
From: David Buller [REDACTED]
Sent: 05 February 2021 15:21
To: Planning Policy; David Buller
Subject: EastDevon Local Plan 2021 – 2040 – Issues and Options Consultation
Attachments: Setting Carbon Reduction Targets-Client Earth Let2sep19.pdf
Categories: New Local Plan

Dear Sir / Madam,

I submitted my response to the draft ED Local Plan 2021 – 2040 a few days ago through your online response form. However, on reflection there is an additional point that I should like to make which I will set out in this email as I can see no option on the website to edit & resubmit what I have already written.

By & large I am very supportive of the draft ED Local Plan but a key element that is not emphasised is the need for it to contain robust carbon reduction targets & monitoring measures to ensure that they are achieved. As pointed out in a ClientEarth letter sent to selected councils in September '19 (see attachment), this requirement for clear targets is written into law & any Local Plan that fails to recognise this will be unlawful & at risk of legal challenge.

I would argue therefore that such questions in your online response form as “Question 5 – Energy efficiency of new buildings – Option 3” are insufficiently stringent, as a carbon reduction target needs to state both an expected magnitude of reduction, i.e. to achieve net-zero carbon, and the timeframe within which this is expected to happen. Option 3 to Q5 does not meet this criterion in my view & so any responses to it should be struck from the consultation.

Quoting from a '19 RTPI report “nothing should be planned without having successfully demonstrated it is fit to take its place in a net-zero emissions future”. At the moment for ED that worst-case target is 2040.

Our government has also emphasised in its Clean Growth Strategy the importance of local planning policy in delivering the UK's carbon budgets: “Local areas are best placed to drive emission reductions through their unique position of managing policy on land, buildings, water, waste & transport. They can embed low carbon measures in strategic plans across areas such as health & social care, transport & housing“. Monitoring obligations also require local planning authorities to report on an annual basis against any targets or indicators included in their Local Plans.

In view of these key legal & policy requirements, there is a clear duty on local authorities to ensure that Local Plan policies are designed to secure emissions reductions that are at least consistent with the UK's national & international commitments. As suggested by ClientEarth, doing this requires:

- 1) Setting a local target framework that is based on a comprehensive assessment of local carbon reduction potential & which takes into account national & international climate targets;
- 2) Demonstrating proposed planning policies' consistency with this local target framework, &
- 3) Monitoring performance on at least an annual basis against relevant indicators.

Such a framework is consistent with guidance from the RTPI & TCPA which states that Local Plans need to be able to demonstrate & track how local policy contributes to meeting the target

regime under the Climate Change Act. As a resident of ED I would certainly be keen to see the authority adopt such a carbon reduction framework within its new Local Plan.

Yours sincerely, David Buller (Dr)



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By email

2 September 2019

Dear Cllr Sturgis

Wiltshire's Local Plan – the need for robust carbon reduction targets

ClientEarth is an environmental law charity.¹ We are lawyers working in the public interest to secure a healthy environment for the citizens of the UK and the world.

We are writing to invite you to put your area on a credible path to achieving net zero emissions by setting robust carbon reduction targets and integrating them throughout your Local Plan.

This step is required by law, with the consequence that any plan that fails to demonstrate consistency with robust local targets will be unlawful and at risk of legal challenge. This step is also vital given the urgent need to reduce greenhouse gas emissions to address the climate crisis and to meet the UK's new net zero target.

Taking such action will bring substantial benefits and opportunities to your communities.

The climate emergency and local planning

In April this year, the Environment Agency published its Climate Impacts Tool. Its planning scenario sees England experiencing (i) 11.7°C increases in average summer temperatures, (ii) 75% more winter rainfall, (iii) 59% less summer rainfall, (iv) 105% higher peak river flows, (v) 1m of sea level rise, and (vi) an additional 70cm of storm surge.² These are national averages with some areas expected to experience even more extreme changes. The Environment Agency has also warned that many parts of England could face “significant water deficits” by 2050 due to drier and hotter summers,³ and that increased flooding and coastal change threaten to have a “direct long term impact” on local economies.⁴

Under the Paris Agreement 2015 the UK is committed to following a decarbonisation pathway that aims to limit the global average temperature increase to 1.5°C, while ensuring it is held to “well below” 2°C,⁵ by taking steps reflecting its “highest possible ambition”.⁶ In June, the UK passed legislation to revise the Climate Change Act target to an emissions reduction of “at

least 100%” by 2050 (‘net zero’),⁷ in line with the advice of the Committee on Climate Change (CCC).⁸

