THE IMPACT OF ENVIRONMENTALISM
ON THE BRITISH LAND USE PLANNING SYSTEM

by

Pritej R. Mistry

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Graduate Department of Law

University of Toronto

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Pritej R. Mistry
Department of Law
University of Toronto

Abstract

This paper is an exploration of how the foundations of the land use planning system in Britain originally rooted in altruist reform and in bettering society has evolved within the context of the modern environmental agenda. This paper examines how the planning system has been changing and what further change may be required in order to cope with current environmental challenges, particularly in dealing with societal adaptation to climate change.
Acknowledgments

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SECTION 1

Introduction

Following the end of the Second World War, the enactment of the Town and Country Planning Act 1947 introduced a system of land use control as a way of tackling longstanding social and economic problems. This ‘welfarist-utilitarianist’\(^1\) notion of planning was central to regenerating and modernising a war ravaged country and economy and finding a way out of poverty and economic hardship for the population. It was a development plan led system which nationalised all development values and rights in the land.\(^2\) It meant that the individual determination of authorising a proposed development would be done by the State and would need to follow a State formulated development plan (which set out where certain development could be located), unless material planning considerations indicated otherwise.\(^3\)

Over the years the core planning functions set out in the 1947 Act was reiterated in subsequent town planning legislation, but operationally, the system remained largely the same since 1947.\(^4\)

In recent years, town planning has been subject to much criticism for being too slow, bureaucratic\(^5\) and antiquated in its working, which has led some in the profession to suggest that planning has lost its focus and that whilst the roots of planning may have been based on health and social reform, it seems that “...the reality that the brave new world implicit in much of early

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\(^2\) This followed the recommendation of the Uthwatt Report (Report of the Expert Committee on Compensation and Betterment (1942) Cmd 6386.

\(^3\) This notion of a plan led system is currently found in Section 36 of the Planning and Compulsory Purchase Act 2004.


town planning idealism has failed to materialise." In response to this, the Government has recently enacted new legislation (Planning and Compulsory Purchase Act 2004; Planning Act 2008), new guidance and new policy initiatives in an attempt to change the emphasis and modernise the regime to meet the perceived demands of the new millennium. In reality, since the late 1980’s, planning has been undergoing a series of discrete policy shifts reflecting the changing attitudes of the public and central Government policymakers in dealing with environmental issues. An assessment of these changes and their effectiveness forms the basis of this paper. It intends to look at the manner in which environmentalism in its various guises has generated a step-change in the British land use planning system.

This paper begins by undertaking a brief historical perspective of town planning legislation and policy in Britain. It will explore how a dichotomy has existed between the land use planning system and environmental management regime, but that the historical divide between these fields may be narrowing. Whilst the Royal Commission on Environmental Pollution (RCEP), a Government advisory body, acknowledges that the regimes are “complimentary but separate”

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7 This has been addressed quite fully in Healey and Shaw’s article *supra*. Page 427.
8 In the ‘British’ Town and Country Planning system, each country of the United Kingdom has its own planning system therefore each is responsible for town and country planning devolved to the Northern Ireland Assembly, the Scottish Parliament and the Welsh Assembly, even though all planning legislation (is enacted in Parliament in Westminster). The local planning authority processes are very similar in function, if not the same, in all countries stated.
10 Royal Commission on Environmental Pollution (1976) *2nd Report; HMSO*. 
many academics and professionals in the field feel that they are inextricably linked and indivisible.\textsuperscript{11} This study will explore the following key questions:

- How effective has the land use planning system been in promoting environmental management and regulation? Has the planning system, itself, had to change to adapt?
- What role does land use planning have in promoting environmental change?
- Does the core purpose and function of planning need to be redefined to manage environmental challenges?
- Can land use planning been seen as an answer to local, national and global environmental problems?
- Is the system flexible enough to deal with long term environmental change and what changes, if any, need to be made to the system?

The rest of Section 1 offers a literature review of the main themes of this paper. Section 2 presents a detailed background about the theory and establishment of the British town planning system, briefly describing the development of planning law and policy in Britain since 1947, and the recent shifts that have taken place to meet modern environmental concerns. Section 3 reviews the changes that have already occurred to the planning regime through the development of environmental assessment. It is anticipated that this section and the following Section 4 on sustainable development, will offer some insight into how the environmental agenda has changed the planning system. Section 5 will examine how planning has been charged with dealing with the subject of climate change and whether it has actually made any headway, before Section 6 draws some conclusions on this paper.

Literature Review

There has been great deal written about environmental change particularly in the fields of environmental assessment (usually consisting of guidance on how to undertake the assessment process), and sustainable development, but there has been very little discourse about the interaction of environmentalism and land use planning, which is something of a surprise given that there is a functional overlap between the areas in planning practice and policy. The following section offers a brief literature review of the themes which will be followed in this paper.

The origins and development of the British town planning system

The origins of the planning system in Britain has been well documented. Town and country planning is considered to be both an art and a science. The field now has a well developed body of planning research, theory and law, worldwide; planning is a chartered profession and almost all countries in the world operate some form of land use control. As we noted earlier and will be discussed further in the next section, town planning took root in the improvement of environmental and public health in British inner cities afflicted by the negative externalities

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12 For more see works by Yvonne Rydin, Barry Cullingworth, Vincent Nadin, Norman Lee who are some of the most prolific UK writers in the field of environmental planning.
13 I have used the terms, ‘planning,’ ‘land use planning’, ‘town planning’ and ‘town and country planning,’ interchangeably throughout this paper, just as other authors have done before me.
14 The origins of British urban planning actually lie in many places from Edward Chadwick’s Public Health Act 1948, through to Ebenezer Howard’s Garden Cities of Tomorrow (1946) and Sir Patrick Abercrombie treaties on Town and Country Planning (1943) and other prolific writings by Sir Desmond Heap and Lewis Keeble, to name but a few. For more contemporary works on planning theory and law, you would undoubtedly need to refer to works by authors such as Patsy Healey, Sir Peter Hall, Alison Ravetz, Eric Reade and John Forrester.
caused by rapid industrial growth. Cullingworth\textsuperscript{16} describes in detail how the formalised planning system took root in the nineteenth century industrial revolution after British towns and cities had dramatically swelled from the influx of workers drawn to the new industries and factories. Rapid urban industrialisation quickly led to dramatic and endemic public health problems and desperately poor local environmental conditions. The private factory and mill owners had no intention of paying for measures to help curtail local pollution and improve social welfare which they considered to be unnecessary and costly. It led to fervent public demands that the Government impose controls and manage the urban blight. Cullingworth et al. notes that, Government intervention came from:

the realisation that overcrowded, insanitary urban areas resulted in an economic cost (which had to be borne at least in part by the local ratepayers), and the fear of social unrest, this new urban growth eventually resulted in an appreciation of the necessity for interfering with market forces and private property rights in the interest of social well-being.\textsuperscript{17}

Following its inception, the most significant change to the regime came following the end of Second World War, which reinvented town planning as a means of preventing urban sprawl and to steer new development growth into planned new towns. Development rights in land and associated values were nationalised and compensation paid on a once and for all basis. The main impetus for the system was to generate new housing on a large scale,\textsuperscript{18} but the dramatic post war population and economic growth in Britain changed the status of the town planning regime.

\textsuperscript{17} Cullingworth, B., & Nadin, V., \textit{ibid.} Page 3
\textsuperscript{18} “The architects of post war planning system foresaw modest economic growth, little population increase (except an anticipated short post-war ‘baby boom’), little migration either internally or from abroad, a balance in economic activity among the regions, and a generally manageable administrative task in maintaining controls. Problems of social security and the initiation of a wide range of social services were at the forefront of attention: welfare for all rather than prosperity for few was the aim. There was little expectation that incomes would rise and car ownership would spread.” Cullingworth, B., & Nadin, V., \textit{ibid.} Page 3
Nowadays, any land use development is processed by a highly developed system that can lead to much public debate. In Britain, land is considered a scarce commodity and can affect many personalities therefore the interests involved with major land use change can be widespread and vocal. Planning authorities retain an essential control over the production and consumption activities of land; they also foresee the pollution, waste and associated impacts that are to be generated by any new activity.19 This discretionary power to allow or refuse permission to develop land means that planning authorities are authorities controlling pollution and managing local environmental concerns. Holdgate20 proposes that there are two ways in which environmental regulation can be administered, either:

1. through a land use planning process in which the distributional sources of pollution have been adjusted so as to be compatible with other land uses, and ensures that pollution from new development is regulated from the outset and;
2. through controls, operated by official agencies or voluntarily within industries, limiting existing sources of pollution and ensuring that new sources comply with conditions imposed when they are built.

The UK, like many other countries, operates both systems parallel to one another. It has led to confusion about the remit of the agencies and levels of responsibility by these statutory bodies. Miller and Wood21 places this down to authorities not necessarily recognising themselves as bodies for environmental control; they suggest that traditional environmental control authorities which regulate and license the sources of pollution often lack the discretion (and the necessary internal decision making procedures) that are held by land use planning authorities. It insinuates a rubber stamping exercise, more than a process so that “...their permits must be approved if the

relevant pollution control requirements are met.” Additionally planning authorities also take into consideration the wider, off-site issues such as transportation, emissions and noise. In essence, the function of the planning system is to look at land use development in a holistic manner and assess the impact of it on its surrounding environment.

