

Matthew Pennycook
Minister of State for Housing and Planning
Department for Levelling Up, Housing and Communities
12 May 2025



Dear Minister Pennycook

The Forum was pleased to receive your letter of 15 April 2025 concerning the government's Streamlining Infrastructure Planning Working Paper and the Forum's related feedback.

We very much welcome the government's decision to adopt several of the Forum's proposals within the Planning and Infrastructure Bill. The planned reforms to the Nationally Significant Infrastructure Project (NSIP) system are very encouraging, and the measures outlined in the Bill will improve the planning process and support the government's broader growth objectives.

The Forum also supports the recently proposed amendments removing the statutory requirement to consult during the pre-application stage of NSIP applications. The Forum's Planning Working Group believes this change has the potential to significantly shorten the time developers currently spend preparing and bringing forward NSIP applications.

Nevertheless, the Forum encourages the government to consider further amendments, in line with the objectives of the Bill, which could be implemented relatively easily with the full support of the infrastructure sector.

The Forum believes that the measures set out below would help the government to achieve more substantial improvements to the system and to further reduce project approval and also implementation times. They cover changes to the Development Consent Order (DCO) process and the need to go further with judicial review reform:

1. A greater level of certainty is still needed in relation to NSIP planning policy, particularly in the case of project and site-specific National Policy Statements (NPSs). Since the Localism Act 2011, NPSs have required Parliamentary approval, and TIF believes they should therefore not be open to judicial review (JR) or, at the very least, that the JR opportunities should be significantly reduced and narrowed, in the interests of stopping JRs from deliberately creating uncertainty and actively hindering economic growth. This should include NPSs that have been *positively approved* by a vote of the House of Commons, as opposed to simply not prayed against; and the JR of mischievously engineered decisions of the Secretary of State relating to requested NPS reviews, particularly in the case of project and site-specific NPSs, in between the soon-to-be 5 yearly reviews of NPSs
2. The Bill still needs to ensure that ministers have the ability (on a case-by-case basis) to vary the standard DCO consenting process, both before and after the DCO application.

There should also be a power to give directions to applicants and key participants, such as local authorities and environmental regulators, as to how they should engage in the process, both before and after the DCO application, for example putting in place a binding timetable to ensure speedy engagement by all parties. In the past we have seen public bodies directed not to engage with DCO applicants, e.g. Transport for London and the 2015-2020 Heathrow Expansion scheme – this could well happen again in relation to particularly controversial projects and so there needs to be such a ‘supervisory jurisdiction’ for the Secretary of State to ensure the effectiveness of the DCO process.

3. For those DCOs that relate to projects that are a critical national priority, the DCOs should be confirmed by Parliament following the Secretary of State's decision through an abridged process. The resulting Act of Parliament would, in the usual way, be immune from judicial review and so would provide the same guarantees that Hybrid Bills offer to major projects such as High Speed Two. This would provide greater certainty and eliminate unnecessary delay in project implementation. There is precedent for this, as it has been done on many occasions before - the statute book contains numerous examples of ‘Provisional Order Confirmation Acts’, which were once routine.
4. It is vital for the Bill to ensure that DCOs can be, as much as possible and as originally intended by the 2008 Act, a ‘one stop shop’ for all the consents required. Currently, a scheme promoter has to obtain many subsidiary / other authorisations such as environmental permits, waste permits, highway permits and construction consents after the in-principle, i.e. DCO, approval. To streamline the process, the DCO approval should grant more of these ‘subsidiary authorisations’ at the same time. The Forum does not believe that the recent Corry Review provides an answer on this particular point.

The Infrastructure Forum’s network remains encouraged by the government's commitment to growth and to its planning reforms. The Infrastructure Forum stands ready to provide any assistance from its experts across investors, owners, operators, professional advisers and regulators of UK infrastructure.

Thank you for kindly suggesting that your officials would be pleased to meet. We will be in touch with them to arrange a date to discuss these proposals further.

With good wishes,

Graham Mather CBE
President
The Infrastructure Forum