

Planning for the climate crisis

Legal and policy background

England



The legislative context

The 2008 Climate Act and related planning law and policy in England provide a powerful foundation for action by planning authorities on climate mitigation and adaptation.



Taken together, they require development plans to take radical action to ensure development is in line with the relevant carbon budgets and national adaptation plan objectives. This section of the guide outlines the legal and policy framework for England, highlighting the key laws and policies that local planning authorities must follow.

There is a mass of complex legislation and policy which impacts on planning for climate change in England. The individual [topic resources](#) provide more detail of how this affects specific policy areas that development plans can address. This section provides an overview and sets out the main legal principles that plan makers and decision makers should be aware of.

Climate Change Act 2008

The Climate Change Act 2008 includes a statutory target to reduce carbon dioxide emissions to at least 100% below 1990 levels by 2050, with interim targets, set through five-yearly carbon budgets.

UK emissions reduction targets

Through the Climate Change Act 2008¹ and as a signatory of the Paris Agreement,² the UK Government has committed to:

- reduce emissions by at least 100% of 1990 levels by 2050; and
- contribute to global emissions reductions aimed at limiting global temperature rise to well below 2°C and to pursue efforts to limit temperatures to 1.5°C above pre-industrial levels.

To meet these targets, the UK Government sets five-yearly carbon budgets. The Climate Change Committee's (CCC) Sixth Carbon Budget, introduced into law in 2021, sets a target to reduce UK greenhouse gas emissions by 78% by 2037 (compared with 1990 levels).³

Alongside the Sixth Carbon Budget, the Climate Change Committee has published a report for local authorities detailing their commitments to net zero and how to achieve them.⁴ The Climate Change Committee has now also published the Seventh Carbon budget for the period after 2037⁵ (see Box 1).

Box 1: The UK carbon budgets

Carbon budgets are five-year emissions limits set by the UK government which provide a clear trajectory to achieving net zero carbon emissions by 2050. Because the time frame for development plans is generally 15-20 years, they must align with the carbon budgets over the same period. Ultimately, development must be net zero as soon possible, as what we plan now will outlive the 2050 net zero deadline.

Carbon budget 4	2023 – 2027	52% reduction on 1990 levels
Carbon budget 5	2028 – 2032	58% reduction on 1990 levels
Carbon budget 6	2033 – 2037	77% reduction on 1990 levels
Carbon budget 7	2037 - 2042	87% reduction on 1990 levels*

*This is the level recommended by the Climate Change Committee, although it has not yet been adopted by the UK government, which is required to set a new budget by June 2026.

The Act also created a framework for climate change adaptation. The Third UK Climate Change Risk Assessment required under the Act was published in January 2022.⁶ The Independent Evidence Report that informs the statutory UK Climate Change Risk Assessment was published in June 2021 and will be updated in 2026. The third National Adaptation Programme (NAP) – which addresses the risks affecting communities across England and sets out the Westminster government’s ongoing investment and work to tackle these risks – was published in 2023.⁷

The Climate Change Act also confers a reporting power, requiring compulsory reporting of climate change impacts and adaptation plans for certain public bodies and organisations.⁸

Why is this relevant?

The outputs from the Climate Change Act, including the analysis of the CCC, provide an evidence base that can be used in identifying priorities for action for adaptation measures, and local carbon reduction targets.

Levelling Up and Regeneration Act 2023 (LURA) and the duty on mitigation and adaptation

The LURA 2023 provided for a modified local plan framework and transposed the climate duty on plan making from section 19 of the 2004 Planning and Compulsory Purchase Act to Schedule 7 of the LURA. The wording of the duty remains substantially the same.

Box 2: Legal duty on planning and climate

Schedule 7 (15C) of the Levelling Up and Regeneration Act 2023 (amends the Planning and Compulsory Purchase Act 2004) provides that:

‘The local plan must be designed to secure that the use and development of land in the local planning authority’s area contribute to the mitigation of, and adaptation to, climate change.’

Why is this relevant?

Local planning authorities are bound by the Schedule 7 (15C) legal duty in the LURA (see Box 2).⁹ This powerful outcome-focused duty clearly signals the priority to be given to climate change in plan-making.

