

**Insights**

# **THE ROLE OF PLANNING IN THE FIGHT AGAINST CLIMATE CHANGE**

Dec 16, 2021

## **SUMMARY**

Planning legislation has been framed over many years to grapple with climate change and there is no doubt that there is real impetus at all levels of development to ensure that climate targets are met. In this blog we discuss existing statutory requirements within the planning system that address climate change and those that are on the horizon.

The built environment is a long-standing and major contributor to the carbon emissions driving climate change. Fundamental to achieving the Government's net zero objective by 2050 will be implementing changes to the way in which developments are built and used. Speakers at last month's COP26 conference in Glasgow advocated the importance of engaging the planning system to bring about necessary changes to the present and future built environment.

In this blog we explore measures already embedded in the planning system in England and what further changes we might expect in the immediate and longer term to support net zero.

## **CURRENT CLIMATE CHANGE REQUIREMENTS IN THE PLANNING SYSTEM**

The UK Government's legally binding target to reduce emissions by at least 100% of the levels seen in 1990 by 2050 (net zero) and to limit the global temperature rise to below 2 degrees was established by the Climate Change Act 2008. All sectors, including planning, play a role in supporting this target.

The planning system embraced the concept of environmental sustainability, protection and mitigation early on. Local planning authorities have long had a statutory duty to include in their Local Plans policies to ensure that development and use of land mitigates and adapts to climate change<sup>1</sup>, powers to require new developments to source a proportion of their energy requirements from renewable and/or low-carbon and local sources<sup>2</sup> and that allow them to prioritise measures to tackle climate change at a plan-led level as a strategic priority<sup>3</sup>.

The purpose of the planning system, as set out in the NPPF, is to contribute to sustainable development, which is to be achieved through its overarching economic, social and environmental objectives. Detailed policies on 'meeting the challenge of climate change, flooding and coastal change' and policies to support the transition to a low carbon future policies are also included in the NPPF.

The London Plan and most local plans also contain some climate change mitigation policies. For example, policies that embed sustainability in development and require whole life carbon assessments at the planning stage, and secure carbon offsetting from major new development through planning obligations. Such obligations are relatively new but are becoming more common, and include a carbon offset tariff formula to set a carbon target with financial penalties triggered if targets are missed. However, at a local level, policies are inconsistent and some local authorities are more proactive than others in reviewing their local plans and introducing robust policies and guidance that result in climate change and adaptation actions.

## FUTURE CHANGES WITHIN THE PLANNING SYSTEM

### **The Environment Act 2021**

At a national level, the recently enacted Environment Act 2021 introduces a new governance framework to improve and protect the environment, including some new and important requirements for the planning regime. Attracting most attention is the new mandatory requirement for developments to deliver and maintain a 10% biodiversity net gain for 30 years (you can read more about this in our blog [here](#).) However, other measures introduced by this Act will affect planning and include the introduction of Local Nature Recovery Strategies. These are a new system of spatial plans that will cover the whole of England that aim steer development away from valuable habitats and focus on habitat creation and boost biodiversity.

Further details on these measures and how they will work in practice will be set out in secondary legislation, that will also bring these requirements into force, that is yet to be published.

### **COP26**

The Glasgow Climate Pact agreed at the COP26 summit in November contained some very general commitments on planning and the built environment. These amounted to agreements to further integrate adaptation to climate change into the planning system at all levels and to take an integrated approach to planning policy and decisions on environmental protection and conservation.

These general commitments are perhaps not reflective of the multiple discussions in COP26 forums about the importance of decarbonising the built sector by starting with the planning system, with themes emerging from these discussions around community planning to share resources, 100 year minimum building lifecycles, sustainability of construction, use and retrofitting.

Whilst there was no agreement on these issues, it is nonetheless likely that some of them may be introduced into the UK planning system. Currently, the Government's net zero target is not referenced in the NPPF at all, but this will certainly change in the forthcoming review of the NPPF that will put net zero at the heart of the planning system<sup>4</sup>. In addition, we expect more specific policies to emerge to support the delivery of this target. For example, we could potentially see policies which contain a presumption in favour of the retention of existing buildings through sustainable retrofitting if this is a less carbon intense solution to meeting new development requirements.

## **Planning and Infrastructure Planning Reform**

We also expect the Government's long awaited planning reforms and Planning Bill (expected early next year) to include stronger statutory measures to mitigate, adapt and facilitate environmental improvements, particularly in energy efficiency standards for buildings to support the net-zero commitment.

The 'National Infrastructure Planning Reform Programme', currently under consultation, may also introduce changes to the NSIP regime to address the role of infrastructure planning in climate change mitigation. For example, as part of the change from fossil fuels to clean energy, a rapid scaling up of clean power generation and energy efficiencies is needed which will put pressure on the consenting regime to deliver the infrastructure needed to meet targets on time.

## **ESG in Planning**

With Environment Social Governance (ESG) high on the corporate and national agenda, there will be increasing investor demand for buildings to be both environmentally sustainable and deliver social returns. There is likely to be an increased focus on embedded carbon in developments and their total life cycle and on flexible buildings with scope to be re-used and able to respond and adapt to changes of use. These demands broadly align with the direction of travel of planning legislation and planning policy, so demand for developments with strong ESG credentials should find support within the planning system.

## **SUMMARY**

Although planning legislation has been framed over many years to grapple with climate change, and arguably has been ahead of the curve in many respects, there is no doubt that there is real impetus at all levels of development to ensure that targets are met, potentially in advance of the timeline enshrined in the Climate Act 2008. This will manifest at every stage of the planning process, particularly development control and building control approvals. We expect 2022 will be another busy year for planning.

### **1. Planning and Compulsory Purchase Act 2004**

2. Planning and Energy Act 2008
3. Neighbourhood Planning Act 2017
4. As confirmed by the Government's Director of Planning at the BPF Conference on 1 December 2021

## **RELATED CAPABILITIES**

- Planning & Zoning
- Environment
- Real Estate

## MEET THE TEAM



### **Emily Pittaway**

London

[emily.pittaway@bclplaw.com](mailto:emily.pittaway@bclplaw.com)

[+44 \(0\) 20 3400 4512](tel:+442034004512)



### **Clare Eccles**

London

[clare.eccles@bclplaw.com](mailto:clare.eccles@bclplaw.com)

[+44 \(0\) 20 3400 4267](tel:+442034004267)

---

This material is not comprehensive, is for informational purposes only, and is not legal advice. Your use or receipt of this material does not create an attorney-client relationship between us. If you require legal advice, you should consult an attorney regarding your particular circumstances. The choice of a lawyer is an important decision and should not be based solely upon advertisements. This material may be “Attorney Advertising” under the ethics and professional rules of certain jurisdictions. For advertising purposes, St. Louis, Missouri, is designated BCLP’s principal office and Kathrine Dixon ([kathrine.dixon@bclplaw.com](mailto:kathrine.dixon@bclplaw.com)) as the responsible attorney.