Following the introduction of the UK’s net zero target, the Royal Town Planning Institute (RTPI) released a report stating that “nothing should be planned without having successfully demonstrated it is fit to take its place in a net-zero emissions future”. The RTPI explain that “it makes no sense, economically, socially or environmentally, for what is planned and built today to be delivered in a form, or in places, that will require costly retrofitting tomorrow.”⁹

Local authorities have a crucial role to play in ensuring that the UK meets its net zero target. A steadily growing number have declared climate emergencies and local net zero targets, with cross-party support.¹⁰ Consistent with law and policy, some authorities such as Greater Manchester have included their net zero targets in their emerging plans.¹¹

Law and policy require the integration of robust carbon targets

Local Plans are required by planning and environmental legislation to contribute proactively to meeting national and international climate commitments.

In particular, section 19(1A) of the Planning and Compulsory Purchase Act 2004 (PCPA) requires that a local authority’s development plan documents must:

(taken as a whole) include policies designed to secure that the development and use of land in the local planning authority’s area contribute to the mitigation of, and adaptation to, climate change.

It is only by setting local carbon reduction targets by reference to wider national and international targets – and demonstrating proposed policies’ consistency with local targets – that it is possible to establish and track an area’s contribution to the mitigation of climate change (and for policies to be “designed to secure” that local land use and development mitigates climate change). In this sense, section 19(1A) makes emissions reduction a central, organising principle of plan-making.

In addition to section 19(1A) PCPA, the updated National Planning Policy Framework (NPPF) maintains the requirement that “the planning system should support the transition to a low carbon future in a changing climate.” In particular:

[i]t should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions ... Plans should take a proactive approach to mitigating and adapting to climate change ... [i]n line with the objectives and provisions of the Climate Change Act 2008.¹²

The Government emphasises the importance of local planning policy in delivering compliance with the UK’s carbon budgets in its Clean Growth Strategy:

Local areas are best placed to drive emission reductions through their unique position of managing policy on land, buildings, water, waste and transport. They can embed low carbon measures in strategic plans across areas such as health and social care, transport, and housing ... Local leaders are already rising to the challenge and putting local carbon targets and strategies in place.¹³

The national Planning Practice Guidance (PPG) refers to addressing climate change as “one of the core land use planning principles” that should “underpin both plan-making and decision-taking.” The PPG also refers to the need for local planning authorities to undertake a “robust evaluation of future emissions”, including consideration of “different emission sources, likely trends taking into account requirements set in national legislation, and a range of development scenarios.” It also states that “sustainability appraisal should be used to test different spatial options in plans on emissions.”¹⁴

Separately, the Environmental Assessment of Plans and Programmes Regulations 2004 (which implement the Strategic Environmental Assessment (SEA) Directive) require that a development plan document’s cumulative climate impacts are assessed and taken into account.¹⁵ Among other things, this includes assessing the consistency of proposed policies with all relevant climate objectives and targets.¹⁶

In addition, under section 33A of the PCPA, local planning authorities are under a duty to cooperate with other local planning authorities in preparing Local Plans where strategic matters – such as “planning measures to address climate change mitigation”¹⁷ – have impacts across administrative boundaries.

Finally, monitoring obligations require local planning authorities to report on an annual basis against any targets or indicators included in Local Plans.¹⁸

In view of these key legal and policy requirements, there is a duty on decision makers to ensure that Local Plan policies are designed to secure emissions reductions that are at least consistent with the UK’s national and international commitments. Doing so requires:

- i. setting a local carbon target framework based on a comprehensive assessment of local carbon reduction potential, taking into account national and international climate targets;**
- ii. demonstrating proposed planning policies’ consistency with this local target framework; and**
- iii. monitoring performance on at least an annual basis using relevant indicators.**

This is consistent with guidance from the RTPI and the Town and Country Planning Association (TCPA), which states that Local Plans need to be able to demonstrate and track how local policy contributes to meeting the target regime under the Climate Change Act.¹⁹ Following the release of the Intergovernmental Panel on Climate Change’s *Special Report on Global Warming of 1.5°C*,²⁰ the TCPA reiterated this, stating that:

[L]ocal government must also act now to ensure all its plans have clear carbon-reduction targets. Any plan which does not have a target is clearly in breach of the NPPF.²¹

These obligations in respect of emissions are in addition to the corresponding duty in respect of adaptation to climate change, which requires at a minimum that authorities plan in line with Environment Agency advice and support the delivery of national policy including the National Adaptation Programme.²²

Next steps

As part of your current plan-making process, we invite you to set a target framework based on a comprehensive assessment of local carbon reduction potential and to integrate this throughout your Local Plan.