A planning regime also looks at the regulation of controls well in advance of any development occurring, through the use of a land use development plan. This offers an ability to recognise and reconcile future demands on land to which land use planning can “…realise its full potential in safeguarding sustainable development.” The approach of land use planning is a system which is anticipatory and proactive, able to determine the location and the nature of development and includes preventative measures that will take an early assessment of risk and mitigate any harm. We see that a key element of planning is the foresight and the ability to balance different societal needs. Such demands suggest a process that is inherently linked to addressing environmental issues and therefore planning by its nature has a wider role to play in environmental management and preventing pollution. On this basis it appears correct to consider planning to be an environmental management policy tool. Surprisingly this had not been recognised by policy makers until relatively recently. Indeed, authors like Blowers and Evans suggests that the idea of ‘classic town planning’ has ‘run out of steam’ and whilst the traditional notion of ‘town planning’ represented ideas and ideals which were considered radical following the end of the Second World War, these have now become less important. Town

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planning in this sense (and in their opinion) is simply a public policy process, no different to tax collection or waste management, what they suggest planning requires is a complete transformation to ‘environmental planning’, and a process that can deal with the issues of the new environmental age, with an

...integrated and holistic approach to the environment transcending traditional departmental and professional boundaries, and directed towards securing the long-term goal of environmental sustainability. Land-use policy is but one element of environmental planning, along with energy policy, waste management, water resource management, pollution control and so on. Land use is clearly of great importance, but it is not, as it were, *primus inter pares*, and no one professional or occupational group may legitimately claim control over the whole process.

This multidisciplinary idea of land use planning is very relevant to the way that environmental issues are addressed and this will be touched on throughout this paper.

*The rise of environmentalism*

This is a subject that has received great attention in recent years and which has been discussed by many distinguished authors.\(^25\) The environmental movement has been a strange phenomenon because it has not developed in a linear or exponential manner as it has caught the public’s attention. Instead the general public and political leaders have taken an intermittent liking to environmental concerns whenever it has suited their needs. As Bell and McGillivray suggest “[I]t is consequently hard to differentiate sharply between consecutive phases or ‘ages’ of environmental law, because some of the features of very early controls remain today.”\(^26\) Nonetheless, it was in the early 1970’s that saw a rising concern about the external costs of

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\(^25\) For more see works by Jane Holder, Malcolm Grant, Carys Jones, and Christopher Wood

economic growth, greater awareness of harm caused by chemicals, industrial pollution, population growth and a greater dissemination of information about environmental harm from other developed countries, particularly from continental Europe. It was also no coincidence that this occurred at a time when the European Community (EC) was expanding on its legal and political legitimacy, and imposing its status as a supranational government. Since then, it has proved to be highly influential in establishing environmental policy in its member states.

Bell and McGillivray recognise that there has been a wholesale shift in public opinion and the law as to what the ‘environment’ is in the last thirty years: namely, from being about protecting humans and their interests to protecting the environment for the environment’s sake.\(^{27}\) Additionally they note that there has been a change in the style of environmental regulation. The main ‘command and control’ style of environmental regulation still exists but alongside others, which can be voluntary and ideological based (such as with sustainable development), to more procedural systems which can require the collation and presentation of environmental impact or harm (as we see with environmental assessment).\(^{28}\)

With the shift on public and political opinion we have also seen a widening of the location of issues, law and policy. We have already noted that since the Industrial Revolution there has been an incremental development of legal rights aimed at protecting health and restricting area wide pollution. Early legislation was aimed at establishing public controls as a method of controlling public health and promoting environmental protection from polluting industry. In addition to these public controls, the law of nuisance was introduced as a method of private redress, even

though the authorities at the time felt that the potential of private law was limited.\textsuperscript{29} Nowadays, many of these new legal rights are instigated in Europe.\textsuperscript{30} The EC has a well developed environmental policy dating back to its inception, and it has led the charge in changing the law of its member states in relation to emissions control, nature protection and implementing preventative procedural measures such as environmental assessment. It is difficult to believe that without the EC’s impetus that such an environmental agenda would have come forward domestically and Britain would still be regarded as being the ‘dirty man of Europe.’ At the same time there has been an internationalisation of many high profile issues which require multinational inputs and international commitment to solve. Issues such as the depletion of the ozone layer, acid rain and biodiversity have led to international action and commitments being made which in turn have led to domestic awareness, activism and policymaking.\textsuperscript{31}

\textit{The land use planning system and the law}

Since 1947 the UK has developed a sophisticated system of planning law. The role of planning has been “...to guide and manage urban development through a top-down and detailed manner... central and local governments are convinced that they have the information, knowledge and power required to manage the evolution of urban growth”\textsuperscript{32} Moroni has looked at the links

\textsuperscript{29} A report by the Royal Commission on the Pollution of Rivers. Third Report. The Rivers Aire and Calder (1867) Cmd 3850 pp.li-iii recognised the deficiencies of nuisance it states:” An aggrieved individual has the option of bringing an action for damages...or an injunction. Either course is necessarily invidious, expensive and doubtful in its result... The expense of such litigation generally far exceeds the value of the personal interest of any individual in the stoppage of the nuisance. Accordingly, whatever the inconvenience to the public, the nuisance continues unabated. Rich and poor alike submit to it as a sort of destiny...” cited by Bell,S., & McGillivray, D., \textit{supra}. Page 17.

\textsuperscript{30} By this I am referring to the EU regulation can have direct legal effect and which do not need to be ratified into national law.

\textsuperscript{31} See Sunstein, C., (2002) \textit{Risk and Reason}

\textsuperscript{32} Moroni, S., (2007) \textit{Introduction: Land-Use, Planning and the Law Planning Theory} 6; 107
between land use planning and the law and suggests that cities and regions are complex in that they are unpredictable, dynamic systems based on “...innumerable, non-linear, causal relations.”

Land use planning cannot be controlled down to the infinite degree and it difficult to envisage the law controlling all development on land, but Moroni suggests that a re-think is necessary to re-conceive the way that planning law is used in contemporary land use.

Booth has examined the interaction between planning and law in detail and particularly the manner in which the British common law system has influenced public local administration and in turn the planning regime. In fact, the development of the statutory planning regime has been strongly influenced by British common-law tradition however the two can be distinguished, in that:

The fundamental characteristics of common law are, firstly, the way in which it derives principles from practice and precedent and, secondly, its emphasis upon remedies, procedures and cases... [Whereas]... planning exists inside these traditions and the way in which the organization of space is imagined and regulated is fundamentally affected by them.

Booth suggests that the British planning system has been developed from professional and practical experience and not necessarily, prescriptive law. This may have implications when new laws are required to be implemented such as those related to the environment and specifically to climate change (as we shall see later), which are not automatically compatible with traditional planning practice approaches. Additionally, Booth suggests that the common law has led to a system with significant strengths including the incorporation of the political nature of decision-making and recognition of the way that public administration manages land use and thereby “...encouraging decision-making that emphasizes the appropriateness of forms of

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development for the place and the time.” In this way it has been able to be responsive and flexible to changes in planning and society. However planning within the common law tradition has also developed inherent weaknesses and rather than being focused on the wider implications of the ‘development plan’ has been overly concerned with the concept of ‘development.’

Needham reiterates that the relationship between planning and the law is fundamental and must be maintained in order for planning to survive, he suggests:

...land-use planning should be practised by public authorities using public law in ways which meet the standards of impartiality, predictability, and due process. If land-use planning is carried out in ways which transgress those legal requirements, it will lose its legitimacy and be abandoned or weakened.

Whether this means establishing stricter rules for persons participating in the planning process or the restructuring to an even more legalistic approach, awaits to be seen. It may mean that this fundamental relationship between planning and the law may need to be re-assessed particularly as planning undergoes a transformation in order to cope with national environmental concerns.

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SECTION 2

**British town planning and its role in environmental management and protection**

Whilst the development of modern British planning system was conceived in 1947, the formation of an environmental regulatory regime did not come about until the 1970’s. The two systems were not expected to operate jointly, which led to the RCEP to comment in 1976 that: “Our concern is not that pollution is not always given top priority, it is that it is dealt with inadequately, and sometimes forgotten altogether in the planning process.”

The British system of town and country planning is regarded as one of the most sophisticated systems of land use control in the world, determining many aspects of land development including its use, design and form, to wider issues such as its impact on local socio-economic and access to transportation. It is for these many reasons that the process plays a central role in environmental management. Significantly, the process is the fundamental mechanism in balancing political, economic, social and environmental factors in a democratic context, yet for a number of reasons planning has been relatively underused for environmental protection and many authors have remarked on the lack of clarity on this ‘grey area of shared responsibility’ between the environmental and planning regimes. A large part of the blame is because central

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39 Royal Commission on Environmental Pollution (1976) 2nd Report.
41 Wood, C., (1989) Planning Pollution Prevention. Some level of blamed has been placed on institutional inertia by regulatory authorities but also on policymakers, and a pure lack of political will (especially during the 1980’s)
42 Woolley, A., et al. (2000) Environmental Law. Page 631 suggests that apart from in the area of waste management, there is not a clear cut dividing line provided in the legislation and that, “...courts themselves have avoided trying to fill this statutory omission.”
Government has been resistant to changing the regime processes\textsuperscript{43} and despite the RCEP recommending\textsuperscript{44} greater integration and more explicit government guidance in defining the relationship between planning and environmental protection,\textsuperscript{45} the Government has minded not to formally adopt this approach. Fortunately it appears that this issue about regulatory authority responsibility has been sidelined (to some extent) by pressing environmental concerns operating at the national and European levels; things could not remain static and in turn successive legislation and policy has shifted (slowly at times) so that planning appears to be adopting a more environmentally orientated approach.\textsuperscript{46}

What has occurred it seems is that the openness and participatory nature of the planning system and the way that planning law conceptualises environmental harm has provided valuable opportunities for the expression of public concerns about environmental issues.\textsuperscript{47} Indeed in the Government’s Planning Policy Statement 23 (PPS23) on Planning and Pollution Control\textsuperscript{48} the Government sets out new planning guidance intended to complement the existing pollution control framework.\textsuperscript{49} Some authors have been quite critical of the approach taken in PPS23, Coyle and Morrow\textsuperscript{50} have remarked that the Government has not been entirely clear with its

\begin{itemize}
\item\textsuperscript{43} Miller C., & Wood, C., (2007) supra. Page 599
\item\textsuperscript{44} Royal Commission on Environmental Protection (2002) Environmental Planning 23\textsuperscript{rd} Report.
\item\textsuperscript{46} The UK published its first environmental strategy, the White Paper on the environment called ‘Our Common Inheritance’, this was motivated by the ‘expansion of planning’s role to encompass environmental issues, set out in the Report of the World Commission on Environment and Development, Our Common Future (1987).
\item\textsuperscript{48} HM Government (2004) Planning Policy Statement 23 - Planning and Pollution Control. These planning statements offer practical guidance clarifying the legislation and hold great weight in planning decisions and they allow the Government to update operational policy advice in a relatively quick manner without the need to enact new legislation.
\item\textsuperscript{49} Under the Pollution Prevention Control Act 1999.
\end{itemize}
policy approach: “it suggests that the boundary between the planning and the goals of environmental protection is not sharply defined. Planning law can, in this sense, be legitimately regarded as offering a response to environmental problems.”

