



**EXAMINATION OF THE CITY OF YORK LOCAL PLAN  
2017-2033**

**PHASE 2 HEARINGS**

**MATTER 8: CLIMATE CHANGE**

**CITY OF YORK COUNCIL STATEMENT**

## **Matter 8 – Climate Change**

**8.1 Neither the Planning and Compulsory Purchase Act 2004, the Town and Country Planning Act 1990, nor the associated Regulations, set out specific requirements or targets for local plans in relation to climate change. In light of this, do the Government’s wider climate change commitments have any bearing on the legal requirements for, or soundness of, the Plan? If so, what changes are required to make the Plan legally compliant and/or sound and why are they necessary?**

8.1.1 The Government’s wider climate change commitments do not have a bearing on the legal requirements, or the soundness of the plan. Proposed modifications (outlined at the end of the response) are identified to support the soundness of the plan by making explicit the Plan’s contribution to, and requirement for the mitigation of, and adaptation to, climate change and to ensure policies are up to date.

8.1.2 To qualify the answer to this question, the Council have identified their understanding of the Government’s wider climate change commitments, referred to in the question, as the four bullet points identified below and considered the legal and soundness implications for each of these matters are in paragraphs 8.1.3 to 8.1.8.

- Building Regulations which come into effect on 15 June 2022;
- the Environment Act receiving Royal Assent on 9 November 2021;
- the Climate Change Act 2008 (as amended)<sup>1</sup> and the Sixth Carbon Budget (April 2021).

8.1.3 Building Regulation changes relate to updates to Part L (Conservation of fuel and power) and Part F (Ventilation) and two new documents Part O (Overheating) and Part S (Infrastructure for Charging Electric Vehicles) will be implemented via Building Regulations. Whilst these updates to Building

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<sup>1</sup> As amended The Climate Change Act 2008 (2050 Target Amendment) Order 2019 the Climate Change Act requires a reduction in greenhouse gas emissions by at least 100% (net zero) from 1990 levels by 2050.

Regulations do not have a legal implication, or soundness implication, for the Plan they are a material consideration that will be considered in Phase 4 of the Examination Hearing against Policies CC1 to CC3 of the plan.

- 8.1.4 The Environment Act received Royal Assent on 9 November 2021. Statutory instruments and regulations will bring into force amendments to the 1990 Town and Country Planning Act. These amendments will require development to achieve a minimum Biodiversity Net Gain of 10%. It is anticipated that the statutory instruments and regulations which bring this requirement into force will be in place in Winter 2023. As such the Environment Act does not have legal, or soundness implications for the Plan, but the forthcoming introduction of a mandatory requirement to achieve a minimum Biodiversity Net Gain of 10% is a material consideration. This will be considered further in Phase 4 of the Examination Hearings against Policy GI2 (vii) which requires that development should result in net gain to biodiversity.
- 8.1.5 The Climate Change Act 2008 (as amended) commits the UK Government by law to reduce greenhouse gas emissions by at least 100% of 1990 levels (net zero) by 2050. The previous commitment was at least 80% of 1990 levels. The Sixth Carbon Budget (April 2021) introduced a legally binding target for UK Government of 78% reduction in national emissions by 2035.
- 8.1.6 The plan is bound by the legal obligations established in Section 19(1A) of the Planning and Compulsory Purchase Act 2004 which require that Local Plans 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” in line with the objectives and provision of the Climate Change Act 2008.
- 8.1.7 The Climate Change Act 2008 (as amended) and Sixth Carbon Budget (April 2021) therefore play a role in identifying priorities for action and informing Local Plan evidence base and are therefore a material consideration. They have come into force subsequent to the submission of the plan in May 2018 and as such their implications need to be considered in line with the Plan’s detailed

approach to minimising greenhouse gas emissions outlined in Section 11 of Plan. This will be considered further in Phase 4 of the Examination Hearings.

