

Proposed legislation affecting judicial review of planning decisions

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Abstract

This paper aims to provide an overview of the former and current law on judicial review of planning decisions in Ireland. It considers the foundational aspects of the concept of judicial review and the common law principles that affect it. The paper covers how the law is affected by Ireland's international obligations and identifies the practical and legislative steps that have already been taken to improve procedural efficiency. Statistics are provided to highlight trends in the number and type of cases taken. The paper analyses the current policy positions and proposed legislation, with specific reference to the reforms proposed in the [Accelerating Infrastructure Report and Action Plan](#). Finally, the paper reproduces and comments on case studies, to better inform ongoing policy and legislative debates.



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Executive Summary

Judicial review involves examining the legality of the decision-making processes of administrative bodies and lower courts. The concept of judicial review is central to the rule of law in Ireland. It creates a mechanism for affected parties to secure and give effect to the legislative intent of the Oireachtas.¹ It is a process grounded in the system of common law (body of law based on court precedents), the historical basis of the Irish legal system.²

In Ireland, the Planning and Development legislation provides a judicial review mechanism for individuals and organisations to challenge the legality of environmental and planning decisions. Although the judicial review procedure differs from that applied to general judicial review cases, currently, its application is based on common law principles, and precedent.

The Planning and Development legislation in Ireland has been overhauled in recent years. The provisions of the *Planning and Development Act 2000* ('2000 Act') have been replaced by the *Planning and Development Act 2024* ('2024 Act'). Many provisions of the 2024 Act have not yet been commenced. This means that at the moment, all cases involving decisions made under the previous legislative regime are still subject to the judicial review procedure of the 2000 Act. The new judicial review procedure can only universally apply after the relevant provisions of the 2024 Act are commenced and they deem relevant planning and environmental decisions to be taken as having been made under the 2024 Act.

The new judicial review procedure under the 2024 Act aims to speed up the legal processes associated with a judicial review of an environmental or planning decision. It removes the need to seek leave of the Court to apply for judicial review. It also empowers the Court to strike out an application for a number of reasons. The 2024 Act significantly restricts an applicant's (person making application to Court) ability to amend their grounds of claim, especially when compared to the procedures under the 2000 Act. Moreover, the more codified requirement of 'sufficient interest' under the 2024 Act has to be met for each ground in the claim, not to the application as a whole - this is aimed at reducing the number of grounds connected to any single claim. The new judicial review procedure preserves the special status of environmental non-governmental organisations, but it establishes higher thresholds to limit the participation of unincorporated bodies, and to verify the body's mandate and bona fides to participate.

Another major change introduced in the 2024 Act involves empowering the Court to direct a decision maker to rectify a flawed decision or document or amend the faulty part or parts. Finally, the new provisions remove the former right of appeal to the Court of Appeal.

The 2024 Act also introduces a new costs regime. These provisions are yet to be commenced.

¹ De Blacam, 'Judicial Review', Bloomsbury Publishing (2016) at [2.02]; *"Myths and realities" of contemporary planning law*, *Law Society Gazette Ireland*, 24 November 2025.

² See De Blacam, 'Judicial Review', Bloomsbury Publishing (2016) at [1.02].

The enactment of the 2024 Act was accompanied by the creation of a specialist Planning and Environment Court List of the High Court. The List was established to replace the existing Strategic Infrastructure List, with the intention of developing judicial expertise while enhancing access to justice. The List is designed to provide a specialised mechanism for processing planning and environmental cases, while maximising efficiency and maintaining an adherence to principles of justice. The introduction of the List has resulted in a marked improvement in the amount of time taken to hear those cases affecting large-scale development projects. The Practice Directions (procedures to be followed when bringing court proceedings) of the List also allow for quicker resolution of cases involving “harmless errors”, allowing the judge to rectify the errors rather than quash the decision and remit the matter to the decision-maker.

Critics of the use of judicial review to challenge certain environmental and planning decisions cite that the current procedure favours an applicant through potential delays in the legal process, the applicable costs rules and the respective commercial positions of the parties. They claim that the increasing numbers of applications for planning and environment judicial reviews could create a court backlog that has the potential to delay the commencement of critical infrastructure projects indefinitely. The government has taken a similar position, arguing that a narrow set of interests have been weaponising the judicial review process to delay or block delivery of infrastructure.

Alongside the [Review of the National Development Plan 2025](#), the Minister for Public Expenditure, Infrastructure, Public Service Reform, and Digitalisation, Jack Chambers TD, established the Accelerating Infrastructure Taskforce in May 2025 to provide guidance and expert advice on how to unblock barriers to and speed up infrastructure delivery. The Minister published the Taskforce’s [Report on Engagement and Barriers to Infrastructure](#) and its [Accelerating Infrastructure Report and Action Plan](#), in July and December 2025 respectively.

The [Accelerating Infrastructure Report and Action Plan](#) states that it aims to reform the current judicial review system through legislative and practical reforms. The proposed actions could profoundly affect the legal status of judicial review of planning and environment matters, especially in relation to the development of critical infrastructure.

In particular, the Civil Reform Bill, included in the ‘All Other Legislation’ list of the Autumn 2025 legislation programme, proposes to codify the existing law on judicial review, limiting the extent to which common law principles could apply to cases. The proposed Critical Infrastructure Bill aims to force decision makers to recognise and accelerate critical infrastructure projects through the planning process. The proposed Emergency Powers Bill could allow the Minister to intervene in specified ‘emergency’ situations, to allow projects of national importance to bypass parts of the planning process including assessments, or to provide for the suspension or modification of certain requirements. While other proposed legislation would aim to ensure the judicial review provisions of the [Planning and Development Act 2024](#) apply to all planning decisions, including those made under the [Planning and Development Act 2000](#).

The government acknowledges that the proposed changes could be the subject of legal challenge. A further question remains about whether the proposed changes are necessary and proportionate to the current context.

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Glossary and abbreviations

Table 1 Glossary and abbreviations

Term	Meaning
2000 Act	<i>Planning and Development Act 2000</i>
2024 Act	<i>Planning and Development Act 2024</i>
Aarhus Convention	United Nations Economic Commission for Europe Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters
Action Plan	Accelerating Infrastructure Report and Action Plan
Decision maker	The body or authority making the planning decision (often the local authority and other planning authorities or An Coimisiún Pleanála (formerly An Bord Pleanála))
DPER	Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation
ELCFAM	Environmental Legal Costs Financial Assistance Mechanism
GDD	Greater Dublin Drainage Project
List	Planning and Environment Court List of the High Court
Minister	Minister for Public Expenditure, Infrastructure, Public Service Reform and Digitalisation
Notice party	A person who is not the specified respondent who a decision may affect, who is entitled to be joined in the proceedings
OPR	Office of the Planning Regulator
Part 9 judicial review	The judicial review procedure laid out in Chapter 1 of Part 9 of the <i>Planning and Development Act 2024</i>

Source: Compiled by Parliamentary Research Service (PRS).

Introduction

The Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation ('DPER') published an **Accelerating Infrastructure Report and Action Plan** on 3 December 2025. The Action Plan provides a statement of intent to address the perceived barriers to effective infrastructure delivery in Ireland, laid out in the **Report on Engagement and Barriers to Infrastructure** published by DPER in July 2025.³ In total, it comprises 30 specific measures (Actions) designed to streamline development processes and remove barriers to the delivery of infrastructure.⁴

The Action Plan proposes a number of practical and legislative reforms. If implemented these reforms would affect the manner in which people would be able to challenge administrative decisions on planning and the environment. The Action Plan suggests that these changes are necessary to help restore proportionality and to rebalance the current law to better reflect the 'public interest'.⁵ It also argues that delays in the current judicial review process for planning and environmental cases has the effect of impeding access to justice as cases are tied up in the court system.⁶

Purpose of proposed legislation

The **Accelerating Infrastructure Report and Action Plan** is a statement of intent, setting out a comprehensive programme of reforms aimed at accelerating the pace of infrastructure delivery in Ireland.⁷ It aims to deal with what are perceived to be 12 main barriers to effective infrastructure delivery in Ireland as laid out in the **Report on Engagement and Barriers to Infrastructure**, published by DPER in July 2025. Part of the Action Plan focusses on legal reform involving a series of legislative and practical initiatives aimed at removing or at least minimising perceived legal barriers to the development of critical infrastructure. If implemented, this would have the effect of overhauling the current legal understanding of judicial review. In particular, the Civil Reform Bill, included in the 'All Other Legislation' list of the Autumn 2025 legislation programme. In the words of the Minister for Justice, Home Affairs

³ Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, **Accelerating Infrastructure Report and Action Plan**, 3 December 2025, p. 7.

⁴ Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, **Accelerating Infrastructure Report and Action Plan**, 3 December 2025, pp 8-9.

⁵ Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, **Accelerating Infrastructure Report and Action Plan**, 3 December 2025, pp 8, 14; **"Balance of public interest" has shifted on planning**, *Law Society Gazette Ireland*, 20 November 2025.

⁶ Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, **Accelerating Infrastructure Report and Action Plan**, 3 December 2025, p. 40.

⁷ Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, **Accelerating Infrastructure Report and Action Plan**, 3 December 2025, p. 4.

and Migration the Bill proposes to implement “a range of improvements to civil law procedures” and “codify the existing law on judicial review, placing it on a statutory basis.”⁸

The Government has indicated that proposed Critical Infrastructure Bill would aim to force decision makers to recognise and accelerate critical infrastructure projects through the planning process. The legislation may set tight deadlines for decisions, and include other statutory timelines, positive presumptions, and other measures designed to reduce procedural delays.⁹

If enacted, the proposed Emergency Powers Bill could allow the Minister to intervene in specified ‘emergency’ situations, to allow projects of national importance to bypass parts of the planning process including assessments, or to provide for the suspension or modification of certain requirements. The legislation would need to work within the relevant EU exemption procedures.¹⁰

Another proposed piece of amending legislation approved by Cabinet on 27 November 2025 would aim to ensure the judicial review provisions of the *Planning and Development Act 2024* apply to all planning decisions, including those made under the *Planning and Development Act 2000*.¹¹

⁸ See Department of Justice, Home Affairs and Migration, ‘*Minister O’Callaghan speech at New Legal Year Ceremony Minister O’Callaghan speech at New Legal Year Ceremony*’, *Publication*, 6 October 2025. No General scheme of the Bill has been published to date. However, it is reported that on 16 December 2025, the Minister went to Cabinet to get approval for the drafting of this and related legislation: J M Raollaigh, ‘*Cabinet to consider new laws over judicial reviews*’, RTÉ, 16 December 2025.

⁹ Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, *Accelerating Infrastructure Report and Action Plan*, 3 December 2025, p. 41; ‘*Changing Times: A new infrastructure plan to fundamentally reshape the delivery of infrastructure in Ireland?*’, *McCann Fitzgerald Knowledge*, 2 December 2025.

¹⁰ Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, *Accelerating Infrastructure Report and Action Plan*, 3 December 2025, pp 41-42; ‘*Changing Times: A new infrastructure plan to fundamentally reshape the delivery of infrastructure in Ireland?*’, *McCann Fitzgerald Knowledge*, 2 December 2025.

¹¹ See ‘*Minister Browne and Minister Cummins announce amendments to Planning Act to speed up the impact of new Judicial Review provisions*’, Press Release, Department of Housing, Local Government and Heritage, 27 November 2025.

Policy and legal context

What is judicial review?

Judicial review is a mechanism by which an application can be made to the High Court to challenge the decision-making processes of administrative bodies and lower courts.¹² It is designed to ensure that public functions (comprising both actions and omissions) are carried out fairly and in accordance with the law.¹³

De Blacam in his leading text on judicial review provides a clear definition in the following terms, “[j]udicial review’ ... includes the examination of both the constitutional validity of a statute and the legality of all other forms of public decision-making.”¹⁴

De Blacam notes that judicial review serves two distinct functions. Firstly, it may be required to fulfil a practical function, for example, as a legal requirement set out in the Constitution, domestic legislation or a law of the European Union. Second, it provides a foundation for the rule of law and democracy in the State, by creating a mechanism for affected parties to secure and give effect to the legislative intent of the Oireachtas (giving citizens ‘access to justice’).¹⁵

According to de Blacam, the purpose of judicial review fourfold:

1. It ensures the lawfulness of the exercise of public power.
2. It provides an opportunity to challenge the constitutionality of legislation and discretionary aspects of executive policy where it fails to vindicate a constitutional right.
3. It provides an important opportunity for a citizen to give further input into the public decision-making process, through a judicial hearing.
4. It provides an educational function, where courts clarify principles and set standards which should inform future decision-making.¹⁶

Foundations of judicial review

The concept of judicial review is well entrenched in the Constitution. **Article 34.3.1 of the Constitution** provides that the High Court is invested with full original jurisdiction in and power to determine all matters and questions, whether of law or fact, civil or criminal. The Superior

¹² The Courts Service, ‘**Judicial Review**’, Courts.ie.