However this has not marked the end of this regulatory divide; planning authorities are specialised in environmental control and regulation but there is the perception that there is a limit to the extent that planning authorities can determine environmental matters, but there is no legal rule as to this effect.

It has led to the question as to where the line should be drawn between these two permitting regimes and what environmental considerations can be taken into account when determining planning decisions.

In its 23rd Report titled “Environmental Planning”, the RCEP proposed that the town planning system be given a statutory purpose: “...to facilitate the achievement of legitimate economic and social goals whilst ensuring that the quality of the environment is safeguarded and wherever appropriate, enhanced.”

Such wholesale reform has not occurred and instead the Government has pursued a more ad hoc policy, introducing policy (mainly thorough Planning Policy Statements, which offers guidance on the Government’s intentions although in no way can be considered to be legislation), Governmental Green and White Papers, Ministerial Statements and long awaited new legislation which has offered changes to the planning process, but not in terms of environmental issues.

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51 This section would seek to assess the effectiveness of this central policy document as assessed by academics such as Miller C., and Wood, C., (2007) supra. Page 602 and others

52 This conflicting issue about the environmental remit of planning was discussed in the case of Gateshead MBC v Secretary of State [1994] 71 P&CR 350; [1994] JEL 93. In the Gateshead case, the opportunity arose for the courts to shed some light on the legislation however as Coyle. S., & Morrow, K., (2004) supra. Page 147 suggests the case sheds only ‘limited’ light on wider issue that really requires legislative attention.

53 Royal Commission on Environmental Pollution (2002) Environmental Planning Para 8.33. Whilst this was not accepted by the Government, Bell, S., & McIlvray, D., (2007) supra. Page 375 acknowledge that the there has been more attention of the environment in planning through the sustainability objective.

54 I refer to the Planning and Compulsory Purchase Act (2004) which had been entering into force since 2005.
The legacy of these incremental changes has produced a patchwork of law and policy which cover many environmental issues but not in any unified manner. It awaits to be seen if new legislation will give the planning system more formal control on environmental management, but as we shall see in the following sections it appears the planning system may have developed environmental responsibilities through other, more indirect means.
SECTION 3

The impact of environmental assessment on land use planning

The rapid development of environmental assessment (EA)\(^{55}\) in the UK has occurred over a relatively short time period of around thirty years. Even so, the acceptance of EA in the UK took longer to adopt than in many other European countries because the Government had long standing resistance against its introduction. The Conservative Thatcher Government justified that the existent planning system was sufficiently ‘techno-rational’\(^{56}\) to cope with the approval of major projects and could adequately scrutinise the development impacts of projects. It is now recognised that the subsequent EA Regulations introduced into the planning system have proved to be a very effective vehicle for implementing the element of environmental precaution to the steadfast decision making processes of Britain’s planning system.\(^{57}\)

Environmental assessment has become a ‘cornerstone’ of modern environmental law but also a pervasive part of regulatory law throughout the world.\(^{58}\) In the UK, the EA process has become intrinsically tied to the planning system because like planning it was a process which aimed to provide decision makers with an indication of the likely environmental consequences of their actions.\(^{59}\) This is similar to planning, a process that is anticipatory and participatory taking place in the sphere of the wider decision making political context, and undertaking a balancing

\(^{55}\) Throughout this paper I refer to the term EA and the Environmental Impact Assessment (EIA) interchangeably as many authors in this field have done before me.


exercise between environmental factors and social, political and economic factors. Whilst the fundamental foundations of EA were established over forty years ago in the United States,\(^\text{60}\) it is now very much a global process\(^\text{61}\) operating as a paradigm in its own right.\(^\text{62}\) The value, need and importance of EA as a method of ensuring future global sustainable development has justified its inclusion in the Rio Declaration on Environment and Development in 1992\(^\text{63}\).

Principle 17 states:

Environmental impact assessment, as a national instrument, shall be undertaken for proposed activities that are likely to have a significant adverse impact on the environment and are subject to a decision of a competent national authority.

EA has played an important role in changing the operation of planning itself,\(^\text{64}\) a good example of this has been the way in which EA has introduced the “…right of participation and expression into the planning decision-making process.”\(^\text{65}\) The EA procedure attempts to ensure that the environmental impacts of a development are taken account at an early stage in order to allow for mitigation or changes that could lessen environmental harm. The need for an assessment

\(^{60}\) EA first appeared in the United States as a result of the National Environmental Policy Act 1969 (NEPA). NEPA was enacted “at a time when environmental damage had become a substantive issue of major public concern thrust upon often reluctant governments ill-organised to provide the necessary cross-departmental interdisciplinary response” Holder, J., & McGillivray, D, (2007) Supra. Page 18

\(^{61}\) Jay, S., Jones, C., Slinn, P., Wood, C., (2007) Environmental Impact Assessment: Retrospect and Prospect. Environmental Impact Assessment Review 27 287–300, reiterate that EA has become a well established process in many developing countries. The EA process and the report have been used by countries as a tool to show transparent, consultative and collaborative working, particularly in large scale projects and thereby a tool to raise finance and global investment particularly in national infrastructure projects. The World Bank has even set out its own guidelines on the subject (http://www.worldbank.org/eapenvironment). We have seen the internation development of EA, e.g. Canada approved a Federal cabinet directive on EA in 1973, Australia passed an act in 1974, Columbia and Thailand in 1974 and 1975, respectively and France in 1976. There have been numerous developing countries adopting the procedure – see Lee, N.,& George, C., (eds) (2000) Environmental Assessment in Developing and Transnational Countries.

\(^{62}\) As suggested by Craik and others, and will be discussed below. Craik, N., (2008) The International Law of Environmental Impact Assessment


\(^{64}\) Ever since the change to a Labour Government in 1997 there has been a number of government agendas, policies and legislatives changes to ‘modernise’ the British planning function, and in the last 5 years we have seen an overhaul of the development plan regime to incorporate new stages to involve stakeholders and community interests to play a more direct role in formulating local area planning policies.

depends entirely on the type of project and whether “it would likely to have significant effects on
the environment.” In the UK, the participatory and collaborative procedures found in EA were
further incorporated into government legislation during its recent overhaul of the UK planning
function. In short, EA may have become a central tool in an effective planning function but
what more can it offer to land use planning and other administrative regimes?

Just as EA has become a pervasive part of regulatory law throughout the world, in the UK, the
EA process has become intrinsically tied to the planning process because it is a process which
supplies decision makers with an indication of the likely environmental consequences of their
actions. EA has been defined as:

The evaluation of the effects likely to arise from a major project (or other
action) significantly affecting the environment. It is a systematic process for
considering possible impacts prior to a decision being taken on whether or
not a proposal should be given approval to proceed

The function of EA is to give the decision-makers (municipal planners) an indication of the
likely environmental consequences of their actions and thereby providing the information that
the development will only proceed in an acceptable manner ameliorating adverse impacts. Even
so, environmental information is just one consideration to be taken into account in the planning
process alongside technical, financial and economic issues; which may not hold any greater
weight than any of these other factors. On this basis one could not consider EA to be a pure

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66 Developments that require a mandatory EA are set out in Schedule 1 and 2 of the Town and Country Planning
(Environmental Impact Assessment) Act 1999 (as amended).
67 I refer to the enactment of the UK Planning and Compulsory Purchase Act 2004
70 This definition is from Jay, S., et al. supra. Page 288.
regulatory function as it does not have the power to refuse or prevent a development proposal as a planning function does. Instead a very cynical view would be to suggest that EA is rather an impotent process which is in essence doing a job to make a harmful development less harmful, more publically acceptable and perhaps ‘prettier’. In reality it may only be justifying its need to exist through the means of scientific and technical jargon and thereby assisting the making of difficult decisions more palatable for elected politicians, planning officers and the public.

It is no wonder that there has been some difficulty in pinpointing exactly what EA entails; some have suggested that it is “both a science involving the identification, prediction and evaluation of a particular set of actions and a set of procedures for ensuring that analysis takes place and informs the decision making process.” However it is clear that EA as a process has been recognised for its benefits at a time when environmental concern, open debate and the right of review is high on the public political agenda and have become important issues for the Government. The basic components of the EA process, at an early stage seeks to identify potential areas of harm from a proposed development, fully assess the levels of harm, and to

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72 Kramer argues that EIA overlooks the strong political dimension that plays in the development process which leads to decisions being made well before the full results of the EIA are known. In essence the purpose of the decision making process simply degenerates into an obligatory exercise - even though the result is known beforehand. He suggests that the bigger the project then the less impact an EIA will have on the decision to go ahead. (Kramer, L., in Holder, J., & McGillivray , D., (eds) supra.. Page139)

73 Jay et al (2006) supra. Page 291 review of several academic surveys in a range of jurisdictions over a recent period of time, they conclude that “the contribution made by EIA, both to consent decisions and to project design, is generally moderate rather than substantial; i.e. that the relatively modest fine tuning of developments is a typical outcome of EIA practice (not least as a result of stakeholder involvement).”

74 Certainly planners have acknowledged that the advent of EIA has made their lives easier in assessing the environmental issues of a project and have found it easier to justify their own decision making. It has also allowed politicians to appear more credible and argue for or against a development proposal. It has also assisted a more litigation minded public eager to seek judicial review on unpalatable public decisions.