Each area's circumstances are different, but there are a number of resources available to assist with this process. In addition to government data on emissions at national²³ and local²⁴ levels, there is the government-funded SCATTER model that authorities such as Greater Manchester are using to set net zero targets and design consistent policy frameworks.²⁵

Taking strong action on emissions can deliver substantial net benefits to local communities. Government research has found that such action can improve people's health, reduce energy costs, create employment, enhance community cohesion and restore local ecosystems.²⁶

Integrating robust carbon reduction targets in your Local Plan is a vital step towards taking sustainable, efficient and resilient decisions today. We look forward to hearing from you as to whether you intend to do so and invite your response by **28 October 2019**.

We have sent this letter to a number of other local authorities across the country. In developing our future engagement strategy on this issue – including possible litigation – we intend to take into account all responses received. We are otherwise open to requests for guidance at any time and hope to be able to support you in taking action on climate change in a way that complies with your legal duties and benefits your communities.

Please send your response to this letter by email to shunterjones@clientearth.org.

Yours sincerely

ClientEarth

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Mr Alistair Cunningham
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¹ ClientEarth (<https://www.clientearth.org/>) has offices in London, Brussels, Berlin, Madrid, Warsaw and Beijing (registered in England and Wales, Charity Registration No. 1053988. Company Registration No. 2863827).

² <https://www.gov.uk/government/publications/climate-impacts-tool>.

³ <https://www.gov.uk/government/speeches/escaping-the-jaws-of-death-ensuring-enough-water-in-2050>.

⁴ Environment Agency, 'Draft National Flood and Coastal Erosion Risk Management Strategy for England', May 2019 (https://consult.environment-agency.gov.uk/fcrm/national-strategy-public/user_uploads/fcrm-strategy-draft-final-1-may-v0.13-as-accessible-as-possible.pdf), p. 48.

⁵ Paris Agreement 2015, Article 2.1(a).

⁶ Paris Agreement 2015, Article 4.3.

⁷ <https://www.gov.uk/government/news/uk-becomes-first-major-economy-to-pass-net-zero-emissions-law>.

⁸ CCC, 'Net Zero: The UK's contribution to stopping global warming', May 2019 (<https://www.theccc.org.uk/wp-content/uploads/2019/05/Net-Zero-The-UKs-contribution-to-stopping-global-warming.pdf>).

⁹ <https://www.rtpi.org.uk/briefing-room/news-releases/2019/july/planning-out-of-sync-with-net-zero-carbon-future.-rtpi-report-finds/>. See also <https://www.rtpi.org.uk/briefing-room/news-releases/2019/june/rtpi-launches-resource-planning-for-climate-action-campaign/>.

¹⁰ See <http://climateemergency.uk/blog/map-of-local-council-declarations/>.

¹¹ <https://www.greatermanchester-ca.gov.uk/what-we-do/housing/greater-manchester-spatial-framework/gmsf-full-plan/>.

¹² Ministry of Housing, Communities & Local Government, 'National Planning Policy Framework', February 2019, p. 44 (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/810197/NPPF_Feb_2019_revised.pdf).

¹³ Department for Department for Business, Energy and Industrial Strategy (BEIS), 'Clean Growth Strategy', 2017, p. 118 (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/700496/clean-growth-strategy-correction-april-2018.pdf).

¹⁴ <https://www.gov.uk/guidance/climate-change> (paras 1 and 7; revision date: 06/03/2014).

¹⁵ Environmental Assessment of Plans and Programmes Regulations 2004, reg. 8(3) and Sch. 2, para 6 ("The likely significant effects on the environment, including *short, medium and long-term effects, permanent and temporary effects, positive and negative effects, and secondary, cumulative and synergistic effects*, on issues such as— (a) biodiversity; (b) population; (c) human health; (d) fauna; (e) flora; (f) soil; (g) water; (h) air; (i) *climatic factors*; (j) material assets; ... and (m) *the inter-relationship between the issues referred to in sub-paragraphs (a) to (l).*").

¹⁶ European Commission, 'Guidance on Integrating Climate Change and Biodiversity into Strategic Environmental Assessment', 2013, p. 42 (<http://ec.europa.eu/environment/eia/pdf/SEA%20Guidance.pdf>) ("An important function of SEAs is to assess the consistency and coherence between the proposed [plan or programme] and the relevant policy objectives and targets for ... climate change. ... These objectives (and any environmental considerations) must be assessed when an SEA is prepared. ... The SEA process should identify the policy objectives for ... climate change which may be relevant for the proposed [plan or programme] and clearly describe whether it facilitates or contradicts their achievement.").