¹³ Public Interest Law Alliance (PILA), *An NGO Guide to the Judicial Review Procedure in the Republic of Ireland*, September 2022, p. 5.

¹⁴ De Blacam, ‘Judicial Review’, Bloomsbury Publishing (2016) at [1.03].

¹⁵ De Blacam, ‘Judicial Review’, Bloomsbury Publishing (2016) at [2.02]

¹⁶ De Blacam, ‘Judicial Review’, Bloomsbury Publishing (2016) at [6.01].

Courts are also solely invested with the power to determine whether legislation and actions are constitutionally valid.¹⁷

As highlighted by de Blacam, Article 4(3) of the Treaty on European Union requires our courts to ensure the legal protection of rights which derive from EU law. Judicial review serves this purpose by ensuring access to justice.¹⁸ Access to a review procedure before a court of law or other independent and impartial body is also required by specific EU laws.¹⁹ Professor Áine Ryall of the Faculty of Law, University College Cork, has stated that “[a]ny move to restrict access to justice is a matter of enormous public importance. It engages the rule of law and the constitutional right of access to the courts.”²⁰

De Blacam has stated that a third basis of judicial review could be found in the [European Convention on Human Rights Act 2003](#), specifically [Article 13 of the Convention](#), which provides:

“Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.”²¹

Types of relief

The specific types of relief that can be sought via judicial review are:

- An order to **quash** a decision (*Certiorari*).
- An order to **compel** the performance of a duty (*Mandamus*).
- An order to **prohibit** action being taken (Prohibition).
- A judicial **declaration** setting out the rights of the parties (Declaration or Declaratory relief).
- An order to **prevent** an action being taken or to compel the taking of an action (Injunctive, interim or interlocutory relief).²²

¹⁷ The Constitution, [Articles 26](#) and [34.3.2](#).

¹⁸ De Blacam, ‘Judicial Review’, Bloomsbury Publishing (2016) at [2.04].

¹⁹ See, as noted by Blacam at [2.04], Directive 85/337/EEC (dealing with public participation in plans relating to the environment) as interpreted in *Sweetman v An Bord Pleanála* [2007] IEHC 153.

²⁰ Dr Áine Ryall, ‘Challenges and Opportunities for Irish Planning and Environmental Law’ (2018) 25(3) *Irish Planning and Environmental Law Journal* 104–111.

²¹ De Blacam, ‘Judicial Review’, Bloomsbury Publishing (2016) at [2.05].

²² The Courts Service, ‘[Judicial Review](#)’, Courts.ie. See also *Payne v Meath County Council* [2025] IEHC 540.

An action or omission by a decision maker will remain legally valid until it is affected by an interim or final court decision.²³ In the absence of evidence to the contrary, a court will presume that a public decision maker will comply with fair procedures and will act within the confines of its statutory powers in making decisions.²⁴ Furthermore, where an act or omission sits within the decision maker's statutory powers, their administrative autonomy should be preserved by the courts, unless compelling reasons necessitate judicial intervention.²⁵ That said, a decision maker is obliged to give sufficient reasons to ensure affected parties understand how a decision is made and if there are legitimate grounds to mount a challenge.²⁶

Common law and procedural matters to consider for judicial review cases

Judicial review of decisions of public decision-makers are taken by application under **Order 84 of the Rules of the Superior Courts**. The Rules of the Superior Courts and relevant Practice Directions of the High Court and the Supreme Court apply to all actions.²⁷ Additionally, the **Rules of the Superior Courts (Planning & Environment) 2025** apply to proceedings commenced in the Planning and Environment List of the High Court.

The courts follow common law principles and past precedents in the conduct of all judicial reviews.²⁸ This means the courts are process-focussed, relying on previous decisions and rulings in similar cases to guide the process, and to ensure consistency and fairness in the application of the law. Under the common law, courts respect past decisions but, where necessary, they incrementally modify and clarify the law as they respond to the circumstances of the case before them.²⁹

The main common law principles that are applied to all judicial review proceedings relate to:

²³ See De Blacam, 'Judicial Review', Bloomsbury Publishing (2016) at [7.02]: "The presumption of validity is necessary in the interests of good order and administration. Citizens must be allowed to rely on public acts until they are set aside in the appropriate way ...". See also *State (Abenglen Properties) v Corporation of Dublin* [1984] IR 381 (even a quashed act or omission may not be entirely without legal effect) and *MD v The Board of Secondary School* [2024] IESC 11 (where a decision is not challenged, it has effect).

²⁴ See *Crofton Buildings Management CLG v An Bord Pleanála* [2024] IESC 12.

²⁵ *MD v The Board of Secondary School* [2024] IESC 11. Moreover, a decision should be read as valid if a valid reading is reasonably available: *Friends of Killymooney Lough v An Coimisiún Pleanála* [2025] IEHC 576.

²⁶ *Connelly v An Bord Pleanála* [2018] IESC 31; *Sherwin v An Bord Pleanála* [2024] IESC 13

²⁷ **Court Rules** are rules regulating the practice and procedure of the court that must be followed in all actions in each Court. **Practice Directions** are matters of practice and procedure of the courts which are complementary to the Rules of Court.

²⁸ See De Blacam, 'Judicial Review', Bloomsbury Publishing (2016) at [1.02].

²⁹ See Cian Henry, '**The Common Law, the Constitution, and Judicial Self-Identity: Constitutional Rights Adjudication in Ireland**' *Trinity College Law Review Online*.

- **Standing:** A person or organisation must have a ‘sufficient interest’ in the matter being reviewed and must be able to demonstrate that they have been or will be affected by the law or action being challenged.³⁰
- **Justiciability:** The matter must be capable of being determined by the courts and must not be a political question that is better left to the legislative or executive branches of government.³¹
- **Timeliness:** An application for judicial review must be made within a reasonable time, and generally within the time limits set out in specific legislation and/or the Rules of the Superior Courts.³²
- **Proportionality:** The Court will consider whether the measure being challenged is proportionate to the legitimate aim pursued by the legislature.³³
- **Wednesbury principles:** The Court will consider whether the decision-making process was fair and whether the decision reached was one that a reasonable decision-maker could have reached on the basis of the evidence presented.³⁴
- **Natural justice:** The Court will review if the procedures followed by the decision-making body were fair and impartial.³⁵
- **Precedent:** The Court will consider previous decisions and rulings of courts in similar cases to ensure consistency and fairness in the application of the law.

These principles are not exhaustive and may vary depending on the specific case and circumstances. It is important to note that principles and precedents are not fixed, and the courts may adapt or change them as required in order to ensure that the law is applied in a fair and just manner.

Judicial review of decisions under the Planning and Development Act 2000

Additional statutory procedures apply to any planning and environmental decisions involving local government and other planning authorities, or An Coimisiún Pleanála (formerly An Bord Pleanála) (‘planning decisions’). For planning decisions, the role of the court when conducting judicial review is the same as with any other form of judicial review. The court will examine the legality of the act or omission and the grounds on which relief may be sought. Moreover, the types of relief and the defences available to the respondent are all the same.³⁶

The *Planning and Development Act 2000* (the ‘2000 Act’) has been repealed by the *Planning and Development Act 2024* (the ‘2024 Act’) but many of its provisions continue to apply on a

³⁰ *D v East Berkshire Community Health NHS Trust* [2005] UKHL 23.

³¹ *O'Reilly v Mackman* [1983] 2 AC 237.

³² *R v Secretary of State for the Home Department, ex parte Limbuela* [2005] UKHL 66.

³³ *R (European Roma Rights Centre) v Immigration Officer at Prague Airport* [2004] UKHL 55.

³⁴ *Associated Provincial Picture Houses Ltd v Wednesbury Corporation* [1948] 1 KB.

³⁵ *R v Secretary of State for the Home Department, ex parte Doody* [1994] 1 AC 531.

³⁶ De Blacam, ‘Judicial Review’, Bloomsbury Publishing (2016) at [53.51]

transitional basis. Any changes to the judicial review process made by the 2024 Act will be discussed below.

Returning to the 2000 Act as is currently in force, the majority of statutory procedures for judicial review of planning decisions are found in sections 50, 50A and 50B of the '2000 Act'. For the purposes of the 2000 Act, a planning decision includes any act or omission of a planning authority, a local authority, a competent authority, An Bord Pleanála or An Coimisiún Pleanála.

The 2000 Act provides that an individual may only question the validity of a planning decision by application for judicial review under **Order 84 of the Rules of the Superior Courts**.³⁷

All applications made by individuals for judicial review decisions of planning decisions under the 2000 Act are considered to be one-sided (*ex parte*). Therefore, under the procedural rules, the applicant must first seek the leave (permission) of the Court to commence the action, allowing any affected parties to be notified of and/or joined in the action.³⁸ An application for leave must be made within the period of eight weeks, beginning on the date of the planning decision.³⁹ The Court will only grant leave if it is satisfied that:

- The application is made in the correct form and within the appropriate time period.
- The grounds for review have been adequately stated and are sustainable.
- There are substantial grounds for contending that the decision or act concerned is invalid.
- The applicant has sufficient interest in the matter.
- The applicant has exhausted any available appeal procedures or any other administrative remedy available.⁴⁰

Hogan and Morgan's *Administrative Law in Ireland* comments on the requirement to seek the leave of the Court to bring an action:

"The requirement as to leave is a most important feature of the judicial review procedure. It serves as a 'filtering device' ... and guards against unmeritorious claims that a particular decision is invalid."⁴¹

³⁷ *Planning and Development Act 2000* s. 50.

³⁸ *Planning and Development Act 2000* s. 50A.

³⁹ *Planning and Development Act 2000* s. 50(6). This period may be extended only if there is good and sufficient reason for doing and if the applicant could not make the application for leave in time for reasons outside their control: See subsection 50(8).

⁴⁰ *Planning and Development Act 2000* s. 50A(3).

⁴¹ Gerard Hogan and David Morgan, *Administrative Law in Ireland* (4th ed) (Round Hall: Dublin 2010), p. 838.

The ‘sufficient interest’ requirement

The use of a ‘sufficient interest’ threshold to limit standing for judicial review applications is discussed in *Mulcreavy v Minister for the Environment*.⁴²

“... it is not in the public interest that decisions by statutory bodies which are of at least questionable validity should wholly escape scrutiny because the person who seeks to invoke the jurisdiction of the court by way of judicial review cannot show that he is personally affected, in some sense peculiar to him, by the decision. ...

It is at the same time essential to bear in mind that, while it is undesirable that invalid legislation or unlawful practices should escape scrutiny because of the absence of an indisputably qualified objector, it is also important to ensure that unfounded and vexatious challenges are not entertained.”⁴³

The ‘sufficient interest’ requirement is not limited to those applicants who have an interest in land or other financial interest. It may also apply to a private-sector body or organisation which has actively pursued over the previous year its aims or objections related to the promotion of environmental protection.⁴⁴ It is important to note that where a corporate body challenges a planning decision, the body itself must be able to show it has ‘sufficient interest’ in the matter. Unless there are exceptional circumstances for why the individuals who make up the corporate body could not make the application in their individual capacities, the Court will not consider their individual interests in its determination on whether the corporate body has sufficient interest in the matter.⁴⁵

The concept of what amounts to ‘sufficient interest’ has been questioned in several cases from which a number of general principles have emerged. In the case of *Grace and Sweetman v An Bord Pleanála*,⁴⁶ the Supreme Court acknowledged that the general test for whether an applicant has standing to apply for judicial review is that the applicant will or may be personally and adversely affected by the result. However, the Court held that environmental challenges required a broader assessment of whether an applicant has sufficient interest, requiring the Court to take a reasonably liberal approach and consider the legitimate interest of the public in protecting the environment. Therefore, the courts will consider the context in which the challenge arises. For example, sufficient interest may arise by virtue of an applicant’s proximity to a development, and that the degree of proximity required may depend

⁴² [2004] IESC 5.