76 This has been seen in the UK – with the advent of the Freedom of Information Act (2004) and Environmental Information Regulations (2004)
consider alternatives and mitigate expected harm from a proposed development.\textsuperscript{77} It has meant that the process of EA has led to the integration of a “rational, systematic environmental process into the sometimes irrational planning system which is largely a political driven process, thereby bringing a level of predictability and transparency to the system.”\textsuperscript{78}

However EA being an anticipatory and participatory function is seen to have a use in the wider decision and policy making context because it seeks balance between environmental, socio-economic, financial and political factors. Craik\textsuperscript{79} has summarised these arguments and believes that there are three possible models of using EA in administrative decision making. In the first model he views EA pursuing an instrumental function, purely technical and apolitical. Here, EA provides supporting information about the project or the affected environment. This is the way that EA may have been original conceived and undertaken, as a purely rational assessment tool. A second model accepts the political nature of decision-making and views the role of EA to facilitate bargaining between competing societal interests with different actors negotiating a final outcome of the EA. In this model, Craik sees EA systems as being entirely indifferent to the outcome produced; by and large, this is the realm that EA appears to operate in presently. In the final model, Craik attributes greater transformational possibilities to the EA processes, with the process interacting and affecting the interests and values, he sees this process allowing persons to understand each other’s viewpoints and “make the most sense out of the discursive and justificatory nature of EA processes.”\textsuperscript{80}

\textsuperscript{77} I do not intend to discuss in detail the process of undertaking EA, there are many authoritative texts on the subject. See any text on the subject by Riki Therivel, John Glasson, Carys Jones or Christopher Wood.
\textsuperscript{78} Weston, J., (1997) \textit{Planning and Environmental Impact Assessment in Practice}. Page 20
\textsuperscript{79} Craik, N., (2008) \textit{supra}. Page 38
\textsuperscript{80} Craik, N., (2008) \textit{ibid}. Page 38
Overall, it appears that the ‘all encompassing’ nature of EA has caught the imagination of the academic community. EA has developed a wider and more institutional perspective and can bring about change in the values and priorities of the decision making institutions that govern planning decisions.\(^81\) Holder and Lee indicate that when EA was first introduced, the Government had great difficulty trying to fit this in with traditional regulatory regimes, such as planning.\(^82\) EA has been a method of ‘melding’ the complexity of public and private interests. Essentially private developer interests were being commented on by the public and because the review of EA was tied to the grant of planning consent, EA presented a ‘subversive’ quality “providing fertile ground for a deep rooted clash against the legalist culture” found in planning departments and Government agencies.\(^83\) EA essentially has led to a change in the climate of decision making away from a policy in favour of development, to one in favour of taking account of effects of development on the environment.\(^84\) Overall, EA epitomises a dynamic process that is being observed in many global government regimes, with public demands for advanced forms of governance that incorporates more ‘communicative’ approaches, greater emphasis on participation and consensus building, a greater freedom of information and transparency and a move away from the expert-led technical solutions that initially may have been relied upon.\(^85\) Similarly, Owens and Cowell see EA as a method that “partially shifts the

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\(^{82}\) Holder, J., and Lee, M., *supra*. Page 555

\(^{83}\) Holder, J., and Lee, M., *ibid*. Page 555

\(^{84}\) Holder, J., and Lee, M., *ibid*. Page 555

burden of proof, uncovers information that might not otherwise enter the decision making process and exposes this information to a range of interested groups.”

From what was understood to be a planning tool, Craik suggest that EA offers a “means to promote outcomes consonant with particular environmental norms,” but he says that there is difficulty in conceiving of EA commitments, whether in domestic or international context, in entirely procedural terms because this understanding conflicts with the stated environmental objectives of EA. In his opinion this reflects the trans-nationalisation of EA commitments and a broadening of the scope into international environmental law.

It is clear that EA has become established as a useful tool for administrative decision making, it has had a very profound and widespread impact on the development planning regimes and these will remain a key component of land use planning. Furthermore the potential for EA has been identified for wider and longer term EA of plans and programmes through the continuing growth of Strategic Environmental Assessment, which assesses environmental impact of more strategic plans and programmes. The approach promotes a wider appreciation of environmental issues and introduces sustainability into development planning processes and in turn this undoubtedly means that any approach that adopts EA will consider the wider implications of development as it impacts issues such as climate change. In this way EA has been able to influence planning policy; in recent years, municipal planning policies have gone further in advocating that new development proposals should compulsorily consider matters such as reducing energy use, nominating a proportion of energy supply from renewable sources, and considering the design and materials to allow for natural cooling in the summer and insulation in the winter. However,

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as Christopher suggests EA cannot in any way be considered as a main method for tackling climate change, neither can it be used as a comprehensive regulatory methodology, instead he suggests EA has become a ‘unilateral global custom’ whose application can be done quickly without the need for treaties or other mechanism. In this way EA, “...compliments a wide range of existing or future regulatory schemes specifically addressing climate change... [and] allows it [EA] to become a laboratory for novel approaches to integrate climate change into decision-making.” Just as Craik has already suggested above, Christopher recognises that the potential of EA has so far been underestimated and he too suggests that EA can move from “staid halls of diplomacy and... low-level bureaucrats... [and which] may prove particularly effective in linking global goals with municipal action.”

It is clear that environmental assessment already plays a central role in making development more environmentally acceptable and in turn has changed the planning process. In this way EA has become a public policy tool and can seek adjustments to development projects, and at a much wider scale to long term and large scale strategic programmes and plans. Clearly the impact of this can be great and can force key stakeholders (whether it is the Government or otherwise) to rethink their initial ideas if they are not environmentally sound. However, questions remain as to whether the process is too cumbersome, expensive and slow in producing and evaluating a large scale development scheme. It also leads to questions as to whether EA is quite as effective as it is made out to be. In the UK because EA’s are produced by the developers there is an expectation that the assessments will be skewed in the developer’s favour.

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90 Christopher, C.W ibid.. Page 555
91 Christopher, C.W ibid.. Page 555
and be used to justify the scheme being presented and hiding away any adverse impacts that may be inherent. Furthermore the developer’s scheme may attempt to limit or minimise the greenness of the development because it may be too expensive. In such circumstances would it not be easier, clearer and cheaper if local planning policy specified the environmental criteria that were to be required in a specific development, rather than the developer determining this, himself. As we shall see in Section 5, with the advent of the new climate change legislation, local planning authorities have become more prescriptive in their planning approach to avoid such problems when tackling the issues of climate change.
SECTION 4

The rise and adoption of sustainable development

Sustainable development now plays a central role in the UK national environmental strategy however it was treated with great caution by the Government following its introduction in the early 1990’s who was concerned that it would have a limiting effect on economic growth. Government planning policy had viewed ‘environmental considerations’ as a tradable commodity for which environmental quality could be economically bartered against the cost of development; sustainable development was justified as being a simple balancing act between economic growth and environmental concern.\textsuperscript{92} The release of the 1990 White Paper\textsuperscript{93} by the UK Government urged planning authorities to “integrate environmental concerns into all planning policies.”\textsuperscript{94} On this basis, sustainable development found statutory basis in the Town and Country Planning Act 1990, which required development plans to include policies for the conservation of “the natural beauty and amenity of the land, improvement of the physical environment and the management of traffic.”\textsuperscript{95} This was followed in 1994 by the UK first national sustainability strategy\textsuperscript{96} where the planning regime was seen as a ‘key instrument’\textsuperscript{97} for delivering sustainable land use change, however there has been a dramatic shift in the way that

\textsuperscript{92} In ‘This Common Inheritance’ the Government suggest that “the Government therefore supports the principle of sustainable development...to achieve sustainable development requires the full integration of environmental considerations into economic policy decisions” HM Government (1990) \textit{This Common Inheritance. The UK’s first environmental strategy}. in Holder, J, and Lee, M., \textit{supra.} Page 244.
\textsuperscript{96} HM Government (1994) \textit{Sustainable Development: The UK Strategy}.
government policymakers regard environmental issues and how planning has been charged in dealing with them.

Despite being a concept that has been around for nearly four decades sustainable development has been difficult to understand and accept at many political levels. Jacobs suggests that there has been “...frustration or irritation [...] expressed from the policy-technocratic standpoint...”,98 at the manner in which sustainable development has been ill-defined. Additionally, whilst sustainable development has become a fashionable concept spawning a vast amount of environmental discourse and literature99 there has been concern whether the idea can operate alongside the principles of planning, whose core function is seen as “enabling development.”100

It is because of this perceived conflict between the objectives of sustainable development and planning, that sustainable development was initially not taken as seriously in planning circles. To add to this, the terms ‘sustainability’ and ‘sustainable development’ tend to be used interchangeably by different authors and practitioners, even though Jacobs and Stott argue they are distinct approaches.101 For the purposes of this paper we will consider sustainable development as much of the international, regional and local government policy focuses on this aspect.102 Sustainability103 remains as Evans suggests a technical and scientific construct which

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101 Jacobs, M., & Stott, M., (1992) Sustainable development and the local economy. Local Economy 7 pp. 261–272. Page 26. They suggest that ‘sustainable development’ incorporates other indicators of human welfare such as incomes and their distribution, jobs, health, housing, crime levels and is not solely concerned with the issue of the environment, whereas ‘sustainability’ implies a stronger commitment to the environment above other factors, particularly economic growth.
102 The United Nations, European Commission and UK Government policy have all focused greatly on the issue of sustainable development, rather than sustainability.
can have a variety of interpretations and therefore in his opinion, is unlikely to develop into a ‘universal theory’ to inform or guide practice; neither does he believe that sustainability can be ‘technicised’ or reduced to a series of indicators or standards, useful and necessary as these aids undoubtedly are.”

The UK Government release of ‘Planning Policy Statement 1 (PPS 1): Delivering Sustainable Development’ in 2005 was key planning guidance setting out that the overarching aim of planning policies should be the delivery of sustainable development. The Government has shifted in its approach and placed the emphasis on using sustainable development as a means of tackling climate change as stated in its subsequent publication, the Supplement to PPS1 - Planning and Climate Change (2007). The Supplement to PPS1 states that addressing climate change is the Government’s “principal concern for sustainable development.” This document sets out a more practical approach on how local planning authorities should use planning decision making to address climate change. It includes principles for the preparation of spatial strategies and the consideration of planning applications. It also appears to give planners greater authority in determining planning applications and to consider practical matters such as building orientation, landscaping density and mix in order to minimise energy consumption, maximise cooling and avoid solar gain. The guidance has adopted some of the recommendations of the

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103 As Thérivel, R., et al. (1992) notes to achieve sustainability environmental considerations would need to be an intrinsic part of all policies, and then ‘trickled down’ through plans and programmes ultimately to projects. (in Thérivel R, Wilson E, Thomson S, Heaney D, Pritchard D. (1992) Strategic Environmental Assessment.)
RCEP’s 2002 report on Environmental Planning which suggested that sustainable development should form the ‘organising idea’ behind planning reform.

