



Agenda Item 15 Report NPA32/18 Appendix 1  
**In the High Court of Justice**  
**Queen's Bench Division**  
**Planning Court**

CO Ref:

CO/2429/2018

In the matter of an application for Judicial Review

**The Queen on the application of**

**SOUTH DOWNS NATIONAL PARK AUTHORITY**

**versus**

**HIGHWAYS ENGLAND**

**Application for permission to apply for Judicial Review**  
**NOTIFICATION of the Judge's decision (CPR Part 54.11, 54.12)**

Following consideration of the documents lodged by the Claimant and the Acknowledgement of service filed by the Defendant

**Order by Justine Thornton QC, sitting as a Deputy High Court Judge**

**Permission is granted**

**Case management directions**

- Pursuant to CPR54 PDE para 3.1 the claim has been designated as a Significant Planning Court claim.
- The claim raises a challenge to the same decision as is the subject of the claim in CO2752/2018. The claims are to be joined unless within 14 days any party to the two claims notifies the Court and other parties in writing of its objections, giving reasons. The other parties then have 7 days to respond to the objection in writing (notified to the Court and all parties to the two claims).
- The defendant and any other person served with the claim form who wishes to contest the claim or support it on additional grounds must file and serve detailed grounds for contesting the claim or supporting it on additional grounds and any written evidence, within 35 days of service of this order.
- Any reply and any application by the claimant to lodge further evidence must be lodged within 21 days of the service of detailed grounds for contesting the claim.
- The claimant must file and serve a trial bundle not less than 4 weeks before the date of the hearing of the judicial review.
- The claimant must file and serve a skeleton argument not less than 21 days before the date of the hearing of the judicial review.
- The defendant and any interested party must file and serve a skeleton argument not less than 14 days before the date of the hearing of the judicial review.
- The claimant must file an agreed bundle of authorities, not less than 3 days before the date of the hearing of the judicial review.

**Listing Directions**

The application is to be listed for 1.5 days; the parties to provide a written time estimate within 7 days of service of this order if they disagree with this direction.

Case NOT suitable for hearing by a Deputy High Court Judge\*

**Observations:**

The claim raises arguable questions of law in relation to whether something went clearly and radically wrong with the consultation and whether the Court's intervention is required at this stage.

On its face it appears surprising that there is no express reference to the content of paragraph 5.152 of the National Networks National Policy Statement in the relevant consultation documents but this omission may appear justifiable on further examination by the Court of the relevant documentation.

It is not clear that the decision making and consultation process in R(Hillingdon) v Secretary of State for Transport, which the Defendant relies heavily on, is analogous with the process underlying the present claim. Moreover, in Hillingdon Carnwath LJ recognised that earlier Court intervention might be necessary in relation to 'showstopper' consultation failures in consultation which could render a consultation proposal so obviously unacceptable as to require it to be aborted.

Signed *Justice Turner QC* 7/9/18

**The date of service of this order is calculated from the date in the section below**

**For completion by the Planning Court**

Sent / Handed to the claimant, defendant and any interested party / the claimant's, defendants, and any interested party's solicitors on (date):

Solicitors:  
Ref No.

**11 SEP 2018**

**Notes for the Claimant**

- To continue the proceedings a further fee, or a certified Application for Fee Remission if appropriate, must be lodged within 7 days of the service on you of this order. **For details of the current fee see the Court website.** Failure to pay the fee or lodge a certificate within that period may result in the claim being struck out.
- You are reminded of your obligation to reconsider the merits of your claim on receipt of the defendant's evidence.