⁴³ *Mulcreavy v Minister for the Environment* [2004] IESC 5.

⁴⁴ *Planning and Development Act 2000* s. 50A(3), (4).

⁴⁵ *Friends of the Irish Environment CLG v Ireland* [2020] IESC 49.

⁴⁶ [2017] IESC 10.

on the proposed scale and nature of the development.⁴⁷ The courts have flagged that the extent to which an applicant has actively participated in the planning process is a further consideration that would affect a decision on whether the sufficient interest threshold is satisfied.⁴⁸

Costs under the 2000 Act

Section 50B of the 2000 Act provides for costs in environmental matters, including in judicial review proceedings. The provision sets out that each party to the proceedings (including any notice party) must bear its own costs.⁴⁹ It follows that a member of the public seeking a review of a planning decision will generally not be liable for the costs of the respondent, even if they lose. However, the Court may award costs against a party in proceedings:

- where the Court considers the claim (or counterclaim) to be frivolous or vexatious,
- where the Court deems it appropriate given the manner in which a party has conducted themselves during the proceedings, or
- where a party is in contempt of the Court.⁵⁰

The Court retains the power to award costs in favour of a party in a matter of exceptional public importance and where in the special circumstances of the case it would be in the interests of justice to do so. Costs or a portion of them can also be awarded to the applicant but only to the extent that the applicant succeeds in their case and obtains relief, and the extent that the actions or omissions of the respondent or notice party, or both, contributed to the applicant obtaining relief.⁵¹

The Aarhus Convention and access to justice

The United Nations Economic Commission for Europe (UNECE) **Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters** (the ‘Aarhus Convention’) was adopted on 25 June 1998. The three main pillars of the Aarhus convention are:

- Securing public access to environmental information.
- Allowing public participation in formulating environmental plans and programmes.

⁴⁷ *Grace and Sweetman v An Bord Pleanála* [2017] IESC 10 at [6.9] - [6.11]. See also Hilary Biehler, ‘The concept of sufficient interest in judicial review proceedings’, [2021] *Irish Jurist* 65, pp 1-24.

⁴⁸ See *Sweetman v An Bord Pleanála* [2017] IEHC 133; *McDonagh v An Bord Pleanála* [2017] IEHC 586 and *Conway v An Bord Pleanála* [2019] IEHC 525.

⁴⁹ *Planning and Development Act 2000 s. 50B(2)*

⁵⁰ *Planning and Development Act 2000 s. 50B(3)*.

⁵¹ *Planning and Development Act 2000 s. 50B(2A), (4)*.

- Ensuring public access to justice for environmental matters.⁵²

The EU is a Party to the Aarhus Convention, enacting a number of Directives to bring it into force. For example, the [Access to Environmental Information Directive](#) (2003/4/EC) aims to ensure that environmental information is systematically made available by the authorities to the public either actively or upon request. The [Public Participation Directive](#) 2003/35/EC provides for public participation with respect to formulating certain plans and programmes relating to the environment. While there is no directive specifically dedicated to access to justice in the EU, [Directive 2003/4/EC](#) and [Directive 2003/35/EC](#) include access to justice provisions.⁵³

Prior to the ratification of the Aarhus Convention, Ireland was required to ensure that all the provisions of the Convention were implemented in national law. Ireland ratified the Convention on 20 June 2012.⁵⁴

The key provisions of the Aarhus Convention concerning legal costs and access to justice are contained in [Article 9](#), specifically, paragraphs (2) to (4).

Article 9(2) only relates to activities specified in Annex 1 to the convention and other activities that may have a significant effect on the environment for which States are required to encourage public participation in the decision-making process.⁵⁵

Article 9(2) provides that ‘within the framework of its national legislation’, a State is required to ensure that:

⁵² See Department of Climate, Energy and the Environment, ‘[Aarhus Convention](#)’, Publication, 15 June 2020.

⁵³ See The European Commission, [The Aarhus Convention and the EU](#).

⁵⁴ Department of Climate, Energy and the Environment, ‘[Aarhus Convention](#)’, Publication, 15 June 2020. Prior to ratification of the Aarhus Convention the Department of Communications, Climate Action and Environment drafted a table outlining the implementation measures that had been put in place to ensure domestic compliance with the convention: see [Implementation Table in respect of Ireland’s Implementation Measures](#).

⁵⁵ As provided for in article 6 of the convention. The activities listed in Annex I comprise large industrial installations in the energy, metal production/ processing, mineral, chemical, waste, wastewater, transport, and petroleum sectors. Such activities fall within the scope of the [Environmental Impact Assessment Directive](#) requiring an Environmental Impact Assessment to be conducted as part of the planning process: Annex II to the [Directive 2011/92/EU](#) of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (codification) [2012] OJ L26/1 as amended by Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 [2014] OJ L124/1.

“... members of the public concerned ... have access to a review procedure before a court of law and/or another independent and impartial body established by law, to challenge the substantive and procedural legality of any decision, act or omission.”⁵⁶

The term ‘public concerned’ includes people with a ‘sufficient interest’ and those whose rights have been impaired by the decision, act or omission. What constitutes a sufficient interest and impairment of a right are to be “determined in accordance with the requirements of national law”, consistent with ‘the objective of giving the public concerned wide access to justice’.⁵⁷ Any non-governmental organisation (NGO) that promotes environmental protection and meets any requirements under national law will be deemed to have a sufficient interest and to have rights capable of being impaired.⁵⁸

It is worth noting that the Aarhus Convention allows States Parties to maintain their own particular standing rules, so long as they satisfy the wide access-to-justice requirements. In fact, as noted by **Professor Pavlos Eleftheriadis** of the Oxford Law Faculty, an attempt in 2003 to make the provisions of the Aarhus Convention more prescriptive by making them directly effective in legal systems never came to fruition, largely because the proposal was seen to threaten the independent procedural autonomy of States.⁵⁹

Article 9(3) of the Aarhus Convention provides an additional requirement on States to:

“... ensure that, where they meet the criteria, if any, laid down in its national law, members of the public have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of its national law relating to the environment.”

These access to justice provisions in the Convention are very similar in scope and effect to Article 11 of the **Environmental Impact Assessment Directive** (the ‘EIA Directive’) as consolidated and amended, and to Article 16 of the **Integrated Pollution Prevention and Control Directive** (the ‘IPPC Directive’). EU Member States, including Ireland, are therefore directly bound by these provisions in the Directives.⁶⁰ The Supreme Court has confirmed that if

⁵⁶ United Nations Economic Commission for Europe (UNECE) **Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters**, Article 9(2).

⁵⁷ United Nations Economic Commission for Europe (UNECE) **Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters**, Article 9(2).

⁵⁸ United Nations Economic Commission for Europe (UNECE) **Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters**, Article 2(5).

⁵⁹ P Eleftheriadis, ‘Environmental Rights in the EC Legal Order’ (2007) 26 *Yearbook of European Law* 297 at 307. See also D McMullin, “‘I’m Still Standing’ – Ireland and the Wide Access to Justice Requirements in the Aarhus Convention”, *Trinity College Law Review Online* (2017).

⁶⁰ The CJEU held in the Trianel case that where domestic procedural law does not allow standing, an NGO may still derive a right to contest a decision in a national court directly from Article 11 of the consolidated

any of an applicant's planning judicial review grounds includes just one ground invoking an EU Directive,⁶¹ then the applicant will benefit from the costs protection under **section 50B of the Planning and Development Act 2000**, and all other grounds cited will also benefit from the same cost protection.⁶²

Article 9(4) of the Aarhus Convention provides a further obligation on States Parties to:

“... provide adequate and effective remedies, including injunctive relief as appropriate, and be fair, equitable, timely and not prohibitively expensive.”

This provision must be read in line with **Article 3(8) of the Aarhus Convention**:

“Each Party shall ensure that persons exercising their rights in conformity with the provisions of this Convention shall not be penalized, persecuted or harassed in any way for their involvement. This provision shall not affect the powers of national courts to award reasonable costs in judicial proceedings.”

Guidance on the meaning of the access to justice provisions in Article 9 may be drawn from the **Aarhus Convention Implementation Guide** (the ‘Guide’) and from determinations of the Aarhus Convention Compliance Committee (‘ACCC’). Neither the Guide nor decisions of the ACCC are legally binding on States.⁶³ It is also worth noting that in *Conway v Ireland* the Supreme Court stated that while ACCC determinations do not provide a definitive legal interpretation of the law applicable in Ireland, they do facilitate compliance by States with the terms of the Convention and therefore it is appropriate for Irish courts to have regard to them.⁶⁴

Judicial review under the Planning and Development Act 2024

The *Planning and Development Act 2024* (the ‘2024 Act’) was signed into law by the President on 17 October 2024. With the exception of **Part 25 of the 2024 Act**, affecting the law on rent

EIA Directive (formerly Article 10a) and, by extension, Article 16 of the consolidated IPPC Directive (formerly Article 15a): *Bund für Umwelt und Naturschutz Deutschland, Landesverband Nordrhein-Westfalen eV v Bezirksregierung Arnsberg* (Case C-115/09) ECLI:EU:C:2011:289.

⁶¹ Including **Environmental Impact Assessment Directive**, **Integrated Pollution Prevention and Control Directive**, the **Strategic Environmental Assessment (SEA) Directive** and the **Habitats Directive**.

⁶² *Heather Hill Management Company CLG v An Bord Pleanála* [2022] IESC 43.

⁶³ However, as pointed out by Dr Áine Ryall, the consistent view of academic literature is that when decisions of the ACCC are adopted by the Meeting of the Parties ‘the normative value’ of its interpretations increases in accordance with Article 31(3) of the **Vienna Convention on the Law of Treaties**: Dr Áine Ryall, ‘**Access to Justice in Environmental Matters in Member States of the EU: the impact of the Aarhus Convention**’ *Jean Monnet Working Paper No 5/16* (2016) p. 7.

⁶⁴ [2017] IESC 13 at [4.13].

pressure zones, the commencement of the provisions of the 2024 Act was made subject to Ministerial commencement orders.⁶⁵

The provisions covering judicial review are found in **Part 9 of the 2024 Act** ('Part 9 judicial review'). Part 9 judicial review only applies to planning decisions made under the 2024 Act.⁶⁶ At the time of writing, as **Part 4 of the 2024 Act** relating to development consents has not been commenced, all planning decisions continue to be made under the 2000 Act. Therefore, at the moment, sections **50, 50A and 50B** of the 2000 Act continue to apply to judicial review applications of all planning decisions. Once **Part 4 of the 2024 Act** comes into force and the relevant provisions of the 2000 Act are repealed, planning decisions will be deemed to have been made under the 2024 Act, and therefore only then will Part 9 judicial review start to apply.⁶⁷

The new Part 9 judicial review procedure

Planning decisions made under the 2024 Act (and those deemed to have been made under the 2024 Act, after the related provisions are commenced) are subject to Part 9 judicial review procedures.⁶⁸ The 2024 Act requires the Court to deal with Part 9 judicial reviews (and any appeal) as expeditiously as possible consistent with the administration of justice.⁶⁹

Part 9 judicial review is the only means of challenging the validity of any decisions made, acts done, or failure to perform a function by a decision maker under the 2024 Act (and under the 2000 Act, after the relevant provisions have been repealed).⁷⁰

Part 9 judicial review proceedings can only be taken within a period of eight weeks from the date of the planning decision, action or omission, or on the next working day following that period if the period ends on a weekend or public holiday. Provision is made for the extension of

⁶⁵ Part 25 came into force on 18 October 2024: *Planning and Development Act 2024 s. 1(4)*.

⁶⁶ *Planning and Development Act 2024 s. 279(1)(a)*.

