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Planning for Climate Change

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November 2026

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Planning for Climate Change: The International

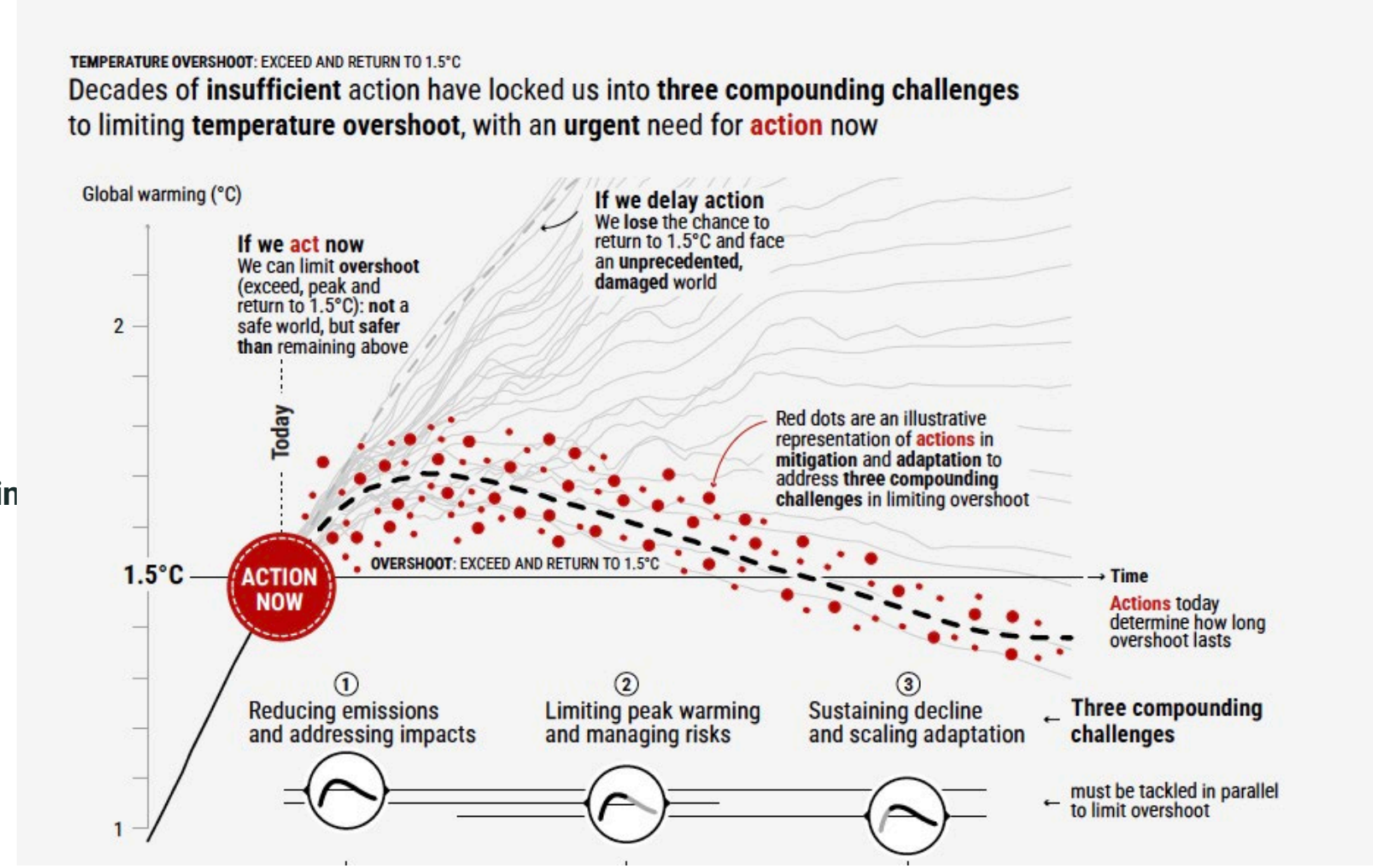
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Climate Change: The Global Scientific Context

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“In a world where temporary exceedance is inevitable, every fraction of a degree avoided, every year by which overshoot is shortened and every investment in mitigation, adaptation and resilience helps keep the goals of the Paris Agreement within reach and protects human, economic and environmental health.”

