



**Defining Sustainable  
Development: Its Ambiguity,  
Contention and the Implications  
for UK Policy.**

**The Wilberforce Society in collaboration with the  
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## Abstract

As conversations over sustainable development become increasingly prominent in political and policy discourse, new solutions must grapple with the corresponding proliferation of definitional, conceptual, and practical ambiguity and contestation. This policy paper looks to explore the implications of this for the UK. Drawing out the issues within the international, national and local facets of sustainable development, it will explore these challenges in the context of contemporary UK examples and will begin to generate recommendations for reform. It argues that tensions over: growth/development definitions, spatial and temporal scales between community, national and international structures and between current and future generations, and the three pillars of economic, social and environmental sustainability, are permanent. Yet, it maintains that they can be mitigated. To do so, it calls for greater clarity and accountability, balance between pillars and an inclusion of metrics other than growth.

## Executive Summary

As conversations around climate change grow increasingly prominent within mainstream political discourses, policy solutions around sustainability have been increasingly proposed. Yet, with increasing usage comes increasing ambiguity and contention. This Paper identifies the practical, definitional and conceptual issues with the notion of sustainability. From a general and UK-specific perspective, it draws out these dilemmas and generates a series of recommendations for improving clarity and efficacy.

The commentary throughout this Paper is based upon the assumption that “sustainability” here means “sustainable development”. It shall be considered through the lens of UK policy. However, the Paper also considers cases outside the UK which help to shed light on the extent to which the UK’s approach to sustainability is successful, and what can be learned from other case studies of successful transition communities.

The first part of this Paper will outline the intellectual traditions and definitional issues around the conception of sustainability itself. Emphasis will be placed on diverging growth/development definitions, spatial and temporal scales between community, national and international structures and between current and future generations, and the three pillars of economic, social and environmental sustainability. The second part of this Paper will consider the UK’s international and national legal and regulatory obligations, while the third will examine the intertwining social, economic and political ‘pillars’ of sustainability at a local level. The Paper will conclude by summarising its corresponding recommendations. It calls for greater clarity and accountability, balance between pillars and inclusion of metrics other than economic growth.

## Abbreviations

ANPS – The Airports National Policy Statement, designated under the Planning Act 2008

BR – The Brundtland Report

CCA – The Climate Change Act (2008)

CCC – The Climate Change Committee

DfT – The Department for Transport

GDP – Gross Domestic Product

IEA – Inter-Agency and Expert Group

MIT – Massachusetts Institute of Technology

NDC – Nationally Determined Contribution, made by each nation under the Paris Agreement including a commitment to reduce GHG emissions

NGO – Non-Governmental Organisation

NPPF – The National Planning Policy Framework

NPS – National Policy Statement, made under the Planning Act 2008

NWR – The proposed North-West Runway at Heathrow Airport, England

PA2008 – The Planning Act 2008

SAF – Sustainable Aviation Fuel

SD – Sustainable Development/sustainability

SDGs – Sustainable Development Goals set out in the UN 2030 Agenda for Sustainable Development

UN – The United Nations

UNEP – The United Nations Environment Programme

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## **Section I: Introduction**

### **1.1. Malthusian Origins**

The question of whether development is sustainable was first posed by Thomas Malthus in the light of the “blazing comet”<sup>1</sup> of the French Revolution. Malthus identifies two variables determining sustainability: population growth and means of sustenance. According to Malthus, what follows from a state in which the growth rate of population overtakes the growth rate of the means of sustenance is a condition of scarcity. In such a case, development is not sustainable.