⁶⁷ On or after the repeal of the relevant provisions of the 2000 Act, planning decisions made under that 2000 Act are deemed to be decisions made under the 2024 Act: see *Planning and Development Act 2024 ss 96(10), 159(8), 188 and 629*.

⁶⁸ Although **Section 303 of the 2024 Act** provided for the continued application of sections 50, 50A and 50B of Act of 2000 'for limited period', the commencement of Chapter 1 of Part 9 of the 2024 Act on 1 August 2025 via the *Planning and Development Act 2024 (Commencement) (No. 3) Order 2025* (SI No 379 of 2025), effectively discontinued the application of sections 50 and 50A of the 2000 Act to any future planning decisions made under the 2024 Act.

⁶⁹ *Planning and Development Act 2024 s. 290*.

⁷⁰ *Planning and Development Act 2024 s. 279(2)*. Relevant bodies comprise a planning authority or local authority, An Coimisiún Pleanála (and An Bord Pleanála), a government Minister, the Office of the Planning Regulator, the competent authority within the meaning of the *Aircraft Noise (Dublin Airport) Regulation Act 2019*, the government and a regional assembly: *Planning and Development Act 2024 s. 278(1)*.

the timeline where the High Court is satisfied there is a good and sufficient reason for doing so and the delay was outside the control of the party applying for the extension.⁷¹

Part 9 judicial review may be commenced by making an application to the High Court by originating notice of motion, in accordance with the applicable Rules of the Superior Courts.⁷² On the same day, the party making the application ('applicant') must notify the decision maker, affected third parties, and any other intended respondents.⁷³ The motion must include an adequate statement of sustainable grounds of review, and a sworn affidavit in the correct form.⁷⁴ An applicant's case is limited to the grounds stated in the application and an application can only be amended in limited circumstances, by leave of the court after serving notice on all respondents and notice parties.⁷⁵

Under the 2024 Act, a party to Part 9 judicial review may apply to the Court to strike out the proceedings on specified grounds, including:

- A lack of standing.
- The application was made out of time.
- The applicant failed to exhaust appeals or seek administrative remedies.
- The grounds pleaded by the applicant disclose no arguable case or are bound to fail.⁷⁶

The Court may then strike out the case or make orders, or give directions, to rectify the situation.⁷⁷

When the applicant pleads a ground citing an error on the part of a decision maker and requests the Court to quash the associated planning decision, the Court may direct the decision maker to rectify the error instead of quashing the decision, where such a direction is a deemed to be a satisfactory remedy. Where rectification of the error addresses the ground or renders it moot in whole or in part, the Court is then empowered to make an order striking out the ground.⁷⁸ The Court is also empowered to:

- Make orders on, declare to be invalid or quash any part of a planning decision, without declaring invalid or quashing the remainder of the decision.

⁷¹ *Planning and Development Act 2024* s. 281.

⁷² *Planning and Development Act 2024* s. 280(1).

⁷³ *Planning and Development Act 2024* s. 280(2).

⁷⁴ *Planning and Development Act 2024* s. 280(3).

⁷⁵ *Planning and Development Act 2024* s. 282.

⁷⁶ *Planning and Development Act 2024* s. 283(1), (2).

⁷⁷ *Planning and Development Act 2024* s. 283(3), (4).

⁷⁸ *Planning and Development Act 2024* s. 288.

- Remit a matter to the decision maker in light of its order accompanied by, where the Court considers it appropriate, a direction to that body to take such additional steps, or refrain from taking such steps, as the Court may specify.⁷⁹

Finally, under **section 284 of the 2024 Act**, where the applicant alleges an omission or a failure to act, the Court may order a stay (hold) of proceedings pending the making of a decision.

There is no right of appeal to the Court of Appeal of the High Court's Part 9 judicial review judgment. The only appeals that can be made to the Supreme Court are those with leave under Article 34.5.4° of the Constitution (where the matter gives rise to questions of public importance or in the interests of justice), or which involve a determination of the constitutional validity of a law.⁸⁰

Who may apply to the High Court for Part 9 judicial review?

In a Part 9 judicial review, a party to proceedings may only plead a ground if they have sufficient interest in the matter to which the ground relates.⁸¹ The thresholds for meeting the sufficient interest test vary depending on whether the applicant is an individual or an organisation. Unless there is an express statutory exception, all applicants must be able to show that they are, or may be, directly or indirectly materially affected by the matter in question.⁸² However, the particular interest does not need to be related to land or a financial interest.⁸³

An unincorporated entity cannot be found to have sufficient interest unless it is a partnership, it is a limited partnership, it may sue or be sued in the High Court in its own name, or it:

- has a constitution, a voting structure and is authorised to bring the proceedings in relation to the ground by at least two thirds of the members casting a vote, and
- provides an affidavit of compliance, documenting prescribed particulars.⁸⁴

A limited liability company comprising no fewer than 10 members, incorporated with an object related to the promotion of environmental protection relevant to the matters to which the proceedings relate, need not be directly or indirectly materially affected to satisfy the sufficient interest threshold. Rather, it would be enough for that company to show that its governing body had passed a resolution in accordance with its constitution authorising the bringing of the proceedings, prior to bringing them.⁸⁵

⁷⁹ *Planning and Development Act 2024 s. 289.*

⁸⁰ *Planning and Development Act 2024 s. 287.*

⁸¹ *Planning and Development Act 2024 s. 285.*

⁸² *Planning and Development Act 2024 s. 286(1).*

⁸³ *Planning and Development Act 2024 s. 286(5).*

⁸⁴ *Planning and Development Act 2024 s. 286(4).*

⁸⁵ *Planning and Development Act 2024 s. 286(2).*

Any applicant, including an individual, who is not directly or indirectly materially affected would still be considered to have sufficient interest in proceedings if they had made submissions of a material nature to the decision maker, in the appropriate form.⁸⁶

Costs associated with Part 9 judicial review

The costs provisions in the 2024 Act only apply to Aarhus Convention proceedings and associated actions.⁸⁷ Aarhus Convention proceedings are defined to include all Part 9 judicial review cases and other proceedings related to the environment that challenge a contravention of the Act.⁸⁸

At the time of writing, Chapter 2 of Part 9 of the 2024 Act had not been commenced. Therefore, the provisions of section 50B of the 2000 Act covering the costs of a planning or environmental action will continue to apply to future judicial review proceedings under the 2024 Act until the commencement of Chapter 2.⁸⁹

When Chapter 2 of Part 9 comes into force,⁹⁰ the basic cost rule covering judicial review proceedings will still be that each party to proceedings (including notice parties) bear their own costs subject to certain exceptions.⁹¹ These exceptions include:

- Where the applicant is successful and is awarded a contribution up to a prescribed amount, unless the court is satisfied that, due to the exceptional circumstances of the case there is:
 - a reason of exceptional public importance for awarding costs exceeding that amount, and
 - it is in the interests of justice to so award.
- Where the court considers:
 - that a claim or counterclaim by a party is frivolous or vexatious,
 - because of the manner in which a party has conducted the proceedings, or
 - where a party is found to be in contempt of court.⁹²

⁸⁶ *Planning and Development Act 2024 s. 286(3).*

⁸⁷ *Planning and Development Act 2024 s. 292.*

⁸⁸ *Planning and Development Act 2024 s. 291.*

⁸⁹ *Planning and Development Act 2024 s. 303(3).*

⁹⁰ For the purposes of commencement, the costs provisions of the 2024 Act fall into Block four out of four. To date, only block one has been commenced. The Department has suggested that the commencement of block two appears to have been delayed to provide clarity around what triggers development-plan commencement: see “*Balance of public interest*” has shifted on planning’, Law Society Gazette, 20 November 2025.

⁹¹ *Planning and Development Act 2024 s. 293(1).*

⁹² *Planning and Development Act 2024 s. 293.*

The 2024 Act provides for the establishment of a scheme known as the Environmental Legal Costs Financial Assistance Mechanism (ELCFAM), to contribute to the legal costs incurred by unsuccessful applicants (in part or full) who meet the means-test to ensure affordability of access to justice.⁹³ The ELCFAM will work in a similar way to legal aid mechanisms, and it will be funded by the Exchequer.⁹⁴ After appropriate consultation, the Minister is empowered to make regulations affecting the levels of contribution and the general administration of the ELCFAM, including eligibility criteria.⁹⁵ An applicant may be found ineligible for a ELCFAM costs contribution if:

- There is an error or omission in their ELCFAM application.
- They fail to meet the eligibility criteria, or a contribution would not serve the interests of justice.
- They fail to show sufficient interest in one or more grounds.
- The proceedings are found to be frivolous or vexatious or conducted in an inappropriate manner.⁹⁶

Regulations may also prescribe the costs that might be awarded to a successful applicant, considering:

- The different types of legal work conducted by legal practitioners.
- The different types of legal proceedings and applications.
- The different court jurisdictions in which proceedings are taken.
- The proceedings of differing durations.
- The work carried out by different categories of legal practitioners, including by reference to the amount of experience possessed by, and the nature of legal qualification of, the legal practitioner.⁹⁷

⁹³ *Planning and Development Act 2024 ss 295-302.*

⁹⁴ *Planning and Development Act 2024 s. 295.*

⁹⁵ *Planning and Development Act 2024 s. 294.* An interdepartmental working group (IDG) has been set up to help inform the Minister on how to best implement the ELCFAM. It has already met on numerous occasions and has held a stakeholder consultation in July/August 2024: See Eamon Ryan TD, Minister for the Environment, Climate and Communications, *Response to Parliamentary Question No 90 on Environmental Policy*, *Dáil Éireann Debate*, 22 January 2025. According to the Department, the draft regulations are at their final stage of development and should be published in the near future. However, they will be subject to a public consultation process expected to be in Q1 2026, which may delay their implementation: see “‘Balance of public interest’ has shifted on planning”, *Law Society Gazette*, 20 November 2025. See also Department of Housing, Local Government and Heritage, *Strengthening the Judicial Review Process*, 13 November 2025.

⁹⁶ *Planning and Development Act 2024 s. 296.*

⁹⁷ *Planning and Development Act 2024 s. 294(2).* When making regulations, the Minister must consider the need to ensure that proceedings are not prohibitively expensive, the need to promote access to justice, and the need to ensure that public institution and resources are utilised for the common good and in the interests of justice: see *Planning and Development Act 2024 s. 294(3)*. A review of monetary

Under the cost rules in Chapter 2 of Part 9 of the 2024 Act, applicants are not obliged to give security for costs or an undertaking as to damages.⁹⁸

Summary of the key legislative changes made to judicial review procedure

One of the biggest changes made by the introduction of Part 9 judicial review is the removal of the need to seek leave. In theory, this will speed up the process by removing a procedural step in the judicial review process, transferring all the determinations made during the leave stage to the main hearing. Under Part 9 judicial review any party can apply to the Court to strike out all or part of the proceedings if the applicant does not have standing or if the claims are spurious, vexatious or lacking legal force.⁹⁹

The 2024 Act significantly restricts an applicant's ability to amend their grounds, especially when compared to the procedures under the 2000 Act. Moreover, the more codified requirement of sufficient interest under the 2024 Act needs to be applied to each ground, not to the application as a whole.¹⁰⁰

Part 9 judicial review preserves the special status of environmental non-governmental organisations, but it establishes stronger standards to limit the participation of unincorporated bodies, to verify the body's mandate and bona fides to participate.¹⁰¹

Another major change introduced in the 2024 Act involves empowering the Court to order a decision maker to rectify a flawed decision or document or amend the faulty part or parts instead of quashing the decision and remitting it to the decision maker. Finally, Part 9 judicial review does not provide a right of appeal to the Court of Appeal.¹⁰²

Another addition to the law made by the 2024 Act involves the prohibition of actions that amount to offering or making any payments, with an intention to have a Part 9 judicial review application withdrawn.¹⁰³

amounts listed in the regulations must take place every five years: *Planning and Development Act 2024 s. 294(4)*.

⁹⁸ *Planning and Development Act 2024 s. 293(5)*.

⁹⁹ Department of Housing, Local Government and Heritage, *Key Policy Reforms - Planning and Development Act 2024*, 4 March 2025.

¹⁰⁰ Department of Housing, Local Government and Heritage, *Key Policy Reforms - Planning and Development Act 2024*, 4 March 2025.

