

Planning Court 2021: Practice and Procedure

Katherine Barnes



Today's Topics

Part I: Recent rule changes (and good practice)

Part II: Strategies for maximising speed

Part III: Time limits reminder



Part I: Recent Rule Changes

- Previous JR PDs replaced from 31 May 2021 with:
 - PD 54A: General (must read!)
 - PD 54B: Urgent apps and other apps for interim relief
 - PD 54C: Venue
 - PD 54D: Planning Court Claims (no substantive changes)
- Key messages: clarity, concision and candour!

Part I: Recent Rule Changes

General points

- Pleadings: Clear and concise. Max 40 pages for SFG; max 30 pages for SGD; max 40 pages for DGD - they should normally be “significantly shorter”.
- Reminder duty of candour applies to C and D. C obliged to set out all relevant facts in CF/SFG, and “must make proper and necessary enquiries before seeking permission... to ensure so far as reasonably possible that all relevant facts are known”
- If need oral renewal hearing over 30 mins must apply and provide agreed estimate 7 days before hearing
- Hard copy & e-bundle (Guidance on Admin Court

Part I: Recent Rule Changes

Amendments

- If C wishes to deviate from formally pleaded case then must make formal app to amend (Part 23).
- Must apply “promptly, explain “need” and “any delay”
- See CPR Part 17 on Amendments to Statements of Case

Part I: Recent Rule Changes

Skeletons

- 25 page limit. Set out arguments “as concisely as possible”
- Skeletons should “define and confine” the issues, be cross-referenced and “self-contained”, not quote extensively, cite 1 authority per proposition
- May be returned if non-compliant and costs disallowed



Part I: Recent Rule Changes

Prep for final hearing

- File agreed final bundle 21 days before hearing
- Indexed and paginated
- Provide core bundle if main bundle over 400 pages
- Solicitors must certify that bundle meets requirements
- 7 days before hearing, parties must agree and lodge:
 - Authorities bundle
 - Agreed list of issues, chronology, essential reading and time estimate
- Hard copy & e-bundle

Part I: Recent Rule Changes

Urgent apps and interim relief

- Read PD54B before making any urgent application!
- Cautionary tales: *R (DVP) v SSHD* [2021] EWHC 606 (Admin); *R (Keir) v Natural England* [2021] EWHC 1059 (Admin)
- Must put D on notice if poss and outline all relevant facts
- Fill out N463 with extreme care – no blanks or cross-referencing!
- Reasons for urgency must be compelling and go beyond the justification for the claim itself. Normally urgency only justified if some irreversible action (prejudicial to C) unless IR granted/claim expedited ASAP

Part II: Maximising speed

- Planning Court set up to determine planning JRs and statutory challenges speedily.
- If claim is “significant” (see PD54D para 3.2) then “target timescales” apply
 - 3 weeks for permission decision following AoS
 - Oral renewal hearing within 1 month
 - S.289 permission hearing within 1 month
 - Planning statutory review to be heard within 6 months
 - Planning JR to be heard within 10 weeks of detailed grounds

Part II: Maximising speed

- BUT unclear extent to which targets actually met and how they compare to non-significant PC claims
- Other useful strategies for speed:
 - Rolled-up hearing
 - Seek expedition of permission decision (and then final hearing if permission granted). NB. If applying for expedition of permission decision then include this app in claim form (not N463) – see *Re An Application for Judicial Review* [2021] EWHC 1895 (Admin)



Part III: Time limits

- (a) Reminder of when court has discretion to extend time
- (b) Reminder of cases where 3 month limit applies

Statutory challenges

- S.288 (challenges to most Inspector/SS decisions) – 6 weeks (cannot be extended)
- S.113 (local plan challenges) – 6 weeks (cannot be extended)
- S.118 PA 2008 (DCO challenges) – 6 weeks (cannot be extended)
- S.289 (enforcement notice appeal challenges) – 28 days (theoretically can be extended as in PD52D, not statute)

Part III: Time Limits

Judicial reviews (theoretically court has discretion to extend time)

- *Scenario 1: 6 weeks* “Where the application for judicial review relates to a decision made by the Secretary of State or local planning authority under the planning acts” (CPR 54.5(5)).
- See s.336 TCPA 1990 for “planning acts” (inc TCPA 1990 and P(LB&CA) Act 1990)
- *Scenario 2: Otherwise 3 months* (CPR 54.5(1))

The End: happy litigating...



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