



Planning Related Applications for Judicial Review

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The Prime Minister indicated at the CBI in late 2011 that applications for judicial review on planning or infrastructure proposals were a 'growth industry'; an impediment to economic recovery and that many applications were 'hopeless' and that it should be more expensive and difficult to apply for one. Overall there were 11,200 JR cases of all categories in 2011.

Frank Dobson MP (Lab) subsequently obtained more detailed figures from the Ministry of Justice about judicial reviews related to planning or infrastructure proposals in each year since 1998; how many applications were allowed to proceed to a hearing and how many were granted in a written answer to a parliamentary question on 26th November. These figures appear not to have found a wide audience.

The figures since 1998 relating to the category of 'other' cases (i.e. other than immigration/asylum and criminal cases) relating to planning were:

1998	1999	2000	2001	2002	2003	2004
112	116	121	142	119	122	119
2005	2006	2007	2008	2009	2010	2011
140	142	151	184	165	148	191

The number of planning cases is trivial, representing only about 7% or 8% (9% at most, in some years). As a proportion of all JR applications, planning-related JR applications account for less than 2% of the overall total.

No clear conclusions can be drawn about any upward trend in the number of applications as these have fluctuated over 14 years, e.g.

2002	(down 16% on 2001)
2004	(down 2% on 2003, & still down 2% on 2001)
2009	(down 10% on 2008)
2010	(down 10% on 2009, & down 20% on 2008)

Although the 191 planning-related JR applications in 2011 appear to represent a sharp increase over 2010, the figures for 2012 might again be lower.

Nevertheless, overall the numbers are still very small.

In relation to an alleged increase rise in 'hopeless' JR applications, those which were allowed to proceed were:

1998	1999	2000	2001	2002	2003	2004
- 51 (= 46%)	- 56 (= 48%)	- 68 (= 56%)	- 63 (= 44%)	- 47 (= 39%)	- 54 (= 44%)	- 49 (= 41%)
2005	2006	2007	2008	2009	2010	2011
- 44 (= 31%)	- 50 (= 35%)	- 51 (= 34%)	- 67 (= 36%)	- 64 (= 39%)	- 46 (= 31%)	- 61 (= 32%)

(the figure in brackets is the percentage of total planning-related JR cases per year)

In most years, at least a third of planning-related JR applications were given permission to proceed, a much higher proportion than the average for other types. No trends about allegedly 'hopeless' cases frustrating development proposals are evident (and there is an already effective vetting process to reject unarguable cases).

The success rate of cases i.e. where planning-related JR applications were granted, were as follows:

1998	1999	2000	2001	2002	2003	2004
- 10 (= 20%)	- 19 (= 34%)	- 29 (= 43%)	- 17 (= 27%)	- 12 (= 26%)	- 11 (= 20%)	- 10 (= 20%)
2005	2006	2007	2008	2009	2010	2011
- 11 (= 25%)	- 7 (= 14%)	- 17 (= 33%)	- 14 (= 21%)	- 15 (= 23%)	- 17 (= 37%)	- 6 (= 10%)

(the figure in brackets is the percentage success rate, compared with the number of cases given permission for a substantive hearing)

Again, no discernible trend is evident and each case must have been arguable or it would not have been given permission to proceed.

One final point is that the Prime Minister considers it should be made more expensive to apply for judicial review, however this could be in breach of Aarhus Convention [\[1\]](#) and it was precisely in order to ensure compliance with the Convention that the Ministry of Justice put forward proposals to limit the costs in environment-related judicial review cases.

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The Aarhus Convention is a multilateral environmental agreement which came into force on 30th October 2001 through which the opportunities for citizens to access environmental information are increased and transparent and reliable regulation procedure is secured.