¹⁰¹ Department of Housing, Local Government and Heritage, *Key Policy Reforms - Planning and Development Act 2024*, 4 March 2025.

¹⁰² Department of Housing, Local Government and Heritage, *Key Policy Reforms - Planning and Development Act 2024*, 4 March 2025.

¹⁰³ *Planning and Development Act 2024 s. 587*.

Under the 2024 Act, the period of validity of a decision is stopped for the duration of the judicial review proceedings, so long as development did not substantially commence while the judicial review proceedings were active and subject to certain notification requirements - valid permissions will not expire purely due to delays in the judicial review process.¹⁰⁴

The Planning and Environment List of the High Court

A further development in the judicial review procedure is the introduction of a dedicated Planning and Environment Court List of the High Court, established by Practice Direction HC124, with effect from 11 December 2023. The workings of the Court are governed by Practice Direction HC126. The List was established with the intention of developing judicial expertise while enhancing access to justice. The List is designed to provide a specialised mechanism for processing planning and environmental cases, while maximising efficiency and maintaining an adherence to principles of justice.¹⁰⁵ Since its inception the Planning and Environment List has been dealing with cases involving commercial planning and strategic infrastructure. It covers cases that were previously sent to the Strategic Infrastructure List.¹⁰⁶

As noted by Catherine Sanz in her article in the *Business Post*, the introduction of the Planning and Environment List has resulted in a marked improvement in the amount of time taken to hear cases affecting large-scale development projects. The Practice Directions of the List also allow for quicker resolution of cases involving “harmless errors”, allowing the judge to rectify the errors rather than quash the decision and remit the matter to the decision-maker.¹⁰⁷ Table 2 below provides an indication of how efficiently the List has been dealing with incoming cases.

Table 2: Cases dealt with by the Planning and Environment Court

Year	Incoming Cases	Resolved Cases
2023	108 (plus inherited cases)	129
2024	241	253

Source: Courts Service Annual Report 2024, p. 82.

¹⁰⁴ *Planning and Development Act 2024 s. 180* (brought into force on 1 August 2025).

¹⁰⁵ Courts Service, *About the Planning and Environment Court*, 19 September 2025.

¹⁰⁶ *Courts Service Annual Report 2024*, 17 August 2025, p. 82.

¹⁰⁷ C Sanz, ‘Government’s judicial review overhaul fixes a problem that’s already being tackled’, *Business Post*, 26 September 2025.

How many planning judicial reviews are being heard?

Statistics from the Courts Service show that there has been an increase in the numbers of all non-asylum judicial review cases heard over the past few years (see Table 3).

Table 3: High Court judicial review of all non-asylum decisions

Year	Incoming Cases	Resolved by Court	Resolved out of court	Median time from issue to disposal in days (all JR)
2020	558	269	101	315
2021	614	269	101	339
2022	576	326	64	406
2023	627	466	0	217
2024	896	831	4	151

Source: Courts Service Annual Reports

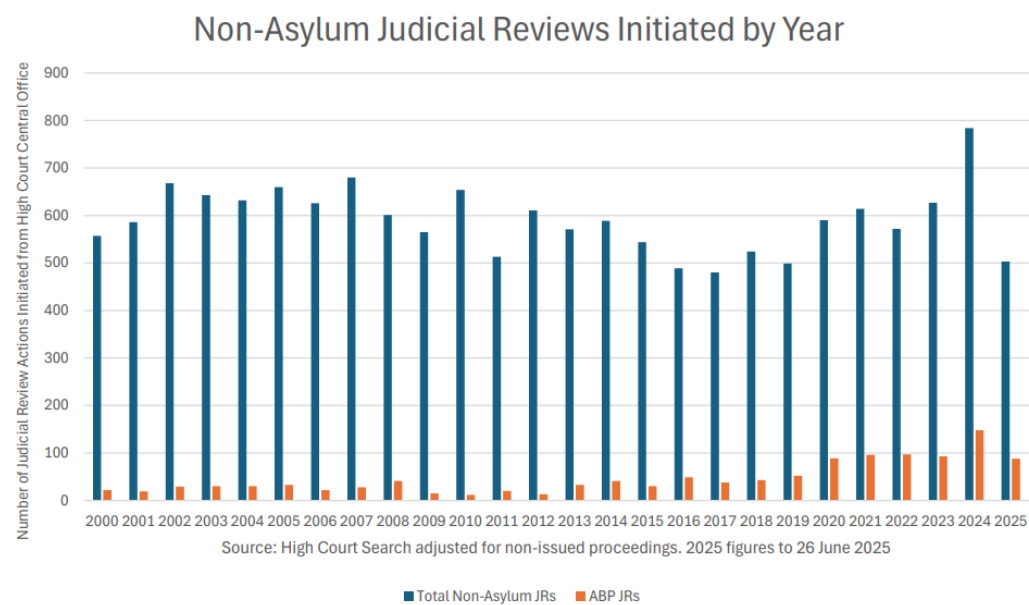
The figures in Table 3 relate to judicial review of non-asylum cases, and therefore planning decisions would only make up a proportion of these.¹⁰⁸ The median length of time taken to deal with a case of judicial review (for both asylum and non-asylum claims) has decreased noticeably over the five-year period. The Courts Service suggests a correlation between increasing the numbers of judges sitting and the positive effect on waiting times in the Judicial Review lists.¹⁰⁹ Figure 1 below provides an overview of the proportion of non-asylum judicial reviews that were made against An Bord Pleanála, giving a better understanding of the number of planning judicial reviews being dealt with by the High Court.¹¹⁰

¹⁰⁸ To put these figures into a wider context, in the year 2002, before the Law Reform Commission published a Consultation Paper on Judicial Review Procedure, just under 800 applications were lodged for non-asylum related judicial review: see Law Reform Commission, ‘Consultation Paper on Judicial Review Procedure’, Press Release, 24 February 2004.

¹⁰⁹ The Courts Service, Annual Report 2024, pp 25, 124.

¹¹⁰ See An Coimisiún Pleanála, Stakeholder Engagement Q2 Statistics 2025, July 2025.

Figure 1: Proportion of non-asylum judicial reviews lodged against An Bord Pleanála



Source: [An Coimisiún Pleanála](#)

It is noteworthy that a similar trend of increased numbers is observable when looking at judicial review of decisions of An Bord Pleanála decisions over the same period (see Table 4).

Table 4: Judicial Review of An Bord Pleanála decisions

Year	Applications lodged	Cases completed	Cases won	Cases conceded	Cases lost	Cases withdrawn
2020	83	51	11	13	19	8
2021	95	69	15	19	21	14
2022	95	69	11	35	9	14
2023	86	94	18	11	37	28
2024	147	129	26	53	15	35

Source: [An Bord Pleanála Annual Reports and Accounts](#)

Up to 30 October2025, a total of 133 judicial reviews against planning decisions by An Coimisiún Pleanála and its predecessor, An Bord Pleanála, had been lodged, similar to the figures from 2024.

Over the period 2020-2024 (inclusive), 506 applications for judicial review were lodged, and 412 cases were completed. Of those completed, 99 were withdrawn by the applicant (24%), 81 were won by An Bord Pleanála (20%), while 232 were either lost or conceded by An Bord Pleanála (56%). An Bord Pleanála explained that previous adverse judgments, learning from precedent set by live cases and the associated potential legal costs contributed to a more cautious approach when defending judicial review and the high number of concessions.¹¹¹ An Bord Pleanála also noted that the increased judicial resources and management of the lists meant that more matters were progressed to hearing quicker, leading it to question the merits of defending certain cases.¹¹² In a stakeholder engagement presentation in July 2025, An Coimisiún Pleanála highlighted the continued increase in the number of applications for judicial review of planning and environmental decisions, stating that the main driver of this increase was “the unique costs protection regime in planning and environmental litigation”.¹¹³

The fact that over half of all judicial reviews ending in substantive outcomes resulted in the decision being overturned suggests that there were errors in a significant proportion of decisions made by An Bord Pleanála. According to An Bord Pleanála, there are five main reasons for these losses and concessions:

1. Failure to comply with the provisions of the Planning and Development Act 2000.
2. Unfair procedures.
3. Environmental failings related to matters such as Appropriate Assessment, Environmental Impact Assessment, the Water Framework Directive and Climate.
4. Flawed reasoning, both of Inspectors and the Board.
5. Not identifying or justifying material contraventions of the relevant Development Plan.¹¹⁴

Judicial review is not just used by the public to challenge decisions to grant permission for development. According to figures compiled by a solicitor and specialist in planning and environment litigation, Fred Logue, 32 per cent of all applications for judicial reviews in 2024 were made by developers, landowners and public authorities, with 52 per cent made by other members of the public. In 2025, up until late November, these figures were 44 per cent for developers, landowners and public authorities and only 40 per cent for the public. These figures imply that the public are actually taking fewer judicial reviews than in the past.¹¹⁵

¹¹¹ An Bord Pleanála, *Annual Report and Accounts 2024*, 30 June 2025, p. 22.

¹¹² An Bord Pleanála, *Annual Report and Accounts 2024*, 30 June 2025, p. 22.

¹¹³ See An Coimisiún Pleanála, *Stakeholder Engagement Q2 Statistics 2025*, July 2025.

¹¹⁴ An Bord Pleanála, *Annual Report and Accounts 2024*, 30 June 2025, p. 22.

¹¹⁵ Lorcan Sirr, Senior Lecturer in housing at Technological University Dublin, ‘Judicial reviews are not the problem – and deregulation is no answer’, *The Irish Times*, 26 November 2025.

Critics of judicial review of planning and environmental matters have argued that the judicial review process is skewed in favour of the applicant.¹¹⁶ Critics have also highlighted the recent statistical increase in the number of judicial review applications made for environmental and planning matters. It is argued that this increase in cases has placed more pressure on the court system making it harder for the courts to move matters to a final determination. The perceived delays are also said to result in uncertainty in the planning process and an increased level of risk aversion, affecting the State's competitiveness and its capacity to commence large scale public infrastructure projects.¹¹⁷ The Minister for Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, Jake Chambers TD, has been reported as having stated that a narrow set of interests are "weaponising judicial reviews".¹¹⁸ It was also reported that Minister Chambers also said "a serious rebalancing" was needed and that "narrow vested interests" have been undermining the delivery of critical social and economic objectives.¹¹⁹

¹¹⁶ M Carolan, "'Better quality' planning decisions would mean fewer judicial reviews - Bar council chair", *The Irish Times*, 4 October 2025.

¹¹⁷ Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, *Report on Engagement and Barriers to Infrastructure*, July 2025, pp 3-4.

¹¹⁸ S Hurley, 'Judicial reviews being weaponised by narrow interests – Chambers', *RTÉ*, 1 December 2025.

¹¹⁹ E Hanrahan, 'Surge in objections leads to planning board facing "record number" of judicial reviews', *Business Post*, 15 November 2025.

Proposals for reform

In May 2025, the Accelerating Infrastructure Taskforce (the ‘Taskforce’) was established and chaired by the Minister for Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, Jack Chambers TD (the ‘Minister’).¹²⁰ The Taskforce is a non-statutory body given the following functions:

- To provide strategic guidance and expert input to policy proposals to speed up infrastructure delivery.
- To provide guidance and advice to officials to ensure that barriers to infrastructure delivery are identified accurately and represent the most impactful barriers impeding timely and effective delivery.
- To provide guidance and advice on the development of a small number of high impact reform actions that are robust, achievable, time-bound and are rigorously focused on addressing the challenges identified.
- To oversee the subsequent implementation of these reform actions.

Report on Engagement and Barriers to Infrastructure, July 2025

In July 2025, the Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation (DPER) published the Taskforce’s **Report on Engagement and Barriers to Infrastructure**. The publication followed public consultation and stakeholder engagement by the Taskforce.¹²¹ The collection of survey data and the call for submissions resulted in 164 substantive responses, representing public and private sector stakeholders, covering local government, state utilities, transport agencies, developers, representative bodies, professional services firms and energy companies, among others such as members of the public who have been affected by delays in planning delivery.¹²²

The **Report on Engagement and Barriers to Infrastructure** claimed to have identified 12 main barriers to effective infrastructure delivery in Ireland. These twelve barriers were further categorised into three main interrelated headings:

1. A complex legislative and regulatory environment.
2. Planning and legal systems that are increasingly used by objectors, causing uncertainty and a cascade of procedural delays.

