

Levelling up and Regeneration Bill: Lords Report Stage briefing (Parts 3 & 11 of the Bill) New Clause on Climate Change

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About us

This briefing has been written by the climate working group of the Better Planning Coalition (BPC). The BPC represents 34 organisations across the environment, housing, planning, heritage and transport sectors.

Please support Amendment 191 which is essential to the delivery of action on climate change.

Summary

The planning system has a responsibility to tackle regional and local disparities, and contribute to the urgent mitigation of and adaptation to climate change. We need to unlock the economic benefits that acting on climate change brings. But the Levelling up and Regeneration Bill (LURB) currently fails to deliver on these goals.

The economy needs the certainty to unlock cost-effective, reliable investment to deliver more of the high-quality, affordable and well-insulated homes which people want. The certainty this amendment would give to development would also enhance energy security, deliver a range of wider economic benefits, and tackle the rising cost of living crisis.

Climate change should be considered in a similar vein to how a listed building is given additional weight in decision-making (or plan making) in terms of the 'special regard' attached to its historical significance. Such a change to the law would elevate climate change in both decision making and plan making. Without this change, there is a real risk that plans and policies will continue to promote high carbon development that adds to the problem of climate change, as well as infrastructure that is vulnerable to extreme weather. It will be householders and the taxpayer who bear the brunt of the costs when energy bills soar or extreme weather events occur. It is far cheaper to build fit for purpose than it is to retrofit down the line. Currently, national policy also acts as a ceiling rather than a floor or a level playing field. It does not support the growth of the green economy. Even progressive local policy making (such as Salt Cross, [West Oxfordshire](#)) that seeks to tackle climate change is often watered down by the Planning Inspectorate (PINS) – another clear indication of why this amendment is urgently needed.

Introduction

The Climate Change Committee (CCC) has repeatedly recognised the need for to reform the planning system to embed consideration of climate change. The recent government commissioned Net Zero Review also included this as a key recommendation, as have [key businesses](#) across the construction and property sectors. This amendment will ensure that what gets built now is fit for a net zero future and resilient to the already locked in changes to the climate. Ineffective and out of date policy over the last ten years has not delivered what is required, and has

cost householders and the taxpayer already – we cannot risk the costs of inaction.

This cannot be adequately addressed in a review of the National Planning Policy Framework (NPPF) alone. Without a firm legislative footing, planning policy can go backwards. And in fact, the review of the National Planning Policy Framework in relation to climate, promised in August 2020, has not yet materialised and is now promised to appear after this Bill has gained Assent. If the National Planning Policy Framework were to include the safeguards, they should be published in advance of the legislation rather than deliberately afterwards. It is therefore the law that needs to change - to address the lack of climate requirements and accountability for the failure to act in existing policy.

The new climate change clause addresses Part 3 of the Bill (policies, plans and decision-making). It defines mitigation of, and adaptation to, climate change (terms used in the published bill) in line with existing statutory frameworks for cutting emissions and providing resilience to climate impacts such as flooding and heatwaves⁽¹⁾. It ensures that “special regard” to these frameworks is not just in plan-making⁽²⁾ but also in for new development⁽³⁾.. planning applications).

Support for the approach in Amendment 191

The CCC’s newly published 2023 Progress Report [to Parliament](#) stated that the government should ensure the planning system has an “overarching requirement that all planning decisions must be taken giving full regard to the imperative of Net Zero”. This follows the 2022 [Progress Report](#), where the¹ CCC recommended that “this should be achieved by embedding Net Zero alignment as a core requirement within the planning reforms in the upcoming bill and the supporting frameworks and guidance documents.” *this amendment would do so, for both plan-making and decision-making*

The Rt Hon Chris Skidmore MP’s recent Net Zero Review, “Mission Zero”, (January 2023) also concluded that “unblocking the planning system and aligning it more closely with net zero will enable widespread pro-growth, net zero development”. The review also found that “the planning system should be an essential tool in delivering the changes needed for net zero. A system that appears ambivalent to net zero will not be capable of delivering the scale of change required” and recommended that “The planning system should move towards implementing a test for all developments to be net zero compliant.”

These recommendations and this proposed amendment have met with strong support from businesses across the construction, property and financial sectors. Over 100 prominent businesses from across the built environment signed a [joint letter](#) to the Prime Minister on 15th June, calling for direct legal alignment between the Climate Change Act goals and planning system, via an amendment to the LURB. The business coalition highlighted such an amendment is essential, in order to deliver the consistency, certainty and clarity needed to turbocharge green investment in the sector, and support both the innovation and technology needed to deliver more truly *sustainable* development.

The Proposed Clause

The new climate clause builds on the existing and proposed climate duty for plan-makers, as set

¹ <https://www.theccc.org.uk/publication/2022-progress-report-to-parliament/>

out in the published bill. It does this by defining ‘mitigation of, and adaption to, climate change’ in line with the statutory climate framework. This confirms and clarifies the net-zero duty in plan making while also extending it to decision making – giving it “special regard” in both instances. These new duties would apply to the national policy that governs plan-making and to development management, securing consistency in the cascade from national policy to the point of delivery. This essentially embeds heightened consideration of net zero within local planning authority decision making for new development, as recommended by the CCC.

The duty on plan-makers in the published LURB is no doubt well intentioned, as is the promised update of the NPPF. But without the proposed new clause there is a real risk we continue to see plans, policies and application decisions that are weak on tackling climate change or even contradictory - allowing high carbon development to continue. Ensuring a “special regard” is had to these matters will make for much more aligned decision making and plan making.

The clause has been drafted mindful of the importance of avoiding disruption to the delivery of new development, including the new homes needed in communities. It does not cut across the promised update of national planning policy but will provide the necessary teeth to turn promises into meaningful action.