(UNEP Overshoot Spotlight Report, p.11)



UNEP Overshoot Spotlight Report, Figure 1, p.4

Climate Change: International Legal Context

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International Judgments and Advisory Opinions

"*…**[C]limate change represents an existential threat and raises human rights concerns***"
(ITLOS Advisory Opinion, 'Climate Change and International Law', §66).

"***The climate emergency forms part of the broader context of the so-called "triple planetary crisis"…[which] threatens the well-being and survival of millions of people throughout the world***."
(IACtHR Advisory Opinion, 'Climate Emergency and Human Rights', §42)

"***…[I]t is scientifically established that the climate system has undergone widespread and rapid changes, including, in particular, an increase in global surface temperatures, or global warming… The consequences of climate change are severe and far-reaching****…*."
(ICJ Advisory Opinion, 'Obligations of States in Respect of Climate Change', §§72-73)

"*…**the Court notes that climate change is one of the most pressing issues of our times***"
(*Klimaseniorinnen Schewiz v Switzerland* (Application no. 53600/20), §410)

Relevance to Planning Law?

Obligations directly relevant to the planning system

Reliance on AOs in planning litigation abroad

Some indication of reliance on AOs in domestic litigation

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Planning for Climate Change: The National

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Accounting for Climate Change in a Post-*Finch* World

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Finch v Surrey CC [2024] UKSC 20

What is the *Finch* principle?

Whether a downstream impact is an ‘effect’ of a project for the purposes of the EIA Regulations is a matter of law.

Test is primarily one of causation [65]-[67] but capacity for meaningful assessment is a relevant consideration [121], [167].



"…[O]nly effects which evidence shows are likely to occur and which are capable of meaningful assessment must be assessed…"

***Finch*, §167**

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R (LADACAN) v SST [2025] EWHC 3206 (Admin)

Issue: Whether CO2 emissions from inbound flights and non-CO2 emissions had to be assessed in relation to the expansion of Luton airport.

Held: *Finch* judgment on capability of meaningful assessment applies to *significance* of effects, not only whether a downstream impact *is* an effect [70]-[76].

(1) Barclay; (2) CAGNE v SST [2026] EWHC 1556 (Admin)

"224…circumstances may arise in which the decision maker undertaking EIA identifies a project as giving rise to a likely effect or effects which, acting reasonably, they nevertheless judge either (i) not to be capable of meaningful assessment; or (ii) to be capable of assessment only to a limited or qualified extent. Provided that in making that judgment, the decision maker has given proper consideration to the possibility of assessment, that does not amount to a failure to fulfil the requirements of the EIA Regulations."

Energy Projects: Reforms to the Planning System

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Optional Mechanisms for NSIPs



Optional Mechanisms for NSIPs

01

Parliamentary Authorisation

DCO would be afforded statutory status akin to an Act of Parliament.

Only intended to apply to energy projects identified by the Energy Secretary, reflecting the urgency of the UK's energy security and net zero objectives.

02

Challenge window mechanism

Secretary of State would publish a draft decision, and a fixed window would then open during which any JRs must be lodged.

Secretary of State would then have a period in which they could consider and address these issues before amending a final DCO.

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Beyond NSIPs



Judicial Review Reforms Beyond Nationally Significant Infrastructure

“This consultation seeks views on the extension of the recent judicial review reforms for Nationally Significant Infrastructure Projects to other planning regimes in England and Wales, to support infrastructure and housing delivery. We are particularly interested in major infrastructure projects and other strategically important developments consented under the Town and Country Planning Act 1990 and the Transport and Works Act 1992.”

Implementation?