¹²⁰ Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, **Accelerating Infrastructure Taskforce**, 24 June 2025.

¹²¹ Accelerating Infrastructure Taskforce, **Accelerating Infrastructure: Stakeholder Engagement and Public Consultation Summary**, 5 December 2025. Each of the submissions made to the call for submissions have been reproduced [here](#) (names are redacted).

¹²² Accelerating Infrastructure Taskforce, **Accelerating Infrastructure: Stakeholder Engagement and Public Consultation Summary**, 5 December 2025 p. 2.

3. Internal systems related to the allocation of funding, procurement processes and delivery expectations.¹²³

Some respondents to the consultation process cited that the increasing number, complexity and burden of regulatory and policy requirements, when combined with increasing judicial reviews, have resulted in uncertainty and a level of risk aversion (or chilling effect) on infrastructure investment, slowing the development cycle.¹²⁴

The Accelerating Infrastructure Report and Action Plan, December 2025

On 3 December 2025, DPER published an [Accelerating Infrastructure Report and Action Plan](#) aimed at addressing the main barriers to effective infrastructure delivery in Ireland as set out in the [Report on Engagement and Barriers to Infrastructure](#).

The Action Plan outlines 30 specific measures designed to streamline development processes and remove barriers to the delivery of infrastructure. These 30 measures have been grouped under four main pillars:

1. **Legal reform** including the enactment of a Critical Infrastructure Bill and Emergency Powers legislation, implementing targeted legislative changes, modernising environmental assessment frameworks and advancing civil reform legislation to streamline judicial review procedures.
2. **Regulatory reform and simplification** to streamline planning and regulatory frameworks for critical infrastructure via national planning statements, regulatory simplification, legislative rationalisation and agency-process reform.
3. **Co-ordination and delivery reform** by embedding strategic coordination across the infrastructure system to create a more predictable, efficient pathway for infrastructure delivery.
4. **Strengthen cooperation** between the public, state bodies, utilities, and local authorities, to enhance public understanding of the benefits of infrastructure and build societal support for accelerated delivery of development projects.¹²⁵

The remainder of this paper will concentrate on the legal-reform pillar.

¹²³ Accelerating Infrastructure Taskforce, [Accelerating Infrastructure: Stakeholder Engagement and Public Consultation Summary](#), 5 December 2025 p. 17.

¹²⁴ Accelerating Infrastructure Taskforce, [Accelerating Infrastructure: Stakeholder Engagement and Public Consultation Summary](#), 5 December 2025 p. 18.

¹²⁵ Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, [Accelerating Infrastructure Report and Action Plan](#), 3 December 2025, pp 8-9.

The [Accelerating Infrastructure Report and Action Plan](#) was built on the feedback from the Taskforce's initial consultation process and on advice and the input of the members of the Accelerating Infrastructure Taskforce.¹²⁶

The Action Plan suggests that there are three main ways that judicial review of planning and environment decisions affect efficient delivery of infrastructure. The first is through creating a risk averse investment climate.¹²⁷ The Action Plan states:

“Threat of judicial review on procedural matters and the reputational risk of adverse findings together drive a culture of caution right throughout the development process for infrastructure. This defensive mindset limits coordination and proactive engagement that could otherwise improve outcomes, replacing collaboration with rigid, highly detailed assessments, and excessive documentation aimed at legal protection rather than project quality.”¹²⁸

Second, according to the Action Plan, the nature of judicial review as a safeguard is changing - it is increasingly being used as a tactical tool to obstruct development and this is exacerbated by an imbalance in cost exposure. The Action Plan claims that “virtually every planning decision related to critical infrastructure is subject to judicial review”.¹²⁹ The Action Plan also states:

“The increasing number of judicial reviews is a major driver of uncertainty in Ireland's infrastructure development system ... [it contributes] to longer timelines, higher costs, and cascading delays across all stages of project development, while also driving risk aversion. While judicial reviews examine the lawful basis for a decision, there is no weighting of the impact that flaws in the decision-making process may have had versus the impact of a ruling quashing a decision. In practical terms this means that even minor errors can result in multi-year delays to projects and the consequent direct and indirect costs.”¹³⁰

Third, the Action Plan suggests that judicial reviews can create consequential procedural delays even when the substance of the original development application is sound. The Action Plan notes:

¹²⁶ Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, [Accelerating Infrastructure Report and Action Plan](#), 3 December 2025, p. 4.

¹²⁷ Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, [Accelerating Infrastructure Report and Action Plan](#), 3 December 2025, p. 26.

¹²⁸ Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, [Accelerating Infrastructure Report and Action Plan](#), 3 December 2025, p. 26.

¹²⁹ Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, [Accelerating Infrastructure Report and Action Plan](#), 3 December 2025, p. 39.

¹³⁰ Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, [Accelerating Infrastructure Report and Action Plan](#), 3 December 2025, pp 26-27.

“Limited means to fast-track processes for priority projects has added years to timelines, with cascading impacts when multiple consents are involved. This rigid approach ignores wider societal consequences, driving excessive documentation and defensive practices that inflate costs and undermine confidence in Ireland’s ability to deliver critical infrastructure efficiently.”¹³¹

Proposed legal reform

The [Accelerating Infrastructure Report and Action Plan](#) proposes a seven point action plan of legal reform.

Action 1

The first point of action is to commence the procedures of Part 9 Chapter 2 of the 2024 Act regarding costs and also examine the scale of legal fees charged for judicial review cases. The action would result in a cap on the cost that respondents will have to pay in environmental judicial reviews, potentially modelling UK provisions.¹³²

In the UK, the [Civil Procedure Rules 1998 Part 46, Section IX](#) have provided that for Aarhus Convention claims, there is a £5,000 cap for individuals and a £10,000 cap for organisations on the total costs liability of claimants to other parties. The cap for a respondent is £35,000.¹³³ In the UK, the Court retains a discretion to vary these caps where the cap would result in the costs of the proceedings becoming prohibitively expensive for the claimant, considering the financial resources of the claimant and other objective criteria.¹³⁴ The UK Court of Appeal has found that the UK cap may be applied to any stage of the proceedings, it is not necessarily restricted in part to the substantive hearing. Furthermore, costs must be assessed by reference to both reasonableness and proportionality, not simply to the cap.¹³⁵

¹³¹ Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, [Accelerating Infrastructure Report and Action Plan](#), 3 December 2025, p. 27.

¹³² Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, [Accelerating Infrastructure Report and Action Plan](#), 3 December 2025, p. 41. According to the Minister for Justice, Home Affairs and Migration, Jim O’Callaghan TD, this cap on environmental legal costs and examination of legal fees may be used as a pilot for all legal fees: see D Murray, ‘[O’Callaghan tells SMEs of “pilot scheme” to cap legal fees](#)’, Business Post, 21 November 2025.

¹³³ (UK) [Civil Procedure Rules 1998 Rule 46.26](#). See also [The Costs Protection \(Aarhus Convention\) \(Amendment\) Regulations \(Northern Ireland\) 2017](#).

¹³⁴ (UK) [Civil Procedure Rules 1998 Rule 46.27](#). See also [The Costs Protection \(Aarhus Convention\) \(Amendment\) Regulations \(Northern Ireland\) 2017](#).

¹³⁵ *Campaign to Protect Rural England v Secretary of State for Communities and Local Government* [2019] [EWCA Civ 1230](#). The Court of appeal has also found held that eligibility for the Aarhus cost cap is limited to actions that specifically concern a legal provision concerning the environment, its protection or

In Ireland, the government has proposed to introduce similar caps to those implemented in the UK for individual claimants and organisations, but to apply them at each stage of the legal process. The total amount recoverable from the respondents in a High Court action would also be capped at a total around €40,897 in standard cases, €53,351 in complex cases, and €65,805 in very complex cases.¹³⁶ These caps are aimed at reducing the financial burden on the Exchequer for successful environmental judicial reviews made by members of the public. It is projected that the caps could reduce the State's costs by between 63% and 77%.¹³⁷

Under this action point the government may also consider introducing legislation to limit judicial reviews to applicants who are likely to be directly impacted by a development and add an extra step to the process requiring the Court to consider the likelihood of success of a particular case before accepting it.¹³⁸

Actions 2 and 3

The second proposed action involves introducing legislation to accelerate critical infrastructure and provide for emergency powers to prohibit challenges to certain critical projects. The proposed Critical Infrastructure Bill would require decision makers to recognise and accelerate key projects through the planning, licensing, and other consenting stages. The legislation may include statutory timelines, positive presumptions, and other measures designed to reduce procedural delays.¹³⁹

Action 2 would also involve introducing an Emergency Powers Bill into the Houses to allow the government to speed up specific critical infrastructure in emergencies. The Action Plan cites the *Development (Emergency Electricity Generation) Act 2022* as precedent as it gave the government of the day the power to bypass the Environmental Impact Assessment process for the overriding public interest, in line with EU exemption procedures.¹⁴⁰ The Shannon to Dublin water pipeline, which will have capacity to address water supply needs for up to 50 per cent of the population of the State and which could help secure the water supply of Dublin has been

regulation, the cap would not apply to actions that appeal to the environment on higher public law principles: *HM Treasury v Global Feedback Ltd* [2025] EWCA Civ 624.

¹³⁶ See D Murray, 'Government plans to cap legal fees in environmental court challenges', *Business Post*, 2 December 2025.

¹³⁷ D Connor and M Lehané, 'Government to introduce emergency legislation to fast-track key projects', *RTÉ*, 2 December 2025.

¹³⁸ Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, *Accelerating Infrastructure Report and Action Plan*, 3 December 2025, p. 41.

¹³⁹ Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, *Accelerating Infrastructure Report and Action Plan*, 3 December 2025, p. 41.

¹⁴⁰ Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, *Accelerating Infrastructure Report and Action Plan*, 3 December 2025, pp 41-42.

identified as a type of project that is “too important to fail” and may require the use of such powers.¹⁴¹

Action 3 proposes the implementation of other targeted legislative amendments to the current planning and related transport legislation to accelerate the provision of critical infrastructure. Where feasible, part of this would involve reducing the body of legislation that regulatory and planning authorities must have regard to in making their decisions. It would also involve reforming the procedures associated with applications for compulsory purchase orders and moving all these decisions to An Coimisiún Pleanála.¹⁴²

Actions 4 and 5

Proposed actions 4 and 5 involve increasing the current thresholds to allow certain critical projects to allow certain critical projects to not have to perform an Environmental Impact Assessment or to go through the planning and consent process. The [Accelerating Infrastructure Report and Action Plan](#) suggests that implementing these proposals would bring Ireland more in line with the standards applied in other EU Member States. Assessments would be more targeted and proportionate, reducing the volume of material submitted and shortening the amount of time needed to carry out the assessments. The Action Plan also recommends an expansion of the exempted development provisions in the Planning and Development Regulations, to allow infrastructure providers to deploy extensions, upgrades, repairs, and modernisations quickly and cost effectively.¹⁴³

Action 6

This action recognises that court judgments have the potential to effect ongoing planning processes. It proposes to create a mechanism to identify and track any court precedent that may impact on the timely delivery of infrastructure. This would allow the government to react to the precedent by implementing interim or more substantive measures to protect the State’s interests.¹⁴⁴ However, the practice of enacting bespoke short-term legislation to overcome judicial precedent may result in unintended consequences and cause further delays, as faulty legislation may be liable to constitutional challenge in the Superior Courts.¹⁴⁵ It is also

¹⁴¹ D Murray and M O’Brien, “‘We won’t fail this time’: The full details of the government’s radical infrastructure plan”, *Business Post*, 15 November 2025.

¹⁴² Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, [Accelerating Infrastructure Report and Action Plan](#), 3 December 2025, p. 42.

¹⁴³ Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, [Accelerating Infrastructure Report and Action Plan](#), 3 December 2025, pp 42-43.

¹⁴⁴ Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, [Accelerating Infrastructure Report and Action Plan](#), 3 December 2025, p. 43.