¹⁷ NPPF, para 20(d).

¹⁸ Planning and Compulsory Purchase Act 2004, s 35; Town and Country Planning (Local Planning) (England) Regulations 2012, reg 34.

¹⁹ See TCPA / RTPI, 'Rising to the Climate Crisis – A Guide for Local Authorities on Planning for Climate Change', December 2018, p. 9 (<https://www.tcpa.org.uk/Handlers/Download.ashx?IDMF=fd66dbe5-2b88-4acf-b927-256a82db9abe>) ("Local planning authorities are bound by the legal duty set out in Section 19 of the 2004 Planning and Compulsory Purchase Act, as amended by the 2008 Planning Act, to ensure that, taken as whole, plan policy contributes to the mitigation of, and adaptation to, climate change. This powerful outcome-focused duty on local planning clearly signals the priority to be given to climate change in plan-making. In discharging this duty, local authorities should consider paragraph 149 of the 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 plans should be able to demonstrate how policy contributes to the Climate Change Act target regime, and this, in turn, means understanding both the baseline carbon dioxide emissions and then the actions needed to reduce emissions over time – which, in turn, means that annual monitoring reports should contain ongoing assessments of carbon performance against the Climate Change Act target."). See also TCPA, 'Planning for the climate challenge? Understanding the performance of English Local Plans', 2016

(<https://www.tcpa.org.uk/Handlers/Download.ashx?IDMF=7d92ec4c-09f7-4b21-9d22-b1aad77fd062>). The TCPA also runs free training seminars on climate change and planning.

²⁰ IPCC, 'Global warming of 1.5°C – An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty – Summary for Policymakers', October 2018
(https://www.ipcc.ch/site/assets/uploads/sites/2/2019/05/SR15_SPM_version_report_LR.pdf).

²¹ <https://www.tcpa.org.uk/news/government-must-radically-change-planning-policy-to-deal-with-climate-change>.

²² <https://www.gov.uk/government/publications/climate-change-second-national-adaptation-programme-2018-to-2023>.

²³ <https://www.gov.uk/environment/greenhouse-gas-emissions>.

²⁴ <https://www.gov.uk/government/collections/uk-local-authority-and-regional-carbon-dioxide-emissions-national-statistics> ("These estimates are intended as a resource to help those working on local or regional indicators and inventories as part of their efforts to reduce carbon dioxide emissions. On their own, however, they cannot give all the information necessary to plan and monitor the progress of all local emissions reduction initiatives, this may require additional monitoring at the local level.").

²⁵ <https://scattercities.com/>. See also Anthesis, 'Playing Our Full Part – How Manchester's Residents and Businesses can benefit from ambitious action on climate change – Technical Appendix' ([http://www.manchesterclimate.com/sites/default/files/Appendix%201%20Manchester 2038_Technical%20Report%2011.11.18.pdf](http://www.manchesterclimate.com/sites/default/files/Appendix%201%20Manchester%2038_Technical%20Report%2011.11.18.pdf)) ("Technology and sector specific intervention modelling has been performed and overlaid against the carbon budget calculated by the Tyndall Centre. This has been processed using the SCATTER tool. This BEIS-funded tool provides regions with the opportunity to standardise their greenhouse gas target setting aligned with UK and international reporting standards. Through the combination of multiple tools and data sources, SCATTER supports UK cities, regions and boroughs to set emission reduction budgets and define appropriate abatement pathways to achieve them. It was first developed and piloted for the Greater Manchester region and recently showcased at the inaugural 2018 Mayor's Green Summit. It has subsequently been applied to 5 further Core City regions in the UK.").

²⁶ Aether (for the Department of Energy and Climate Change (DECC)), 'Scoping study on the co-benefits and possible adverse side effects of climate change mitigation: Final report', 2016 (<https://www.gov.uk/government/publications/climate-change-mitigation-the-co-benefits-and-possible-adverse-side-effects>). A 2015 review for Bristol demonstrated these benefits at the local level (<http://bristol.ac.uk/cabot/media/documents/bristol-low-carbon-cities-report.pdf>). Recent research has also found that the UK's 50 largest cities and towns could save £7 billion annually and create over 90,000 years' worth of additional employment (see local-level data at <http://www.candocities.org/>). See also <https://www.cccep.ac.uk/case-study/low-carbon-cities-cutting-emissions-and-improving-lives-in-the-worlds-evolving-cities/>.