In discharging this duty, local authorities should consider paragraph 153 of the National Planning Policy Framework (NPPF) and ensure that policies and decisions are in line with the objectives and provisions of the Climate Change Act 2008 and support the National Adaptation Programme. For the sake of clarity, this means that local development plans must be able to demonstrate how policy contributes to the Climate Change Act target regime, and this, in turn, calls for an understanding of both the baseline carbon dioxide emissions and the actions needed to reduce emissions over time (see our resource on [Carbon Literate Planning](#) for more detail). This means that Annual Monitoring Reports should contain assessments of carbon performance against the carbon budget regime set out in the Climate Change Act.

The Schedule 7 duty is much more powerful in decision-making than the status of the NPPF, which is guidance, not statute. Where local development plan policy which complies with the duty is challenged by objectors or a planning inspector on the grounds, for example, of viability, they must make clear how the plan would comply with the duty if the policy were to be removed. Whatever new policy may emerge, compliance with the legal duty on mitigation must logically mean compliance with the provisions of the target regime of the Climate Change Act.

Box 3: Environmental assessment of plans and programmes

The Levelling Up and Regeneration Act also seeks to simplify the environmental assessment framework through the introduction of Environmental Outcome Reports (EORs). However, this has not yet been enacted and there is limited detail on their scope and implementation, which is due to be subject to government consultation.

Climate change mitigation and adaptation are likely to be primary assessment criteria for plans, programmes and applications that fall within the scope of any new regulations.

Planning Act 2008

The Planning Act 2008¹⁰ introduced a new planning regime for Nationally Significant Infrastructure Projects (NSIPs), including energy generation plants of capacity greater than 50 megawatts (50MW). The Westminster government has produced National Policy Statements (NPSs) to guide decisions on such projects, applications for which are decided by the Planning Inspectorate on behalf of the secretary of state.

Why is this relevant?

Local planning authorities need to apply aspects of the NPS series to issues such as renewable energy applications.

Planning and Energy Act 2008

The Planning and Energy Act 2008¹¹ sets out powers for local authorities to require a proportion of the energy need related to new development to be sourced in the locality of the development, through renewable or low-carbon generation. It also provides powers for local planning authorities to set energy efficiency standards that exceed the energy requirements of Building Regulations.

Why is this relevant?

The Planning and Energy Act allows local authorities and communities to reap the benefits of local renewable energy generation and supports the adoption of renewable energy requirements, provided they are consistent with national policy. The focus of such policy can be broader than a site in order to enable area-based solutions such as district heating. It also enables local authorities to require standards for energy efficiency in new buildings beyond those in the Building Regulations. Further information on this is set out in the topic resource on [Accelerating the delivery of Net Zero Carbon Buildings: Operational carbon emissions](#) and the accompanying [legal advice](#) on energy efficiency policies for development plans which form part of this guide.

Flood and Water Management Act 2010

The Flood and Water Management Act 2010¹² addresses the threats of flooding and water scarcity. Under the Flood Risk Regulations 2009,¹³ the Environment Agency is responsible for managing flood risk from main rivers, the sea, and reservoirs.

Why is this relevant?

Lead local flood authorities (LLFAs) are responsible for local sources of flood risk, in particular surface water run-off, groundwater, and ordinary watercourses. LLFAs are statutory consultees on major development. Local authorities are responsible for ensuring that requirements for preliminary flood risk assessments are met, and for applying the [national flood risk standing advice](#) for sites that do not meet criteria for Environment Agency consultation.

The Policy Context

National Planning Policy Framework

The National Planning Policy Framework (NPPF)¹⁴ sets out the key national planning priorities for England. It is non-statutory guidance but is a powerful material consideration in plan-making and development management decisions. Paragraph 8 (c) of the NPPF makes clear that 'mitigating and adapting to climate change' is a core planning objective. Paragraph 161 supported by footnote 61 makes clear that local planning authorities are expected to adopt proactive strategies to mitigate and adapt to climate change, in line with the Climate Change Act 2008. Since compliance with national law and policy is central to the soundness test carried out on local development plans, compliance with the Climate Change Act is a clear obligation on both the Planning Inspectorate and local planning authorities.