Three key points can be taken from Malthus’ work:

- 1.) The experience of rapid social, political and economic developments immediately produced questions of sustainability and whether sustainability can exist within the context of rapid growth and change. Sustainable development still reflects anxieties about the preservation of growth.
- 2.) Malthus defines two constant human needs: sexual procreation and consuming food for survival. Yet his work also seems to recognise other needs, as expressed in the juxtaposition of the conditions of “happiness” and “misery” within the Malthusian cycle. A definition of which needs should be taken into account is crucial to our present understanding of sustainable development.
- 3.) In Malthus’s model, the Earth is fruitful enough to “fill millions of worlds in the course of a few thousand years.”<sup>2</sup> The availability, or even sustainability of natural resources is not the problem. Rather, the focus lies on presently more familiar terms such as growth-rates. A debate about the continuation of growth as opposed to de-growth strategies continues to shape the present discourse on sustainability.

This Paper is not a Malthusian approach to sustainable development. Indeed, Malthus’s theory seems far removed from sustainability as defined today, not least as it easily frames groups of different races, classes and genders negatively as contributing to the

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1 Thomas Malthus, *An Essay on the Principle of Population* (Electronic Scholarly Publishing Project 1998) 1

2 *Ibid.*:5

unsustainability of development, for instance through driving population growth. This often leads to policy-proposals which disregard the interests of these groups. This itself illustrates some of the temporal tensions within definitions of sustainability, as the way in which scholars such as Malthus have described this process cannot be applied in the same way today. Even if questions of equity between the Global North and South, but also gender and socio-economic groups, remain within sustainability, the many voices Malthus and Malthusianism would otherwise cast as a problem, now serve as a solution and form integral components of any sustainability policy. Moreover, his policy, would be contrary to present connotations of sustainable development. It would not necessarily advocate de-growth but prefer the need to provide sustenance over that of economic and industrial growth. Nevertheless, starting with Malthus lays the intellectual foundation for any further engagement with the topic. It confronts the problem of the sustainability of development itself rather than the mitigation of its implications on the natural world or its resource base.

## 1.2. Ambiguities

Historically, Malthus's work and its continuing influence suggests some potentially irreconcilable issues inherent within the process of sustainability. The most pertinent for this Paper hinge on the very definition of sustainability certain ambiguities.

The various spatial and temporal scales at play between past, present, and future, as well as global and local, complicate understandings of sustainability initiatives, including their nature, relative urgency, and enforcement. For example, nation-states in the Global South, generally contribute far less than Western states to total carbon emissions despite being some of the places most affected by climate change. Where an initiative would be a 'sustainable' practice in the UK, a similar initiative in, for example, India may be less effective because of the differing socioeconomic and cultural context. This similarly applies within nation-states, such as the UK, where decarbonisation initiatives (e.g. ULEZ policies) would be less effective in more rural regions, where preservation of local rivers and forests would be a far more effective method of pursuing 'sustainable' practices.

Likewise, 'development' in the "Imperial Periphery" has long been measured by indices that have not been historically the focus in the 'Imperial Core', such as infrastructure, literacy levels (as indicative of the quality of education), and agricultural development.



This complicates traditionally Western notions of development tied to a teleological, expanding ideal of unmitigated growth, reflected by both main political parties in the UK aiming for economic growth without challenge. As this Paper focuses on policies for sustainability in the UK, its scope will be limited accordingly. However, it is pertinent to recognise these conceptual tensions as the backdrop for socio-political hesitations, that being an apparent focus on economic growth at the expense of some of the metrics just outlined. It is one thing to push for renewable energies and infrastructure; it is another project entirely to propose policies that shift people's everyday habits, values and goals. Thus, there is an element of contextual contingency in implementing sustainability measures and significant conceptual divergences in understandings of sustainability. This Paper is not interested in necessarily exploring these divergences, but recognises that they are representative of the fact that the term "sustainability" is itself ambiguous, contested and contextually contingent.

It is finally worth noting that these policy implications can also be examined through an intergenerational lens. Despite his concern about future conditions, these implications emerged in Britain not with Malthus but in response to fears of the depletion of British coal reserves in the 19th century. Recognising that the speed of reproduction of coal "was not so rapid as the consumption"<sup>3</sup>, Sir Robert Peel argued that instead of contemplating "merely the present interests of the country," British policy "was bound to look forward (...) even for a period of 400 or 500 years."<sup>4</sup> Peel's argument encompasses a much wider community – that of the future population of Britain – whose interests are tied into the satisfaction of present needs, interests and policy. Given the finitude of natural resources, these future generations depend on the formulation of sustainable policy in the present.