8.1.8 This legal requirement established in Section 19(1A) of the Planning and Compulsory Purchase Act 2004 is reflected in national planning policy, specifically bullet point 3 of paragraph 7 of NPPF 2012 and paragraph 94. In accordance with paragraph 94, the relevant supporting evidence base and plan policies have been developed and consulted on to provide a proactive strategy to mitigate and adapt to climate change. This strategy is embedded into each section of the Plan as follows:

- The Local Strategic Context provides the framework in which Council decisions are made, such as One Planet Council and the Climate Change Framework and Action Plan (2010).
- The Local Plan Vision identifies the Plan's aim to deliver 'sustainable patterns of development' and the delivery of the vision and outcomes 'in a sustainable way that recognises the challenges of climate change'.
- Development Principles, specifically DP2, seeks to ensure development will help conserve and enhance the Environment through conserving and enhancing biodiversity, reducing flood risk and waste, use of sustainable design techniques, maximising the generation of low carbon/ renewable energy resources amongst other principles;
- The spatial strategy directs development to sustainable locations where flood risk can be managed.

8.1.9 The policy framework for implementing mitigations and adaptations complies with paragraph 95 of the NPPF 2012 and is as below:

- **Policy CC1** supports renewable and low carbon energy generation development;
- **Policy CC2** supports developments that consider good practice adaptation principles for climate change in their design, construction and operation.

- **Policy CC3** supports the development of decentralised energy and distribution networks;
- **Policy T1** supports development where it minimises the need to travel and maximises sustainable modes of transport;
- **Policy T2** supports the delivery of sustainable modes of transport such as improvements to the bus fleet and bus services;
- **Policy ENV4** supports development designed and constructed to mitigate against current and future flood events; and
- **Policy G12** which seeks to conserve and enhance York's biodiversity.

8.1.10 The Sustainability Appraisal (SA) [CD008] objectives 6 to 13 provide a framework for assessment of the Plan's Vision, Outcomes, Development Principles, growth options, spatial strategy, strategic and general sites and policies that ensure that will mitigation and adaptation are addressed directly (in the case of SA objective 7–Climate Change) or indirectly (in the case of objectives 6 and 8 to 13). Objective 7 specifically seeks to 'minimise greenhouse gases that cause climate change and deliver a managed response to its effect'. Table 6.4 of the SA [CD008] identifies the 'cumulative effects assessment' of the Local Plan, in respect of SA07. The SA anticipates that the policies of the draft Local Plan would have a mixed significant positive and minor negative effect on the achievement of the SA objective.

8.1.11 For the reasons given above, the Government's wider climate change commitments are not deemed to have a bearing on the legal implications of the plan. Subject to the incorporation of proposed modifications identified below, including anticipated modifications to be proposed in Phase 4 of the Hearings, the plan can be considered sound in accordance with the Government's wider climate change commitments.

8.1.12 To support the soundness of the Local Plan and make explicit the Plan's contribution to, and requirement for the mitigation of, and adaptation to, climate change in accordance with Section 19(1A) of the Planning and Compulsory Purchase Act 2004 modifications 1 and 2 are proposed below.

Further modifications may be required to support soundness of the Local Plan through bringing Policies CC1, CC2 and CC3 up to date in light of the Government's wider climate change commitments and these will be considered in Phase 4 of the examination hearings.

#### Proposed Modification

1. The plan will ensure that the vision and outcomes are delivered in a sustainable way that recognises, **adapts to and mitigates**, the challenges of climate change, protects residents from environmental impacts and promotes social, economic and cultural wellbeing.
2. Under DP2 Sustainable Development iii) Development will help Conserve and Enhance the environment through include a new bullet point:
  - **Mitigate and adapt to climate change through designing new communities and buildings, transport networks and services that support each community to be energy and resource efficient and reduce carbon emissions.**

Note: Changes to Policies CC1, CC2 and CC3 are anticipated to be required to bring these policies in line with Building Regulations. The proposed modifications will be identified in Phase 4.