¹⁴⁵ See C Sanz, ‘Government’s judicial review overhaul fixes a problem that’s already being tackled’, *Business Post*, 26 September 2025.

noteworthy that since 2023, the Office of the Planning Regulator (OPR) has been publishing a quarterly bulletin that highlights key learnings from relevant planning and environmental case law. This is done in accordance with its obligations under the 2000 Act to conduct education and training programmes for members of staff of local authorities and regional assemblies.¹⁴⁶

Action 7

The final proposed action relating to legal reform involves the introduction of a Civil Reform Bill to legislate for judicial reviews. This would place the entire judicial review process on a statutory footing. The new legislation may include provisions limiting judicial reviews to final planning decisions, introducing prerequisites such as passing a test on the prospect of the success, or promoting the use of less obstructive forms of relief, such as awards of damages.¹⁴⁷ In an effort to reduce the number of technical judicial reviews, the proposed Bill would also require that any procedural error used as the basis for a review must be ‘material’ to the decision made.¹⁴⁸ The idea of limiting judicial review to the final planning decision has also been proposed in the UK. If applied in Ireland, this would limit the number of attempts an applicant has at overturning a decision, limiting the number of ‘bites of the cherry’ an objector may take. The aim would be to streamline the review process and allow the Court to concern themselves with the substance of the matter under review.¹⁴⁹

Possible challenges to implementation

The **Accelerating Infrastructure Report and Action Plan** acknowledges:

“Judicial review is an important tool that ensures that the decisions made by bodies when they are carrying out public functions are transparent, fair, and accountable, and adhere to the principles of legality, procedural propriety, and rationality.”¹⁵⁰

¹⁴⁶ “**“Learning from Litigation” Legal Bulletin**”, Office of the Planning Regulator.

¹⁴⁷ Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, **Accelerating Infrastructure Report and Action Plan**, 3 December 2025, pp 43-44.

¹⁴⁸ D Murray, ‘**Exclusive: Major overhaul of judicial reviews to rebalance right to object with ‘common good’ in new law**’, *Business Post*, 9 September 2025; C Sanz, ‘**Government’s judicial review overhaul fixes a problem that’s already being tackled**’, *Business Post*, 26 September 2025.

¹⁴⁹ See C Sanz, ‘**Government’s judicial review overhaul fixes a problem that’s already being tackled**’, *Business Post*, 26 September 2025.

¹⁵⁰ Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, **Accelerating Infrastructure Report and Action Plan**, 3 December 2025, p. 39.

It goes on to note that the government is not looking to abolish judicial review. Rather, through the Action Plan, the government asserts that a “rebalance of rights towards the common good or public interest is necessary to preserve the effectiveness of the rule of law.”¹⁵¹

In 2018, Professor Áine Ryall of the University College Cork School of Law described the difficult balance affecting Irish environment and planning law:

‘A significant theme in the current narrative around planning and environmental matters in Ireland is the sharp tension between timely decision-making, on the one hand, and “wide access to justice”, on the other. A careful balancing of interests is required here within the framework prescribed by international and EU law. Our current governance structures are struggling to draw this balance appropriately. In particular, concerns have been expressed in some quarters regarding the timeframes for decision-making in certain cases, including the long delays involved where a planning decision is challenged by way of judicial review.’¹⁵²

The *Irish Times* has reported that the Chair of the Bar Council of Ireland, Seán Guerin SC, said that judicial review is “not about the courts substituting their opinion on planning matters for decisions by planning authorities”; rather, “it is about ensuring that decisions by State agencies which have consequences for the lives of individual citizens are ‘lawfully and rationally’ made in accordance with law”.¹⁵³

Limerick solicitor Michelle Hayes, a prominent planning law solicitor, commented on the [Accelerating Infrastructure Report and Action Plan](#), suggesting that restricting access to the courts in environmental and planning judicial review matters would be “anti-democratic, anti-environment, anti-community and authoritarian ... [it would] reduce the accountability of public bodies and enable them to operate in an unfettered manner without appropriate and necessary controls and with scant regard for accountability and the rule of law”.¹⁵⁴

Finally, it has also been reported that although they were welcoming of the [Accelerating Infrastructure Report and Action Plan](#), the Law Society of Ireland did warn that changes to the judicial review process must be “fair, balanced and proportionate”.¹⁵⁵

¹⁵¹ Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, [Accelerating Infrastructure Report and Action Plan](#), 3 December 2025, p. 39.

¹⁵² Prof Á Ryall, ‘Challenges and Opportunities for Irish Planning and Environmental Law’ (2018) 25(3) *Irish Planning and Environmental Law Journal* 104–111.

¹⁵³ M Carolan, ““Better quality” planning decisions would mean fewer judicial reviews - Bar council chair’, *The Irish Times*, 4 October 2025.

¹⁵⁴ ‘Plan to restrict judicial reviews branded “attack on the rule of law”’ *Irish Legal News*, 4 December 2025.

¹⁵⁵ ‘Plan to restrict judicial reviews branded “attack on the rule of law”’ *Irish Legal News*, 4 December 2025.

It has been reported that the government is widely expecting to face a period of litigation against what are likely to be efforts to block proposed new laws limiting judicial reviews affecting planning and environment decisions.¹⁵⁶ It has committed to defending its position, confronting “any legal challenge head on, in the public interest” to progress the relevant legislation to enact the relevant reforms.¹⁵⁷

The Action Plan in an EU and international context

The **Accelerating Infrastructure Report and Action Plan** states:

“... when compared holistically to the approaches taken in New Zealand, Canada, Australia, and the United Kingdom, it is clear that Ireland has not yet embedded infrastructure delivery as a central strategic function to the same extent as other jurisdictions.”¹⁵⁸

The Action Plan goes on to cite new and proposed pieces of legislation in the UK, Australia, New Zealand and Canada which seek to streamline the regulatory approval process for infrastructure projects of national importance.¹⁵⁹

It has been reported that there is a perception in the Cabinet that, to date, Ireland has been gold-plating¹⁶⁰ the application of EU environmental regulations, creating unnecessary barriers to development.¹⁶¹ Action 14 of the **Accelerating Infrastructure Report and Action Plan** proposes that the government should ensure a more prescriptive approach to the transposition of EU legislation, reducing ambiguities and subjectivity where feasible.¹⁶² In

¹⁵⁶ M Regan, ‘**Crackdown on court delays to key infrastructure itself likely to be delayed by legal challenges**’, Irish Independent, 3 December 2025.

¹⁵⁷ M Regan, ‘**Crackdown on court delays to key infrastructure itself likely to be delayed by legal challenges**’, Irish Independent, 3 December 2025.; E Coyne, ‘**New infrastructure plan: Government expects legal challenge to judicial review reforms**’, *The Irish Times*, 3 December 2025.

¹⁵⁸ Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, **Accelerating Infrastructure Report and Action Plan**, 3 December 2025, p. 129.

¹⁵⁹ Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, **Accelerating Infrastructure Report and Action Plan**, 3 December 2025, p. 130.

¹⁶⁰ ‘Gold-plating’ in this context refers to a situation where an EU Member State is transposing an EU Directive into national law, and it extends that law further than what is strictly required: see M Bocci, J De Vet and A Pauer, ‘**“Gold-plating” in the EAFRD To what extent do national rules unnecessarily add to complexity and, as a result, increase the risk of errors?**’, EU Parliament Directorate-General for Internal Policies, 2014.

¹⁶¹ See D Murray and M O’Brien, ‘**“We won’t fail this time”: The full details of the government’s radical infrastructure plan**’, *Business Post*, 15 November 2025.

¹⁶² Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, **Accelerating Infrastructure Report and Action Plan**, 3 December 2025, p. 86.

support of this, the Action Plan cites the EU's Simplification Agenda with a priority focus on the simplification, effective implementation, and enforcement of EU policies and laws.¹⁶³

¹⁶³ Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, [Accelerating Infrastructure Report and Action Plan](#), 3 December 2025, p. 129.

How judicial review has been used - some recent examples

As noted above, the [Accelerating Infrastructure Report and Action Plan](#) asserts that “virtually every planning decision related to critical infrastructure is subject to judicial review”.¹⁶⁴ This statement has also been made by the Supreme Court’s Justice Hogan.¹⁶⁵ The question that follows is whether the judicial review process has hampered or stopped the development of critical infrastructure and affected Ireland’s competitiveness. The three case studies that follow cover the Apple case, the Greater Dublin Drainage Project and the Dart+ Coastal North.

The Apple Case was chosen as it triggered debate at the time about how the judicial review procedure may affect Ireland’s competitiveness. It appeared to have inspired the drafting of the General Scheme of the Housing and Planning and Development Bill in 2019.¹⁶⁶

The Greater Dublin Drainage Project and the Dart+ Coastal North Project were chosen because a number of critics of judicial review have referred to the projects in 2025 as examples of large-scale infrastructure projects that have been perceived to have been delayed by the judicial review process. The Greater Dublin Drainage Project involved a decision by An Bord Pleanála, while the Dart+ Coastal North Project involved a decision of the Board’s successor, An Coimisiún Pleanála.¹⁶⁷

The Apple Case

On 24 April 2015, Apple Distribution International (“Apple”) applied to the local authority in Galway for planning permission to build a data distribution centre facility together with an associated electricity substation and grid connection, close to Athenry, County Galway. The application was accompanied by an environmental impact statement (EIS) and an appropriate assessment screening report (AASR).¹⁶⁸

In May 2015, two local residents made separate submissions to the local authority raising issues with the adequacy of the EIS. The application was approved by the local authority and

¹⁶⁴ Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, [Accelerating Infrastructure Report and Action Plan](#), 3 December 2025, p. 39.

¹⁶⁵ “[“Myths and realities” of contemporary planning law](#)”, *Law Society Gazette Ireland*, 24 November 2025.

¹⁶⁶ See for example, P Leahy, ‘[Proposed rules aim to limit court challenges to building projects](#)’, *The Irish Times*, 7 February 2018. The General Scheme was never introduced into the Houses of the Oireachtas, but elements of it were incorporated into the 2024 Act.

¹⁶⁷ S Libreri, ‘[Judicial review taken against Dublin sewage and drainage project](#)’, *RTÉ*, 3 September 2025; J Geoghegan TD, ‘[Emergency legislation needed to drive through critical infrastructure](#)’, Fine Gael Press Office, 21 September 2025; E Hickey, ‘[Judicial reviews being used to “impede the public good”, Minister says](#)’, *The Journal*, 30 November 2025; E O’Hare, ‘[“Out of control”: Critics slam use of judicial reviews in wake of legal challenge against Dart North](#)’, *Business Post*, 18 October 2025.

¹⁶⁸ *Fitzpatrick v An Bord Pleanála* [2017] IEHC 585.

that decision was appealed to An Bord Pleanála. On 11 August 2016, An Bord Pleanála granted planning permission to Apple for the development.¹⁶⁹

The two residents sought judicial review of the determination of An Bord Pleanála, in the High Court. The core issue of the review concerned the extent to which An Bord Pleanála had fulfilled its obligations to carry out an Environmental Impact Assessment ('EIA'), specifically, whether An Bord Pleanála was obliged to consider Apple's overall plan to construct eight different data centres in an EIA prior to granting permission for this individual data centre. On 12 October 2017, Justice McDermott upheld An Bord Pleanála's determination.¹⁷⁰ The applicants sought a certificate for leave to appeal to the Court of Appeal which was rejected by Justice McDermott.¹⁷¹

The applicants sought leave to appeal directly to the Supreme Court, and on 26 April 2018, the applicants were granted that leave to appeal.¹⁷² On 10 May 2018, Apple announced that it would not go ahead with the plan to build the data centre, citing uncertainty and delays in the planning process as the main reasons for taking that decision.¹⁷³ On 11 April 2019, the Supreme Court dismissed the appeal.¹⁷⁴

The Greater Dublin Drainage Project

The idea behind the Greater Dublin Drainage Project (GDD) was first conceived in May 2008, when Fingal County Council published a strategic environmental assessment for the project.¹⁷⁵ In 2012, the council entered a closed pre-application consultation process with An Bord Pleanála and, in the following year, Fingal County Council published a report identifying the preferred site for the development.¹⁷⁶ In 2017, Irish Water (now Uisce Éireann) joined the consultation process and in June 2018, Irish Water applied for permission for the GDD. The application was for the development of a wastewater treatment plant at Clonshaugh, a sludge hub centre, an orbital sewer, an outfall pipeline and a new regional biosolids storage facility on

¹⁶⁹ *Fitzpatrick v An Bord Pleanála* [2017] IEHC 585.