This additional burden of achieving sustainable development in planning appears to have made the planning decision-making process even harder. Owens and Cowell acknowledge that the “...conflict over land use is as ubiquitous and intense as ever”. They suggest that sustainable development is an influential idea and used within the context of the land use planning arena can play an important role in tackling modern, global environmental dilemmas; their belief is that land use policy can initiate global change. Whilst it is easy to make such broad sweeping statements, it is difficult to find practical examples of planning’s ability to initiate such change. Many view the sustainable development paradigm as a method for generating widespread environmental momentum and changing the impetus of planning, but since the introduction of the concept (most formally done at the Rio Convention in 1992) it appears not to have been taken too seriously by Governments, worldwide. Perhaps, this is because there remains a lack of understanding about the concept and its application, and thus far even though it is referred to as central to global government policymaking examples of its large scale, direct, practical application are hard to find. Nonetheless, the UK Government appears to have taken steps to change this attitude. The 2004 Planning and Compulsory Purchase Act has been a radical

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108 Sustainable development is referred to in many of the Principles of the Rio Convention.
109 In the European context, Article 2 of the Treaty of the European Union states: “The Community shall have as its task, by establishing a common market and an economic and monetary union and be implementing policies and activities referred to in Articles 3 and 4, to promote throughout the Community a harmonious, balanced and sustainable development of economic activity...” Sustainable Development has also become implicit in European case law and in turn has led to the European Court of Justice strongly influencing UK domestic case law, such as in R v Secretary of State for the Environment, Transport and the Regions Ex p. First Corporate Shipping Ltd, Case C-371/98 where the court ruled that economic considerations as stated under Art 2 (above) need not be taken into account when designating an special environmental or nature conservation designation.
legislative endorsement of sustainable development as an approach to planning reform and a significant departure from the conservative suggestions initially made in the Government’s Green Paper on planning reform.\textsuperscript{110} The Act importantly requires that planning authorities must have regard to the principle of sustainable development.

It is clear that the concepts of sustainable development appeals to planning because of its intrinsic need to balance conservation and development, and with it there “...has been an expanding range of social, ecological and political objectives that planning systems are deemed capable of promoting.”\textsuperscript{111} In the same vein, the 2004 Act has widened the outlook of the planning process so that a development scheme now has to consider the issues of resourcing, finances (particularly if developer obligations to the community are involved) and non-land issues (such as local job-creation and developing economic multipliers). For this reason it was considered natural by government policymakers to see the planning regime as a method of delivering sustainable development because of the way it is “broad-ranging, visionary, integrated and participative.”\textsuperscript{112} Holder and Lee suggest that this expansion of planning was necessary in order to give effect to what sustainable development can achieve, and essentially allow planning to be a testing ground to environmental solutions that are being developed at the international level.\textsuperscript{113}

Overall, it appears that there have been a number of ways in which sustainable development offered a new emphasis to the traditional planning approach. Primarily, it has shifted planning’s

\textsuperscript{110} HM Government (2001) Planning: Delivering a Fundamental Change (Department of Transport and Local Regions).
\textsuperscript{111} Owens, S., and Cowell, R., (2007) supra. Page 17
\textsuperscript{113} Holder, J., & Lee, M., (2004) supra. Page 509
outlook of being solely a domestic process, which interpreted environmental issues as a side concern on matters such as development on greenbelt land, local landscape quality and open space preservation, to a more global focus encompassing issues such as biodiversity, climate change and wider energy production - consumption issues.114 Simultaneously, whilst there has been a widening of focus of the UK’s planning remit it has also led to a blurring of the traditional demarcation between planning and environmental control. Owens and Cowell suggest that the premise of sustainable development has led many planning authorities to use it as a method of controlling environmental harm, as example, they point to the way in which demarcating air quality management areas (without express statutory authority, but under more ‘general sustainable development arguments’) has become a tool to control traffic growth from new developments and influencing more collective modes of transport in new developments.115 Similarly, sustainable development has played a more direct role to planning as an influence to design and layout, to encourage buffers for sensitive sites as a means to disperse pollutants and also reduce energy consumption and heat loss. In turn the testing of carbon (greenhouse) emissions, through the use of power generation and consumption has become a legitimate material planning consideration in the decision making of a proposed development. Furthermore on a more strategic level, sustainable development has been used as a reason to demand the reuse of sites that are closer to urban centres and transport links so as to reduce carbon footprints and government policy has placed great emphasis on the re-use and remediation of previously used (‘brownfield’) to be justified, before virgin, out-of-centre, (never developed) ‘greenfield’ sites can even be considered.

114 Others have remarked that planning has been reinvigorated through the involvement of a broad range of activities from protecting the environment to promoting “…old preservationist concerned with local issues of environmental defence and new style environmentalists concerned with environmental quality and sustainability (Cullingworth, B., et al., (1994) supra. Page 21)
Sustainable development also presents an adaptive capability to environmental issues which can be readily applied to the climate change. Many commentators suggest that only by wholeheartedly adopting sustainable development can we undertake the necessary ‘adaptation’ processes to issues presented by climate change.\textsuperscript{116} In this way sustainable development has been interpreted by the Government as land use planning in its widest sense and is an important aspect that the planning regime will have to get to grips\textsuperscript{117} with in the future, particularly if it is to deal effectively with the challenges of climate change, as we shall see in the next section.

It should be noted that the development of the new spate of environmental and planning law and policy has also led to an increased use by the Government of methods such as Regulatory Impact Assessment (RIA) in assessing the effectiveness of these new initiatives.\textsuperscript{118} RIA’s have become an important part of testing central and local Government function. Wiener suggests that over the last twenty years profound legal borrowing has occurred by Europe from the United States in the area of ‘Better Regulation’\textsuperscript{119} and the improvement of its administrative decision making processes.\textsuperscript{120} The EU has been very keen to formulate better regulatory mechanisms and has

\textsuperscript{116}This is discussed further in Section 5.
\textsuperscript{118}An extensive RIA was undertaken on the Supplement to PPS1 - HM Government (2007) Impact Statement of the Planning Policy Statement: Planning and Climate Change. (Dept of Communities and Local Government)
\textsuperscript{119}This is a strategy and methodology that used by many of the world’s Governments, aimed at reducing bureaucracy, simplify overcomplicated regulation and looking for alternatives to law and regulation.
\textsuperscript{120}Wiener, J.B., Better Regulation in Europe in Holder, J., & McGillivray D, (Eds) (2007) supra. Page 67 Wiener expresses surprise that there is such borrowing when relations between the two sides has been strained because of their ideological differences with issues such as the ‘precautionary principle’ and as was seen with the recent launch of the EU chemicals regulation programme (REACH). It should be noted that the European adoption of the precautionary principle has greatly influenced its health and environmental policies. Indeed the EU guidance suggests that the precautionary principle should be applied on the basis alongside an analysis of benefits and costs. (CEC (2000) Communication from the Commission on the precautionary principle COM (2000) 1 final. Brussels, 2.2.2000 See also Vogel, D., (2003) The Hare and the Tortoise Revisited: The New Politics of Consumer and Environmental Regulation in Europe. 33 British Journal of Political Science Page 557-580 cited by Wiener (2007) ibid. Page 72.
revised its existing guidance so as to promote the wider use of impact assessments by its member states. The UK in recent years has heeded the call and launched a Better Regulatory Commission to advise on transparency and monitoring of its policies through risk assessment, and through benefit cost analysis (BCA). Alongside RIA, the use of BCA is being increasingly employed as a method of ‘monetarily’ assessing the costs and benefits of a legislative ‘project’.

This has had a major impact in recent years in the context of new planning legislation noted in this paper, including Climate Change Act 2008, PPS1, and the Supplement to PPS1 have all been the subject to scrutiny by impact assessments aimed at reducing costs and bureaucracy and increase efficiency. However Wiener suggests that there remains criticism of their use and whilst there is always constant political pressure to improve and reduce regulations there remains a need to protect the benefits of regulation such as health and environmental improvements and to ensure that these are not diluted by an RIA or BCA procedure. It is a careful balancing act in undertaking such assessments as it can lead to calls that the assessment processes are anti-environmental because of the tendency “...to delay regulations and to overstate costs and

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122 The Better Regulation Commission is a non-departmental public body of the UK Government, Its role is “To advise the Government on action to reduce unnecessary regulatory and administrative burdens, and ensure that regulation and its enforcement are proportionate, accountable, consistent, transparent and targeted”. Better Regulation has been a important theme of the Labour Government since it came to power in 1997. Recently this has led to Legislative and Regulatory Reform Act 2006 to establish statutory principles of good regulation.
124 RIA and CBA are significant well discussed and critiqued subject areas in their own rights, unfortunately this paper is unable to discuss them in any great depth. I wish to highlight that they have wide reaching role in the discussion of this paper. Indeed EIA methodology does highlight that financial compensation for environmental harm is used as one method in environmental assessments (Holder, J, (2005) Environmental Assessment: The Regulation of Decision Making cited by Weiner (2007) supra. Page 83.)
understate health and environmental benefits (such as human life, ecological vitality and aesthetics), which are difficult to measure.” Indeed some benefits of environmental policy or legislation may not even be recognised until a law is in force, because it is not possible to quantify all benefits (and costs) at an early stage. Yet there remains the argument that failing to monetarily quantify the environmental and health benefits at all could lead to the under protection of their social values and potentially their long term loss. It is unfortunate that despite all the criticisms levelled at RIA and BCA they continue to be used because of the lack of an alternative for Governments to compare benefits and costs. Not using these methods may lead to less transparent decision making processes involving less debate, which is more arbitrary and reactionary to crisis events and based more political bargaining power than on actual technical analysis.