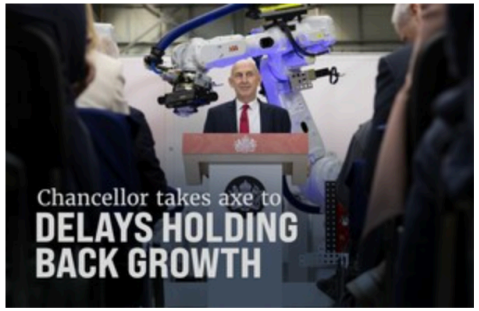
Press release

Chancellor takes axe to delays holding back growth

Chancellor John Healey has set out his plan to drive growth in every postcode.

From: HM Treasury and The Rt Hon John Healey MP

Published: 7 September 2026



Changes to Aarhus Cost Capping?

Fingleton Nuclear Regulatory Review, Recommendation 20:

a) Where the court determines, in any part of the proceedings, that there has been a “misuse of judicial review”, there should be an automatic removal of the costs protection. This should be coupled with a requirement that the counsel and solicitors certify, as part of a claim, that the grounds have a more likely than not chance of success.

b) The cost cap is raised to take account of inflation since 2013 and linked to inflation going forward. Courts should, in addition, be issued guidance which encourages them to set higher caps, or maximally utilise their discretion, where there is a misuse of the process or where it is clear the intent is to delay development.

c) The cost cap be cascaded, being doubled for each stage of a challenge (e.g. from £10,000 at the first instance to £20,000 at the Court of Appeal).

d) Where crowd funding is utilised, the cap should be set at 70% of total funds raised (e.g. £70,000 if a campaigning group has raised £100,000 for a legal action). We consider that 70% represents a figure which balances access to justice, and the need for nuclear development without delay.

e) The costs cap for the decision-maker being challenged should always be set at a level which is at least 5 times the claimant’s cap in order to balance the relationship between a challenger and the decision-maker.’

03

Planning for Climate Change: The Hyperlocal

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The New NPPF – Climate Change

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Climate Change in the 2026 NPPF

5. Meeting the challenge of climate change

The objective of the policies in this chapter is to support the transition to net zero by 2050 and to shape places in ways which are more resilient to the effects of climate change. It does this by setting out policies to shape places in ways that contribute to radical reductions in greenhouse gas emissions and adapt to the full range of current and potential impacts of climate change, by minimising vulnerability and improving resilience.

Zooming in: Local Energy Efficiency Standards

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Context: Energy Efficiency



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PM13(1)(b)(iii) – Setting Standards

Quantitative standards should:

"b. Not cover matters that are already addressed by Building Regulations, other than in relation to:

...

iii. Energy efficiency, for which any standards that go beyond the current or proposed Building Regulations should have a clear and robustly costed rationale which shows that there will not be an adverse impact on the viability and deliverability of development. Any such standards should be expressed as a percentage uplift of a dwelling's Target Emissions Rate (TER) calculated using a specified version of the Standard Assessment Procedure (SAP) or other approved calculation methodology."

A Significant Change from the Draft

"Question 18: Do you agree with policy PM13 on setting local standards, including the proposal to commence s.43 of the Deregulation Act 2015?

A total of 1,604 respondents answered Question 18. Of those, 14% strongly agreed, 12% partly agreed, 12% neither agreed nor disagreed, 8% partly disagreed and 54% strongly disagreed. This indicates broad opposition to the proposal."

Implications for the Application of Annex A

"2. Development plan policies (or parts of those policies) which are materially inconsistent with national decision-making policies in this Framework should be given very limited weight. The only exception to this is where they have been examined and adopted66 or made against this Framework. Other development plan policies67 should not be given reduced weight simply because they were adopted prior to the publication of this Framework."

Other Avenues for Local Standards

01

PM13(1)(b)(ii)

Scope for local water efficiency standards "for which it may be appropriate to apply the tighter Building Regulations optional requirement where justified, or exceptionally a more stringent local standard in areas of serious water stress"

02

PM13(2)(b)

"2. Quantitative standards should not cover other matters, or relate solely to the internal layout of buildings, unless:
b. They have a clear and robustly costed rationale, are proportionate and will not have an adverse impact on the viability and deliverability of development."

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Thank You

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