

Insights

LEVELLING UP AND REGENERATION ACT – CONSIDERING CLIMATE CHANGE

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One of the final amendments to the new Levelling up and Regeneration Act (“LURA”) before it gained royal assent on 26 October 2023, was to require the Secretary of State for Levelling Up, Housing and Communities to consider mitigation and adapting to climate change in designing “National Development Management Policies” (“NDMPs”).

The LURA aims to simplify the mosaic of national and local policies used to determine whether planning permission should be granted, and the NDMPs are a key tool in this effort. NDMPs are intended to cover issues that are more national in scope (including climate change) that are currently dealt with at local level with policies addressing similar goals but with different phrasings. If there were then any conflict between local and national policies, the content of the NDMP would override the local policy.

The extent to which this will impact the kind of development that will be permitted, however, remains to be seen – planning authorities already are under statutory obligations to consider climate change in their local policies, and even if the standards imposed in the NDMPs differ significantly from local considerations, these considerations will still only be one of many factors considered by decision makers in applying the planning balance.

Decision-makers will take into account sustainability considerations alongside other factors, including economic viability, when granting permissions, so even though the NDMPs are designed to introduce nationally applicable standards, their impact on a proposed development will still require consideration on a case-by-case basis. Further, the content of the NDMPs to do with climate change has yet to be specified in detail, so its potential impact on, for example, different types of development, is as yet uncertain.

One increasingly important consideration in planning decisions is the embodied carbon in construction and the whole life cycle of development, and reuse of buildings. This was highlighted in the Secretary of State’s decision last summer to refuse Marks & Spencer’s plans to demolish and rebuild its flagship store on Oxford Street, London, partly because of the embedded carbon implications of the demolition. Such considerations are likely to increasingly influence design

evolution and formulation of plans, although more policy clarity and guidance would be welcomed in this area to support the preparation of robust planning applications.

Our unrivalled knowledge and experience in the real estate sector means we are at the forefront of these legislative changes, and we can advise on how these will impact you and your real estate portfolio. Our planning team has considered the impacts of sustainability and climate change in the LURA ([link below](#)), and is continuing to actively respond to the shifting statutory requirements to ensure that our advice not only reflects the latest standards, and considers the future of the legislative landscape.

[This article first appeared in the Planner](#), 6 December 2023.

Think your scheme may be impacted by the new legislation? Contact a member of our Planning team.

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