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SECTION 5

Planning and the challenge of climate change

The conclusion of the Review is essentially optimistic. There is still time to avoid the worst impacts of climate change, if we act now and act internationally. Governments, businesses and individuals all need to work together to respond to the challenge. Strong, deliberate policy choices by governments are essential to motivate change. But the task is urgent. Delaying action, even by a decade or two, will take us into dangerous territory. We must not let this window of opportunity close.\(^\text{128}\)

The last ten years have seen a reversal in public, political and scientific opinion about climate change. Today, it is largely acknowledged that humankind has altered the climate and man-made emissions have been the cause of global climatic change. Whilst efforts are underway in trying to prevent climate change,\(^\text{129}\) its impending impacts have been recognised and there is no doubt that even if all harmful causes were halted immediately, all countries in the world would still be affected by climate change to varying degrees. Nations have recognised the need to adapt to climatic change and it is for this reason that Article 4 of the United Nations Framework Convention on Climate Change (UNFCCC) stipulates the need for efforts to adopt national or regional adaptation strategies.\(^\text{130}\)

The Intergovernmental Panel on Climate Change (IPCC) defines ‘adaptation measures’ as “any adjustment in natural or human systems in response to actual or expected climatic stimuli or their effects, which moderates harm or exploits beneficial opportunities.” These are any methods that


\(^\text{129}\) By this I mean international initiatives to reduce the gases in the atmosphere such as through UNFCCC and the Kyoto Protocol.

\(^\text{130}\) Article 4, inter alia, set out need for nations to tackle climate change collectively. Art 4.1, it states: “All Parties, taking into account their common but differentiated responsibilities and their *specific national and regional* development priorities, objectives and circumstances, shall...”
would modify human practices to fit in better with climate changes, when and where they occur. These could include institutional, behavioural, technological or social by origin;\(^{131}\) for example, the IPCC suggest that water security could be maintained by improving flood defences, improved infrastructure for water storage, collection and distribution for storage, and resettlement away from coastal areas prone to flooding. They identify issues such as the improvement of the health infrastructure in communities vulnerable to the indirect and direct effects of climate change such as extreme weather or the incidence of infectious diseases, and they foresee that the design of the urban environment as being central to any adaptive response.\(^{132}\) Similarly the UK Government’s Climate Impacts Programme (UKCIP) has undertaken a series of studies and has identified a range of possible future impacts.\(^ {133}\) What is clear from the UKCIP studies are that many of the identified impacts will require intervention by the planning system to consider measures and strategies to counter their effects. The two main methods that the IPCC has suggested be used to address climate change are to either mitigate the effects, or to adapt to them; both acknowledge that humans cannot be passive to effects of climate change.\(^{134}\)


\(^{133}\) The major consequences that UKCIP has identified are: an increase in the risk of flooding and erosion; greater pressure on drainage systems; increased likelihood of winter storm damage; loss of habitat for wildlife; summer water shortages and low stream flows; increased risk of subsidence (in areas where subsidence is already a problem); increased demand for summer cooling; buildings becoming uncomfortably hot and a range of health issues. These are all issues directly related to planning considerations.

\(^{134}\) The IPCC has been strongly advocating that national governments undertake adaptation measures. Many commentators have realised that policy based approaches need to be taken and “simply insuring against adverse effects avoids the moral dimensions of climate change whilst jeopardis[ing] the solvency of the insurance industry” quoted in Ruth, M, (2006) *Smart Growth and Climate Change*. Page 17. In economic terms, the Stern Review on the *Economics of Climate Change* (2006) concluded that allowing current emissions to continue unabated would cost the global economy between 5 and 20% of GDP p.a. within a decade, or up to $7 trillion. In contrast, mitigation measures that would reduce emissions were estimated to cost about one percent of global GDP p.a. and could save the world up to $2.5 trillion per year.
**Adaptation or mitigation?**

The UNFCCC call for climate change mitigation has led to a flurry of activity by Governments, industry and academia in trying to identify individual sectors and how targets to reduce Greenhouse Gases (GHG) can be met and finding the effectiveness of alternative mitigation strategies.\(^{135}\) However Ruth has advocated the need for a broadening of the approach away from ‘technological fixes’ in an attempt to place climate policy in a context of local capacity, because he suggests that it is “…in this context that the relationship between urban development and climate change are being explored.”\(^{136}\) Mitigation approaches differ from adaptation strategies because they look directly at stabilising GHG in the atmosphere and to place them “…at a level that would prevent dangerous anthropogenic interference with the climate system.”\(^{137}\) However these strategies cannot be viewed in isolation, McEvoy et al. suggests that “…there is obvious interdependence between mitigation and adaptation in that they are both deliberate human responses aimed at reducing the overall risks associated with climate change - mitigation seeks to reduce the drivers of climate-related hazards, while adaptation targets vulnerability and exposure to these hazards.”\(^{138}\) Additionally McEvoy et al. recognises that in terms of the built environment and land use planning both mitigation and adaptation are influenced by development pressures; urban areas are centres of economic activity which have a high-energy use; a corresponding response therefore would need to reduce energy flows and improve the ecological ‘footprint’ of towns and cities; land use in essence, is directly and primarily related to

\(^{137}\) UNFCCC, 1992 quote from Ruth, M, *ibid.* Page 18  
energy consumption and emissions. However there are distinct differences between the two methods, particularly in the way that they operate in terms of time and space; mitigation initiatives are considered to be more usually nationally orientated (and within international obligation parameters), whereas adaptation is more local and therefore more directly connected to land use planning. Temporally, mitigation actions will only be seen in the longer term (as the impact and lag on GHG takes time), whereas adaptation has and needs to have a more immediate effect. Again, because of the type of impacts the planning process has a role to play here, as was seen following the large scale flooding that took place across England in 2007 and 2008 (and leading to the revision of the Government’s planning policy on flood risk (PPS23)). What this illustrates is that the planning system will need to be involved in implementing both types of strategies, although it is clear that planning has a greater role with adaptation strategies because of the localised manner in which they operate in.

The rise of adaptation to climate change and relevance to planning

Adaptation has been perceived as an “antidote to mitigation...” This is not an admission that mitigation will not work, but rather that mitigation needs to work hand in hand with adaptation and both are closely interrelated, particularly in regard to issues of land use. Adaptation strategies are recognised as creating a benefit to society even if radical changes does not occur

141 Ruth, M, supra. Page 18 suggests that the emphasis of “...mitigation places emphasis on human capabilities to revert to human induced environmental trends [whereas] adaptation...means adjusting to climate change in order to reduce the vulnerabilities of society and ecosystems... and is perceived as an admission of an inability to noticeably revert to climate change in a timely manner.”
and therefore seeks to introduce policy and practice that will reduce exposure to extreme weather events and correcting economic efficiencies, particularly at the local level.\textsuperscript{142}

A large part of the focus about climate change has been on the causes of climate change and the generalised impacts that climate change will have on human activity, such as heating of our cities and the impact of rising sea levels. Cities are expected to face the brunt of these impacts because of the concentration of population. Furthermore the majority of world’s largest cities are located along coastlines and are prone to sea level changes: the impacts of climate change are expected to be dramatic and catastrophic. As we have seen in the sections above, land use decision making and environmental quality are tightly interrelated and writers have suggested that these will need to evolve collectively in order to address the change in socioeconomic, technological and environmental opportunities and constraints that are involved in adaptation:\textsuperscript{143}

Changes in urban form and the level of urban economic activity influence rainfall patterns, demand for energy and the infrastructure to generate and deliver it, as well as urban heat islands. Exacerbated by changes in atmospheric temperatures and precipitation patterns, any and all of those interrelationships are altered as humans impact the global climate.\textsuperscript{144}

Presently the main method of addressing these issues has been done sectorally and by reviewing the areas of energy, transport, health separately. Ruth’s emphasis on smart growth emphasises a multi-dimensional approach, for example a review of land use polices that will affect transport patterns thereby reducing urban energy demands, dissipating the urban heat island effect, and in turn addressing public health issues. In dealing with change in this manner, decision makers will need to consider the ability of planning policy to adapt to these changes. In turn it appears that

\begin{thebibliography}{99}
\bibitem{142} Ruth, M. \textit{supra.} Page 18
\bibitem{143} Ruth, M., (2006) \textit{supra.} Page 393
\bibitem{144} Ruth, M., (2006) \textit{ibid.} Page 393
\end{thebibliography}
the process of adaptation on a global level will throw up a number of legal and policy based
issues in particular with regards to equity and social justice, Adger suggests that:

all decisions privilege one set of interests over another and create winners and
losers. Thus the effectiveness of strategies for adapting to climate change
depends on the social acceptability of options for adaptation, the institutional
constraints on adaptation, and the place of adaptation in the wider landscape of
economic development and social evolution.145

The UK Perspective

The UK Government was committed to the target of cutting the UK’s carbon emissions to 20 per
cent below their 1990 levels by 2010, a key pledge in the Labour Government’s last three
election manifestos but this will not be achieved according to a review of the Government's
climate change programme. The UK Government has conceded to the need for new law (which
has led to the passing of the Climate Change Act 2008) and policy (such as PPS1 and PPS25)146
and a National Strategy to deal with the impacts of climate change.147 The Government has set
itself three main aims in this strategy; firstly, to ensure that new developments reduce their
carbon impact through choices of location, physical form and layout and the use of renewable
energy; secondly, to ensure that the planning process supports proposals for renewable energy