Details

The existing statutory duty on climate change is insufficient

A ‘climate duty’ has existed in relation local plan making since 2008, and is being rolled forward into this bill. Since 2012, matching policy has been found within the NPPF. However, [research undertaken by the Campaign to Protect Rural England](#) found little evidence of meaningful action to tackle climate change in recently adopted local plans. This is one of several reports by national bodies including the CCC, [National Audit Office](#) and [HCLG Committee](#) town and country planning should do more to support net zero. Local planning authorities, represented through the [Blueprint Coalition](#) (of local government organisations, researchers and NGOs) and [UK100](#) (a network of local authority leaders) have joined the call for closer alignment between planning decisions and climate targets.

Local plan net zero policies are not being supported

In our experience, commendable examples exist where local councils have looked to use their planning powers to help deliver net zero. But these are the exception not the norm because the national planning, legal and policy frameworks are too limiting to give most councils the confidence to put bolder local policies in place. Given the lifespan of buildings being constructed today will reach beyond 2050, such a picture is concerning².

There is too little evidence of the government supporting local climate policy with any rigour, and there are too many examples of the contrary. Out-of-date policy and guidance is holding back local policy ambition on net zero. For example, some local councils who have tried to set ambitious energy efficiency standards for new build development (including West Oxfordshire [District](#) and Lancaster City councils) have been knocked back by the Planning Inspectorate (PINS) because of supposed conflict with a 2015 Written Ministerial [Statement](#) (WMS). These

² CPRE’s research, for example, found only one recently adopted plan with a quantified, strategic carbon reduction target.

contradictions have arisen, and been allowed to continue for several years, within the current legislative and policy framework. ***This has undermined local confidence to act decisively on net zero and is simply unacceptable.***

Adaptation must play a stronger role going forward

While the UK has a strong framework for emissions reduction and planning for climate risks set out in the Climate Change Act 2008, according to the CCC, adaptation remains “the Cinderella of climate change, still sitting in rags by the stove”. The Committee goes on to say adaptation is “under-resourced, underfunded and often ignored”. Such a state of affairs, while we are now in a climate crisis, is simply unacceptable.

The [CCC advice on the third UK Climate Change Risk Assessment](#) concludes that progress with adaptation policy and implementation is “not keeping up with the rate of increase in climate risk and that the risks to all aspects of life in the UK have increased over the last 5 years”. The CCC’s ‘Progress in Adapting to Climate Change Report’ (2023)³ also found that “while the recognition of a changing climate within planning and policy is increasing, with some policy in most areas, it is clear that the current approach to adaptation policy is not leading to delivery on the ground and significant policy gaps remain”.

The government’s [third UK Climate Change Risk Assessment](#) acknowledges that “the evidence shows that we must do more to build climate change into any decisions that have long-term effects, such as in new housing or infrastructure, to avoid often costly remedial actions in the future”. Indeed, the significant financial risk a lack of adaptation in the built environment poses to prospective property owners, investors, and financial organisations has become an increasingly pressing concern in the financial sector.

This amendment would provide a more clearly defined duty to ensure national planning (including National Development Management Policies), local plan policies and – for the first time - decisions on planning applications deliver on the aims of [the UK Climate Risk Assessment](#), and the latest iteration of the EA’s ‘National Flood Risk and Coastal Erosion Risk Management Strategy for England’. This would refocus our collective awareness on the need for adaptation to be taken seriously.

Please support Amendment 283 as clarification must be made to the word introduced by the Bill into the legal lexicon of “adaption” as meaning “adaptation”.

Changes to policy only is not enough

Improvements to planning policy in relation to climate change were first promised in 2020 in the Planning for the Future white paper. The following year, the NPPF was revised but failed to recalibrate planning policy with Net Zero. A commitment to review the NPPF “to make sure it contributes to climate change mitigation and adaptation as fully as possible” was then restated in the Net Zero Strategy in 2021. However, progress has been lacking.

A new set of changes to the NPPF have recently been consulted on. but we’re still waiting for the

³ Page 11 – Key Finding 1 - <https://www.theccc.org.uk/wp-content/uploads/2023/03/WEB-Progress-in-adapting-to-climate-change-2023-Report-to-Parliament.pdf>

promised review. While the government’s commitment is welcome, **without a firm legislative footing, there is risk of further delay and even of planning policy going backwards.** As recently as 2018, the government tried to water down national policy requiring planning strategies to be in line with the Climate Change Act 2008. These proposals were abandoned in the face of a strong adverse response to the consultation, but there’s no guarantee that such policies won’t be weakened in the future, or, where inconvenient to a proposed development, ignored. This uncertainty has, in turn, has been identified as a key barrier by the industry in releasing green investment.

Meaningful action on climate change requires both the promised update of the NPPF and a purposeful, statutory planning duty. Both are necessary for an effective planning response, neither is sufficient by itself. A purposeful duty, in addition to rolling forward the existing duty on plan-making, would require national planning policy to inform local plan-making and planning decisions, and planning decisions themselves (including those made nationally) to be – as much as possible - consistent with national policy and targets for the mitigation of, and adaption to, climate change.

The CCC, Chris Skidmore, the industry, and many others have identified the gap between what is required and what is currently delivered. And they have underlined the importance of a full response from the planning system. **The proposed clause provides the legislative framework to close this gap, embedding climate change mitigation and adaptation within policy-making and development management decision-making.**

For further information please contact:

Naomi Luhde-Thompson, Chair of the Better Planning Coalition Working Group on Climate Change
naomi@rightscommunityaction.co.uk

Magnus Gallie, Planning Specialist, Friends of the Earth England, Wales and Northern Ireland
magnus.gallie@foe.co.uk