The [topic resources](#) that form this guide provide more detail on the NPPF policy which is relevant to specific policy areas. In general, the NPPF provides strong encouragement to take action on climate change and there are six key takeaways that are worth bearing in mind for plan making and decision making:

- The NPPF prioritises climate change as a strategic policy objective underpinning all other policy considerations.
- The presumption in favour of development described at Paragraph 11 does not apply to flood risk areas.
- Where development plan housing policy is judged 'out of date' this does not mean that policy on climate mitigation or adaption should not be vigorously applied.
- NPPF requirements on climate change apply to both plan making and development management
- Action on Climate change is a legal duty in planning law. Requirements to consider viability are not and should not outweigh the legal requirements to address climate change set out in Schedule 7 of the LURA.
- The NPPF is floor not a ceiling. Where the NPPF is silent or sets high level policy, LPA's can set more ambitious policy so long as it is based upon credible evidence about risk in their local areas. This is true of both mitigation and adaptation policies.

Planning Practice Guidance

The Planning Practice Guidance (PPG) online resource¹⁵ provides vital additional and detailed guidance on aspects of the NPPF, and it is periodically updated to include interpretations of Ministerial Statements relevant to planning. The critical sections of PPG are on 'Climate change',¹⁶ 'Renewable and low carbon energy',¹⁷ and 'Flood risk and coastal change'.¹⁸ Paragraph 011 of the 'Climate change' section directs planners to the Climate Change Committee for further information and guidance.

National Policy on Viability Testing

The use of viability arguments to undermine development plan policy on climate change is the single biggest barrier facing local authorities in delivering long term climate resilience. In recent years, significant changes have been made to the viability test that is applied to plan policy and particular applications. Paragraph 002 of the PPG section on viability and plan making is clear that: **'The price paid for land is not a relevant justification for failing to accord with relevant policies in the plan.'**¹⁹ Where there are costs to the private sector in ensuring both radical reductions in carbon and long-term resilience, they should be reflected in reduced land prices.

Evidence on viability should be transparent and accessible to all parts of the community, so that local aspirations can be accurately judged against development values over the long term.

This means insisting on open-book accounting and ensuring that long-term income streams, such as renewable energy generation, are recognised as a positive economic benefit and therefore not recorded as costs in viability valuations.

If local development plan policy is challenged on the basis of viability, local planning authorities must ensure that the plan would still comply with the legal duty to address climate change if the climate-related policy were to be removed.

Planning reform in England

At the time of publication of this updated guidance (December 2025), the English planning system is going through an unprecedented period of change. The Planning and Infrastructure Bill is about to receive royal assent, and the Devolution and Empowerment Bill is progressing through parliament. At the same time, the changes to the local plan preparation process set out in the 2023 Levelling Up and Regeneration Act (LURA) will be implemented from the beginning of 2026. This will include a streamlined 30-month plan preparation process. In summary this means:

- a new local plan framework²⁰ with new components such as statutory Supplementary Plans,
- a new layer of Strategic Development Strategies (SDS),
- major changes to enforce the delegation of decisions to officers, and
- simultaneous local government reorganisation and devolution.

In the first part of 2026 there will also be major changes to the NPPF and the PPG as well as the introduction of new non statutory National Development Management Policies (NDMPs). These means that plan makers are operating in a complex and challenging policy environment, with plans being developed under different regulatory frameworks (see figure 1).



Figure 1: Components of the three planning systems of England. Source: TCPA

The are some real positives in this package particularly the ability to use SDS’s to plan strategically for energy systems and sub regional climate impacts and the use of supplementary plans to embed detailed design requirements. However, there are also real challenges not least in the confusion that the scale of change will create and in the clear tendency from government to wish to exclude local voices from decision-making (see the Introduction to this guide for more information on enabling community participation).



Figure 2: Waves crashing against the breakwater in the mouth of the River Tyne, Newcastle, England. Source: Harald Schmidt / Shutterstock.com

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- ⁸ The third round of climate change adaptation progress reports are available at: <https://www.gov.uk/government/collections/climate-change-adaptation-reporting-third-round-reports>
- ⁹ See [Levelling-up and Regeneration Act 2023](#)
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Legal and Policy Background England

Policy Resource 2

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