146 PPS25 is the UK Government policy on development and flood risk which aims to ensure that flood risk is taken
into account during planning determinations and avoid inappropriate development in flood risk areas. This guidance
was recently revised and a practice guide released in 2008 to assist in decision making after the planners was
criticised following a number of high profile floods in 2007 and 2008, that caused an estimated £2bill of damage.
147 Planning Magazine (2006) Blair admits climate defeat (April 7th). The real reduction is likely to be between 15
to 18 per cent, however it should be noted that there have been numerous initiatives that have occurred at the local
and regional level, that are not necessarily UK Government Initiatives. Schroeder et al. (2007) infra. note
numerous initiatives such as the International Council for Local Environment Initiatives (ICLEI), which has tried to
organise trans-municipal networks to ‘politically promote climate change policies’ and other pilot schemes in
various English cities keen to develop energy and climate changes strategies. The development of the ‘Nottingham
Declaration’ is one such scheme (municipality signatories committing to addressing the causes and consequences of
supply, and finally, to shape sustainable communities resilient to the impacts of climate change now accepted as inevitable, and which will mean more extreme weather events. However, this will not be as easy as it seems, McEvoy et al notes that the current thinking in planning and development circles may work counter to adaptation strategies, for example, consolidation of development (to build taller and higher density) can act to reduce energy demand and transport emissions, but it can also conflict with adaptation measures and wider sustainable development objectives by exacerbating the urban heat island effect (which in turn leads to increase energy use for cooling), and also pose problems for urban drainage (and increased flood risk) and may not ensure access to cooling natural greenspace for all urban dwellers (including ensuring that privatisation of public open space is carefully managed). Such issues may provoke or even exacerbate any existing social tensions. There are other more indirect and wider ranging implications that adaptation strategies will have on the development industry, from changing the use of construction industry materials, sourcing local area suppliers (to reduce carbon footprints), using specialist contractors and architects who are able to consider design and build to counter the effects of climate change, to developing industry specialists in the legal, financial and the insurance sectors. From the literature on adaptation strategy that is currently available, it seems that these are areas that are yet to fully engage in the debate. Perhaps it is expected for the planning regime to lead the changes and develop a common strategy in the building development field. Unfortunately the Government’s policy intentions are yet to be clarified.

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148 Considerations such as power generation may now need to be located within cities away from flood risk coastlines (water needed for cooling) and without the risk of power lines being damaged by storms, heavy snowfalls, movement of earth and erosion caused by heating or other hazards.

149 McEvoy, et al., (2006) supra. Page 187 suggests that under certain socio-economic scenarios, this could place restrictions on open access to green spaces (to increase evaporative cooling) and have a negative impact on equality of opportunity of developing or benefiting from adaptive capacity.
The Climate Change Act was enacted in November 2008 and is expected to transform the planning regime over the long term, the UK Government states that it is “the first country in the world to enact a legally binding long-term framework to cut carbon emissions [and]... creates a framework for building the UK’s ability to adapt to climate change.”

The Climate Change Act presents a fundamental shift at how the environment will be perceived in the UK planning system, emphasising the increased need to review long term environmental concerns within the planning decision making process. The Act requires emissions reductions targets for the UK with the Government setting five-yearly carbon budgets to ensure that these targets are achieved and it establishes a statutory non-departmental body reporting directly to the Government about whether the targets should be strengthened and influencing the need for secondary legislation under the Act. However the targets are politically based and there are no sanctions for failing to meet them specified in the Act. The UK Government has linked it’s climate change objectives to its existing targets on sustainable development and sees planning as a means of meeting both targets (the Government has reiterated this in both the Government’s Climate Change Programme strategy and in the Planning White Paper).

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151 Section 1 of the Climate Change Act 2008 specifies that a net UK carbon account for the year 2050 is at least 60% lower than the 1990 baseline however Section 2 allowing for amendments of Section 1.  
153 The national strategy is expected to filter down to cities and towns. Areas such as London have developed an adaptation strategy to prepare the city for climate change. It recommends, for example, that all new development and infrastructure is located, designed and constructed for the climate change it will experience over its design life; for emergency services to review climate risks through the Civil Risk Register; encourage businesses to consider climate change in their business planning and to prepare business contingency plans for climatic risk. (Greater London Authority (2008) *The London Climate Change Adaptation Strategy*.). See Schroeder, H., & Bulkeley, H., (2009) Global cities and the governance of climate change: what is the role of law in cities? 36 *Fordham Urban Law Journal.* 313 for an fascinating comparative assessment between London and Los Angeles.  
154 In its Planning White paper, it suggests that used positively, planning has a key role in helping to tackle climate change, particularly in securing progress against emissions targets, shaping sustainable communities and capturing
introduction of the Planning and Compulsory Purchase Act 2004, the Government believes it has begun putting the structures in place to tackle climate change, namely, through a ‘reformed planning system;’ which will be, “…the starting point for the further reforms set out in the Planning White Paper, to be implemented through new planning legislation.”

Adapting to climate change is expected to be a stern test for the planning system. The UK Government have acknowledged this, in a way, through the Supplement to PPS1 (discussed in part above in Section 3). The aims of the Supplement to PPS1 are considered to be fivefold:

- secure enduring progress against the United Kingdom's emissions targets
- deliver the Government's ambition of zero carbon development
- shape sustainable communities that are resilient to and appropriate for the climate change now accepted as inevitable
- create an attractive environment for innovation and for the private sector to bring forward investment
- capture local enthusiasm and give local communities a real opportunity to influence, and take, action on climate change.

The Supplement is meant to illustrate the way that planning is meant to direct and manage climate change initiatives particularly through more unconventional methods, as Schreoder et al. suggests, “…this guidance points not only to the regulatory role of planning, but also to its potential in engaging and enabling others, notably the private sector and ‘communities.’” The

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Schroeder, H., & Bulkeley, H., (2009) ibid. Page 323. This is not a new approach local government function is increasingly contracted out to the private sector (such as with waste collection). Local authorities have been encouraged to enter into Local Area Agreements and Local Strategic Partnerships with the private and voluntary sectors in delivering their statutory functions.
Supplement to PPS1 offers general guidance on how the planning system needs to change in order to minimise climate change impacts\(^{159}\) but it offers very little in terms of substantive measures which can be practically applied. The Government will expect local planning authorities to change their development policies in line with the Supplement, but this will take time and only on a periodic basis when the existing local development plan cycle comes to an end and a review can be undertaken. It suggests a lengthy period of time (with certain documents a period of up to six to eight years) before some of the climate change policies can be properly adopted at the local level and only then after time consuming local political scrutiny, public inquiry and wide consultation. Indeed Schroeder et al., remarks that the strategies and working relationships of the UK authorities to address climate is highly complex:

On the one hand, central government has become increasingly involved in ‘directing’ local government in this area, particularly through new planning guidance and national performance indicators. On the other hand, these remain areas for local government discretion—there is no statutory responsibility to follow this guidance—and there is also considerable scope for local government to act on climate change through other means, including through their own estate, in arenas of housing and transport policy, and through the increasingly regulated area of biodegradable waste.\(^{160}\)

What is being suggested is that there is some level of partial autonomy by municipal authorities, which allows for newer and more innovative ideas such as the development of partnerships and community involvement, but at the same time allowing a top down hierarchy of central-local governance with its associated law. Whilst it offers flexibility and scope to tackle issues such as climate change at the local level, Schroeder et al. complains that it also lead to uncertainty as to

\(^{159}\) Such long term impacts will include changes to building, designing cities and infrastructure, countering overheating and urban heat island effects, changes in water availability, increased flood risk and changes in precipitation and seasonal change.

what the roles and responsibilities of local government in tackling climate change actually are.\textsuperscript{161} So far there has not been a problem because there is still ambiguity and much formulation to do with central Government policy, but this may not be the case for very long and local government may be forced, in the future, in having to enforce unpopular central government policies and law.

As for central Government strategy it appears likely that this long term commitment will be undertaken with enactment of further specific legislation directed at the role of local planning authorities. For the moment the guidance has been set out by the Government through PPS1, as specified in the ‘Key Principle’ at paragraph 13ii, that:

\begin{quote}
Regional planning bodies and local planning authorities should ensure that development plans contribute to global sustainability by addressing the causes and potential impacts of climate change through policies which...take climate change impacts into account in the location and design of development.\textsuperscript{162}
\end{quote}

Fundamentally new legislation will build upon PPS1 and how the UK planning system will provide for the new homes, jobs and infrastructure with lower carbon emissions. It is intended to focus, reinforce and clarify the role of the land use planning system in meeting the objectives of UK Government’s Climate Change Programme to deal with the hazards of increased temperatures, changing precipitation patterns and an increase in the frequency of extreme events.

“Adaptation will thus be primarily concerned with changes in processes, practices, or structures to moderate damage or realise opportunities, as well as adjustments to reduce the vulnerability of communities, regions or activities.”\textsuperscript{163} However there are fears that more layers of legislation and policy will create more confusion in the planning regime, which has only just begun to settle

\textsuperscript{161} Schroeder, H., & Bulkeley, H., (2009) \textit{ibid}. Page 323
to important changes that were introduced less than five years ago. The release of the White Paper, Planning for a Sustainable Future,\textsuperscript{164} sets out further proposals for reform of the planning system and follows up on two highly influential reports that reviewed the existing planning system.\textsuperscript{165} Many of these proposals in the White Paper were taken forward into the new Planning Act enacted in November 2008. The Act includes a duty on local authorities to act on climate change in their development plans.

A final point to note is that climate change is an international transboundary legal problem and in addressing the challenge of climate change locally could mean that communities suffer adverse local implications. As Kaswan suggests:

\begin{quote}
climate change benefits accruing from local action are incremental, remote, and widely distributed. A community that incurs local economic costs by adopting land use changes or more stringent building standards will not reap corresponding climate change benefits.\textsuperscript{166}
\end{quote}

Local area policy initiatives on climate change may do more harm than good. Strict planning policies may discourage local investment and in turn lead to a very unfair disparity caused by high local costs for a small amount of global benefit. Kaswan suggests that the best that they can do is to seek to inspire other communities with their efforts and produce cumulative change,


\textsuperscript{165} The Barker Report was commission by HM Treasury and it offered recommendations for improving the speed, responsiveness and efficiency in land use planning particular to release land for new large scale housing development. (Barker, K., (2004) Review of Housing Supply – Delivering Stability Securing our Future Housing Needs.) The Eddington Report was another commissioned report about the economic influence of transport; it sets out radical proposals for reform of major infrastructure planning, through the establishment of an independent planning commission. (Eddington, R., (2006) The Eddington Transport Study. The case for action. Sir Rod Eddington’s advice to Government.) This report arose out the political furore about the planning public inquiry into the proposed Heathrow Terminal 5.


collectively. However commendable these local actions are, the answers to climate change seem to lie at the largest political and administrative scale.

