hand only a small minority are upheld then we need to learn what conversely are not legitimate grounds for judicial review;
- clear guidelines should be issued on what are and are not legitimate grounds for a call for judicial review
- a process needs to be put in place whereby a very speedy decision is given as to whether a judicial review may proceed or not before the costs and delays caused by a full judicial review are incurred
- the balance of risk between appellant and defendant needs also to be considered; at this stage typically it is the promoter of a project who bears the majority of the risk (which is often then passed on back to back to the government or council) and the appellant much less; consideration should be given to requiring bonds on both sides and indeed in extreme the award of damages where there has been vexatious misuse of the system.

It is recognised that all the above are difficult issues, yet they are material and they are growing; they must be addressed if we wish to achieve economic growth based on environmental investment. Concerns have been expressed about the delays caused by appeals, for are right and proper but can be overly slow. This needs resolution as well..

Lack of focus still on the nexus of planning and water strategy

6 The WCWC notes that in the press release that no mention is made of water projects. It has set out its concerns at length on this matter. The changes in the planning processes will be a 'double edged sword', because of the quickening demands on the water sector, but also the easing of impediments to planning for major water structures which will be necessary to meet the Government's aspiration for a better water environment.

7 Government must not focus just on very major projects of the size of a nuclear power plant; many significant developments are much smaller and need similarly to be facilitated. If the UK is to achieve growth, infrastructure projects of all sizes need to be enhanced (and not just ones of the size of a nuclear power plant). Many absolutely vital environmental projects, e.g. for a waste recycling centre, can be £20 million or less. Similarly, there are a plethora of small infill housing developments which need to be facilitated. The improvements to the planning processes (and which the WCWC applauds) need to apply to all scales of development, which fit in with the Government's growth priorities.

8 For example, the relocation of Cambridge Sewage Treatment Works has been in the planning system for many years. This is vital to meeting the high standards for sewage treatment in future and will release valuable land for development. It is being reviewed by Defra at the moment to take account of the new NPPF.

<https://cwwtpr.com/>

<https://www.varsity.co.uk/news/28906>

9 But the WCWC re-iterates its central point that development and water conservation need to be reconciled. The WCWC has observed that the demand for affordable housing, cheap water and cheap food has to be balanced against the impact, for example, of a significant extension of opportunities for wild swimming . Nature conservation will be absolutely central in a sorely needed national conversation. And regulators should not be stripped of powers, but those powers need to be made relevant and streamlined as the WCWC has advocated numerous times.

Nature Restoration Fund

10 The WCWC supports the concept of the Nature Restoration Fund, but expressed some reservations on the proposals for its execution in its response to the Working Paper on January 17th , but such a Fund could be incorporated into the Catchment Model as advocated by the WCWC .. but always kept local.

11 The WCWC has several members with experience of the Landfill Tax Credits Scheme

<https://www.gov.uk/guidance/landfill-tax-landfill-communities-fund-scheme>

and suggests that successes with that Scheme should be used as an example to develop the Nature Restoration Fund.

12 It is vital that any money is ring fenced and the WCWC is aware of the current angst about the security of the Water Restoration Fund , which has up to £11 million to fund local projects to restore and enhance the water environment in specified geographical areas, using environmental fines and penalties collected from water and sewerage companies in those areas between April 2022 and October 2023.

<https://www.gov.uk/government/publications/water-restoration-fund-guidance-for-applicants/about-the-water-restoration-fund>

13 On the 19 January the Guardian reported that the Treasury is looking to keep millions of pounds levied on polluting water companies in fines that were meant to be earmarked for sewage cleanup. The £11m water restoration fund was announced before the election last year, with projects bidding for the cash to improve waterways and repair damage done by sewage pollution in areas where fines have been imposed. However, it stated that *the Treasury is in discussions about keeping the money to use it for unrelated purposes at a time of huge pressure on the public finances and rising debt interest costs .The move would be hugely disappointing to small projects that have bid for the money to clean up sewage-ridden waterways and were expecting to get the cash last July, only to see it delayed by the election.*

<https://www.theguardian.com/environment/2025/jan/19/treasury-seeks-to-keep-water-firm-fines-earmarked-for-sewage-cleanups>

14 The WCWC understands that the two funds are different , but is aware of the fate of good intentions , so there must be safeguards incorporated into the Fund. .