¹⁷⁰ *Fitzpatrick v An Bord Pleanála* [2017] IEHC 585.

¹⁷¹ *Fitzpatrick v An Bord Pleanála* [2017] IEHC 644.

¹⁷² *Fitzpatrick v An Bord Pleanála* [2018] IESCDT 61.

¹⁷³ C Taylor and P Hamilton, 'Apple scraps plan for €850 million data centre in Athenry', *The Irish Times*, 10 May 2018.

¹⁷⁴ *Fitzpatrick v An Bord Pleanála* [2019] IESC 23.

¹⁷⁵ M Carolan, 'The life cycle of a judicial review: how legal and planning challenges have delayed a key Dublin project', *The Irish Times*, 29 November 2025.

¹⁷⁶ M Carolan, 'The life cycle of a judicial review: how legal and planning challenges have delayed a key Dublin project', *The Irish Times*, 29 November 2025.

a 30-hectare site.¹⁷⁷ An Bord Pleanála heard the matter in March 2019 and, on 11 November 2019, permission was granted for the development.¹⁷⁸ In January 2020, leave to bring judicial review proceedings to overturn the decision was granted by the High Court.¹⁷⁹ On 25 November 2020, the decision was quashed, and the matter was remitted to An Bord Pleanála. The permission was found to be flawed as An Bord Pleanála had not complied with its obligation under the *Waste Water Discharge (Authorisation) Regulations 2007* to seek the observations of the Environmental Protection Agency about the likely impact of the project on waste water discharges. This was found to have impacted on An Bord Pleanála's ability to conduct a complete assessment of the development or its impacts on the receiving environment.¹⁸⁰

On 7 December 2021, the matter was reactivated by An Bord Pleanála, but permission was not granted until 9 July 2025 by An Coimisiún Pleanála.¹⁸¹ On 2 September 2025, a judicial review challenge to the new decision was initiated and leave was granted by the High Court on 15 September 2025.¹⁸² On 5 December 2025, Uisce Éireann announced that it had reached an agreement to settle the proceedings prior to the full hearing that was scheduled for 8 December 2025.¹⁸³

The construction contractor procurement should commence in February 2026 and construction work on the GDD project is expected to be completed over a four-year period.¹⁸⁴

Dart+ Coastal North

On 21 May 2024, the then Minister for Transport, Eamon Ryan TD, secured Cabinet agreement for the DART+ Coastal North rail project to enter the planning system. The proposal involved an extension of overhead electric wires on the DART system by 37km, from Malahide to Drogheda

¹⁷⁷ M Carolan, 'The life cycle of a judicial review: how legal and planning challenges have delayed a key Dublin project', *The Irish Times*, 29 November 2025.

¹⁷⁸ An Coimisiún Pleanála, *Case reference: PA06F.301908*.

¹⁷⁹ M Carolan, 'The life cycle of a judicial review: how legal and planning challenges have delayed a key Dublin project', *The Irish Times*, 29 November 2025.

¹⁸⁰ *Joyce Kemper v An Bord Pleanála* [2020] IEHC 601 at [393] per Allen J.

¹⁸¹ An Coimisiún Pleanála, *Case reference: PA06F.312131*.

¹⁸² M Carolan, 'The life cycle of a judicial review: how legal and planning challenges have delayed a key Dublin project', *The Irish Times*, 29 November 2025.

¹⁸³ 'Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, 'Minister Chambers welcomes agreement to progress Greater Dublin Drainage Project', *Press Release*, 8 December 2025; 'Legal challenge to Greater Dublin Drainage project ends in settlement', *Irish Legal News*, 8 December 2025.

¹⁸⁴ 'Legal challenge to Greater Dublin Drainage project ends in settlement', *Irish Legal News*, 8 December 2025.

and a reconfiguration of the existing track layout and associated infrastructure works.¹⁸⁵ An application for planning permission was lodged with An Bord Pleanála on 24 July 2024 and permission was granted by An Coimisiún Pleanála on 19 August 2025.¹⁸⁶

On 13 October 2025, a private company, Alcove Ireland Three Ltd, commenced judicial review proceedings claiming that An Coimisiún Pleanála's decision was invalid for various reasons, including that the proposed compulsory purchase orders interfered with the company's property rights. Prior to the leave hearing in November 2025, the parties requested a stay in the proceedings, agreeing to enter mediation.¹⁸⁷ As a result of the mediation process, the parties agreed to an out of court settlement and on 8 December 2025, the proceedings were struck out with no order as to costs. Work is now due to commence on the project in 2028.¹⁸⁸

What are the main causes of delays and how would reform of judicial review affect them?

It is possible to reason from the facts of these case studies that judicial review has been used to delay or halt development proposals. However, as shown by these case studies it is possible to attribute the majority of the delays experienced by the notice parties to delays and errors in the application and decision-making process, not to the judicial review process itself. As noted above, the introduction of the Planning and Environment List has resulted in a marked improvement in the amount of time taken to hear cases affecting the large-scale development projects. High profile cases such as the GDD project and a challenge to the Coolglass wind farm have been scheduled for hearing within three months of the application being lodged.¹⁸⁹ That said, most delay will favour the objector over the developer, because the developer has to concern themselves with uncertain returns, payment of fees and capital outlays, and ensuring capacity and resources.¹⁹⁰

A solicitor and specialist in planning and environment litigation, Fred Logue, has highlighted that the very high success rate of judicial reviews is a reflection on poor decision-making or

¹⁸⁵ Department of Transport, 'Minister Ryan secures approval of DART+ Coastal North', *Press Release*, 21 May 2024.

¹⁸⁶ An Coimisiún Pleanála, *Case reference: NA29N.320164*.

¹⁸⁷ F Gallagher, 'High Court action brought over Dart extension resolved', *The Irish Times*, 8 December 2025; C Fitzgerald, 'Judicial review taken against Dart expansion as far as Drogheda resolved' *The Journal*, 8 December 2025.

¹⁸⁸ C Fitzgerald, 'Judicial review taken against Dart expansion as far as Drogheda resolved' *The Journal*, 8 December 2025.

¹⁸⁹ C Sanz, 'Government's judicial review overhaul fixes a problem that's already being tackled', *Business Post*, 26 September 2025.

¹⁹⁰ D G Morgan, Emeritus Professor of Law at UCC, 'Is it really possible to reform judicial reviews of planning?', *Irish Examiner*, 4 November 2025; E Dodd, 'Rate of judicial review in Ireland "off the charts" - housing expert', *RTÉ*, 2 November 2025.

bad planning applications. In Logue’s opinion, judicial reviews are usually taken on very substantial points, which are related to the quality of the development in question.¹⁹¹ The Chair of the Bar Council of Ireland has taken a similar stance, stating that better-quality decision making would result in fewer judicial reviews.¹⁹² This rationale is also supported by Justice Hogan of the Supreme Court, who has explained that if an applicant succeeds in challenging a planning decision, it was because the relevant Court was required to apply the mandatory statutory requirements, in order to uphold the rule of law.¹⁹³

Coming at the issue from a different angle, the Irish Academy of Engineering, in its report *Rebalancing Ireland’s Energy Policy – The Energy Trilemma – Project Delivery – Authority & Accountability*, stated:

“An Coimisiún Pleanála (formerly An Bord Pleanála) is frequently cited as being an obstacle to the delivery of large energy infrastructure projects. While there have been instances (confirmed by judicial reviews) of shortcomings in the process of EIA and AA, by far the biggest obstacles large energy infrastructure projects face in securing grants of planning permission come from conflicts between different policy targets, from a lack of policy clarity and from a tardiness in policy delivery.”¹⁹⁴

On a related point, a representative of the Department of Housing, Local Government and Heritage has acknowledged a level of frustration resulting from the need to work between the provisions of the *Planning and Development Act 2000* and the yet to be fully commenced *Planning and Development Act 2024*.¹⁹⁵ Even if the relevant provisions of the 2024 Act are commenced (such as section 180), the 2000 Act would still apply to certain decisions made under the 2000 Act.¹⁹⁶ However, a proposed bill, approved by Cabinet on 27 November 2025,

¹⁹¹ See E Dodd, ‘Rate of judicial review in Ireland “off the charts” - housing expert’, *RTÉ*, 2 November 2025.

¹⁹² M Carolan, ‘“Better quality” planning decisions would mean fewer judicial reviews - Bar council chair’, *The Irish Times*, 4 October 2025.

¹⁹³ ‘“Myths and realities” of contemporary planning law’, *Law Society Gazette Ireland*, 24 November 2025.

¹⁹⁴ Irish Academy of Engineering, *Rebalancing Ireland’s Energy Policy – The Energy Trilemma – Project Delivery – Authority & Accountability*, November 2025, p. 33.

¹⁹⁵ ‘“Balance of public interest” has shifted on planning’, *Law Society Gazette Ireland*, 20 November 2025.

¹⁹⁶ ‘“Myths and realities” of contemporary planning law’, *Law Society Gazette Ireland*, 24 November 2025: for example, certain aspects of retention permissions, retrospective permissions, outline permissions, and extension of duration.

would aim to amend the 2024 Act to extend changes to judicial-review processes to decisions made or acts done under the 2000 Act.¹⁹⁷

¹⁹⁷ Department of Housing, Local Government and Heritage, 'Minister Browne and Minister Cummins announce amendments to Planning Act to speed up the impact of new Judicial Review provisions' *Press Release*, 27 November 2025; 'Government backs bill on judicial reviews' *Law Society Gazette Ireland*, 28 November 2025.

Conclusion

The **Accelerating Infrastructure Report and Action Plan** acknowledges:

“Judicial review is an important tool that ensures that the decisions made by bodies when they are carrying out public functions are transparent, fair, and accountable, and adhere to the principles of legality, procedural propriety, and rationality.”¹⁹⁸

The concept of judicial review is central to the rule of law in Ireland. It creates a mechanism for affected parties to secure and give effect to the legislative intent of the Oireachtas.¹⁹⁹ It is a process that is grounded in the system of common law, the historical basis of the Irish legal system.²⁰⁰ However, this does not mean that it is not without its challenges.

Critics of judicial review in environmental and planning matters argue that the process is inherently skewed in favour of the applicant, primarily because they have less to lose by making a claim.²⁰¹ Critics have also highlighted that the recent increase in the number of judicial review applications made for environmental and planning matters places more pressure on the court system, making it harder for the courts to move matters to a final determination. The perceived delays are believed to create higher levels of uncertainty in the planning process, increasing risk aversion among developers and State actors and these factors are said to affect the State’s competitiveness and its capacity to commence large scale public infrastructure projects.²⁰² The Minister for Public Expenditure, Infrastructure, Public Service Reform and Digitalisation has claimed that a narrow set of interests have been weaponising the judicial review process to delay or block delivery of infrastructure.²⁰³

The **Accelerating Infrastructure Report and Action Plan** states that it aims to reform the current judicial review system through legislative and practical reforms. The proposed actions could profoundly affect the legal status of judicial review of planning and environment matters, especially in relation to the development of critical infrastructure. The government acknowledges that the proposed changes could be the subject of legal challenge, and a further

¹⁹⁸ Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, **Accelerating Infrastructure Report and Action Plan**, 3 December 2025, p. 39.

¹⁹⁹ De Blacam, ‘Judicial Review’, Bloomsbury Publishing (2016) at [2.02]; **“Myths and realities” of contemporary planning law**, *Law Society Gazette Ireland*, 24 November 2025.

²⁰⁰ See De Blacam, ‘Judicial Review’, Bloomsbury Publishing (2016) at [1.02].

²⁰¹ M Carolan, **“Better quality” planning decisions would mean fewer judicial reviews - Bar council chair**, *The Irish Times*, 4 October 2025.

²⁰² Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, **Report on Engagement and Barriers to Infrastructure**, July 2025, pp 3-4.

²⁰³ S Hurley, **Judicial reviews being weaponised by narrow interests – Chambers**, *RTÉ*, 1 December 2025.

question remains about whether the proposed changes are necessary and proportionate to the current context.