**European Initiatives**

It is for this very reason that European Union have set out a White Paper establishing the need for a European wide adaptation strategy “...to deal with unavoidable impacts”\(^\text{168}\) Whilst the EU acknowledges that ‘piecemeal approaches’ being taken by member states, they believe that a more strategic approach is needed so as “...to ensure that timely and effective adaptation measures are taken, ensuring coherency across different sectors and levels of governance.”

Quite whether the White Paper can achieve such a strategy for the whole of Europe is debateable. Firstly the paper sets out a framework on four priority actions to be considered.\(^\text{169}\) Whilst the EU policy considers that new ‘Green Infrastructure’ will play a role in adaptation, in providing essential resources for social and economic purposes under extreme climatic conditions (e.g. by conserving water in natural systems to alleviate the effect of droughts and to prevent floods, soil erosion and desertification); it doesn’t actually state how this will be achieved. The biggest concern it seems with the strategy is how and whether it can be done at a

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\(^{169}\) These have been stated in the White Paper as, early action to develop adaptation strategies in areas where current knowledge is sufficient; fill knowledge gaps with research and exchange of information; integrate with partners around the world, and seek an advisory group on adaptation to climate change to analyse coordinated strategies and actions.
Europe wide scale. Surprisingly, the EU believes that the regional variability and severity of climate impact in different European countries means that most adaptation measures are best taken at national, regional or local level, contradicting what many commentators like Kaswan have suggested earlier, and in turn appearing to make the need for developing a European strategy appear quite redundant.

It is presumed that these measures can be supported by an integrated and coordinated approach at the EU level, but one questions the necessity of it and whether it is really a reciprocation of national work. It seems that for the EU, apart from providing funding for large capital projects (such as major flood defence or large agricultural irrigation projects) particularly in those states which may more adversely affected by climate change and undertaking scientific research on climate change, there may be little else that can be practically done by the EU. The EU recognises the role of local planning is instrumental, but it knows that this is a nationally devolved activity (and acknowledges that planning and environmental mechanisms across Europe differ substantially)\(^\text{170}\) therefore the influence of the EU is overall limited in this area, but it foresees the great abilities of local Government to increase public awareness and communicate key messages. The EU also recognises that planning will play a major role particularly over the long term as adaptation strategies develop and evolve, even though “the influence of local authorities is not universal, nor always satisfactory.”\(^\text{171}\) Whilst some weaker urban authority structures may lack the mandate and the financial authority to take action, it seems that the EU Strategy believes that there is a role to offer assistance in encouraging good practice, the dissemination of research information and benchmarking of policy standards.


It is clearly early days for adaptation strategies to be developed for climate change, the UK Government is still in the process of formulation, but already we have seen that planning is being primed for this challenge and is being made to adapt in order to evolve. Planning has always been an anticipatory and participatory process, which is why it has been bonded effectively with the processes of environmental assessment and sustainable development, and it is for this reason that planning, has been charged to play an important role in implementing strategies to adapt to climate change. Whether they will succeed, only time will tell.
SECTION 6

Conclusion

We have seen in this paper that planning has undergone a changing role throughout its history. Planning’s historical roots lay in a “reforming idealism and professed altruism”172 in dealing with societal ills and combating the negative externalities of capitalism. In many ways we now see this same idealism is being applied to cope with the challenges of the modern environmental issues, whilst remaining within its original ‘utilitarian ethos’.173 Undoubtedly the UK profession is being remoulded through new legislation having been directly charged by the Government as being the method of environmental policy implementation; planning it seems, is moving its focus away from issues of ‘amenity’ to matters related to environmental sustainability.174

Surprisingly, the profession has accepted the challenge as it is keen to bolster its flagging status, justify the ‘usefulness of planning’175 and argue against any questions about its legitimacy or that it is an unnecessary form of bureaucracy.176 However this has also led to more questions as to

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175 Following the enactment of the Climate Change Act 2008, the Royal Town Planning Institute (RTPI) released its policy initiative “Planning to Live with Climate Change: A professional challenge for the future” (29 January 2009). “The RTPI's action plan to tackle climate change will aim to provide thought and leadership to respect environmental limits. It will embed sustainable development in planning practice and assess the spatial effects of human activity to secure better outcomes. It will promote research into climate change mitigation and adaptation to enhance policy and practice.” Planning Magazine (2009) Planning to Live with Climate Change (June 12th)
176 Planning has since its inception has been the subject of public and political criticism that it is just a form of overzealous bureaucracy interfering with the market. Blowers and Evans (2003) have suggested that there are many reasons as to why planning has faced questions about its relevance and place in society. In their opinion there are three main concerns: first there remains issues that planning lacks coherent theoretical underpinning which in turn has led to questions about its professional authority. Second the loss of planning’s ability to fully intervene has impaired the ability to counter market forces; and finally they suggest that whilst planning claims to operate in ‘the
whether planning is the most appropriate administrative process for dealing with such important challenges. Critics have questioned that planning is an administrative function and is unable to handle complex environmental concerns such as climate change and further that planners as a profession, do not have the skills, nor the environmental scientific competence and cannot be expected to obtain it easily.\textsuperscript{177} Planners are regarded as ‘generalists’ because of the comprehensive nature of the planning decision making process and the need to have varied knowledge to consider a diverse set of considerations, opinions, law and policy before coming to a decision. In turn this has led to questions as to whether such a skills set is appropriate in handling technical or scientific issues such as climate change. Furthermore it has been suggested that over the last thirty years, a continual succession of policy initiatives and new legislation have marginalised planners and the planning process itself into a “quasi-legal process of regulation and limited negotiation with the market.”\textsuperscript{178} A possible solution to this\textsuperscript{179} is that the modern environment agenda could encapsulate the idea of the ‘planner as a manager’ as a person who are capable of bringing the environmental policy process together and cast a strategic ‘eye,’ as the leader of a multidisciplinary team of professionals. There is no doubt that the new environmental agenda presents great opportunity for the planning profession by combining “...quasi-technical nature” in fields such as environmental assessment or the development of sustainability indicators, whilst also establishing mediation between the Government, the public and other environmental stakeholders.

\textsuperscript{177} Evans, B., & Rydin, Y., in Blowers, A., & Evans, B., \textit{ibid}. Page 59
\textsuperscript{178} Evans, B., & Rydin, Y., in Blowers, A., & Evans, B., \textit{ibid}. Page 59
\textsuperscript{179} As suggested by Evans, B., & Rydin, Y., in Blowers, A., & Evans, B., \textit{ibid}. Page 60
Unfortunately, it is doubtful that central Government sees the role of planning in this managerial context, ‘directing’ climate change initiatives. The UK Government has a problem in that it does not have another bespoke administrative regime ready to administer new Government initiatives and tackle the environmental concerns (without that is, establishing a brand new nationwide, centrally directed but locally administered regime with new legal and operational powers!). The Government appear to be having to ‘make do’ with the existing planning regime but they envisage moulding it (despite the regime being re-fashioned less than five years ago) into a system which is capable of rising to future challenges and implementing national or European initiatives to consider climate change. Similarly the planning profession in its present state does not appear to be in a position to deal with the ‘new environmental agenda’, as Evans and Rydin suggest: “The ‘we know best’ implicit in much professionalised planning of the post-war period does not sit easily with the post-Rio rhetoric of empowerment, capacity building and partnership.”

The profession will need to undergo some form of transformation in order to survive this challenge.

Whilst it is recognised that in theory the regime has the potential to effect dramatic environmental change to society over the long term, there are concerns that in reality it could be limited, as to what it can practically do. We could look to the earlier findings of this paper for examples, in Section 3 we saw that planning has cleverly utilised environmental assessment as a way to integrate environmental aims with improved decision making abilities and better designed and developed development schemes, but planning has been clearly been limited as to what it can actually do in changing larger scale policy and processes; this is despite EA being recognised as an important management tool fully capable of doing this in its own right. In the same

180 Evans, B., & Rydin, Y., in Blowers, A., & Evans, B., *ibid*. Page 60
manner, in Section 4, whilst there is an acknowledgment that planning is able to make a significant contribution to promoting sustainable development, it seems that over the past two decades the support systems and genuine central Government drive to achieve this have not come forward. Planning, in reality has been deterred by government policy from fully incorporating sustainable development into planning practice for fear that planning authorities would “...jeopardise economic development by protecting their [local] environments too zealously.”\(^{181}\) The planning process has been impotent in this respect.

It raises the question, could the same thing happen with the current climate change debate? Public interest in the issue of climate change has been on a high for a number of years now and whilst the Government has been quick to announce that the UK is the first nation in the world to have enacted climate change legislation, not much has happened since then particularly in terms of new planning practices and policy structures which could be put into practice, awaiting further policy formulation. Admittedly, it is early days for climate change programme and the current downturn in the global economy appears to have put environmental issues on the political backburner, perhaps this suggests that the Government does not wish to burden UK Industry with environmental concerns during these economically difficult times (and if this is case, then does this mean that the Government’s commitment to environmental issues can falter during ‘hard’ times?). It is hoped then that the Copenhagen Conference\(^{182}\) may offer an opportunity for the UK Government (as well as other national Governments) to refocus on the issue of tackling climate change.

\(^{181}\) Miller, C., & Woods, C., *supra*. Page 615
\(^{182}\) UN Climate Change Conference, Copenhagen. December 2009.
It is clear that the planning regime has been forced to adapt and must continue to do so as public environmental consciousness increases and the impacts of climate change begin to affect larger human settlements in a more dramatic manner. Planning has been able to adapt to change in the past and there is no doubt it will do so in the future to meet the changing demands on the environment, but whether it can actually fulfil the environmental ambitions appears to depend on the demand of the public to accept radical change and the political will to effect this change.
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Environmental Information Regulations 2004
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