### 1.3. Tensions

Thus, the definitional ambiguity inherent in sustainability has generated tensions: the preservation of past practices over progress, the preservation of natural resources in themselves rather than the social and economic development of populations. The principle of intergenerational equity, which requires fairness or justice between

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<sup>3</sup> HC Deb 25 July 1834 Vol. 25

<sup>4</sup> Ibid.

generations, is central to these tensions.

Malthus's work is still relevant in illustrating ambiguities, highlighting many of the tensions inherent within conceptions of sustainability.

- First among these is the issue of definitional focus. Malthus does not concern himself with the human impact on nature nor did he have a conception of 'the environment.' Yet, with a greater focus on natural resources and, particularly pertinent in recent decades, human driven climate change, his fixation on the preservation of civilization continues to raise an important question: how should the objective of achieving sustainability be defined in terms of social, economic, and 'civilisational' values, and in the current context how is this to be framed in terms of environmental preservation? This Paper proposes that these options do not have to be mutually exclusive. The Paper will refer to the three main 'pillars of sustainability' - economic, social (including here civilisational values) and environmental.
- The question of environmental preservation raises intergenerational concerns, and how current actions may affect future outcomes. In this way there is a temporal tension inherent within conceptions of sustainability between the needs of the current generation and future generations. Malthus specifies only two fundamental human needs but recognises the desirability of maintaining civilizational development and avoiding misery. As illustrated throughout this Paper, there is a consistent trade-off between the perceived "need" of the current generation to achieve economic growth and higher living standards and "needs" of future generations. The satisfaction of current 'short-term' needs are predicted to impact the ability of future generations to satisfy their needs, for example in the failure to achieve environmental targets to reduce global greenhouse gas emissions. Indeed, climate change brings into sharp focus the tension and conflict between present and future needs, providing a modern day example of the Malthusian dichotomy of fundamental needs of survival and civilizational demands for higher living standards.
- Thirdly, there are tensions between communities and national and international policy objectives. These spatial tensions between different levels of social organisation offer conflicting concepts of sustainability. Malthus argues that policy

on sustainability demands a broader view of society, taking into account all socio-economic groups. As we have seen, however, his theories also involve other, more exclusionary arguments stemming from what is essentially a uniform trajectory of civilizational development. As this Paper will show, sustainable development as a concept cannot be rigidly applied across time and space: it varies within different cultural contexts, and interjects in different initiatives at a local, national and international level.

#### 1.4. Aims of the Paper

Malthusian conceptions of sustainability have been previously prominent in scholarly discussions, revolving around the scarcity of resources, and the needs of different communities, entities and generations. As the grave implications of a warming planet have become clear, consideration of the environment and its protection as an end in itself, rather than a means to social and economic improvement has become increasingly important. This introductory chapter has demonstrated the tensions inherent in many definitions of sustainability. These tensions have practical policy implications and require us question current definitions and approaches to sustainability and its policy frameworks.

We have pointed to the value of a Malthusian understanding of sustainability in order to raise some of the ambiguities, tensions and contestations inherent in influential conceptualisations of this term. As the following section shall discuss within the context of UK and international law, the application of the Brundtland Definitions introduces many policy issues. The ambiguity around its conceptualisations of sustainability, exacerbated by its failure to recognise the variability of the term for different communities, allows policymakers and legislators to avoid making firm commitments to advance sustainable policies. Drawing on this, the following section looks to formulate a series of broad proposals for the UK Government, making a small contribution to the expansive debate around sustainable development for a sustainable future.

## **Section II: UK Policy at the International and National Level**

This Paper is primarily focused on the concept of sustainability, its ambiguities, contentions, and implications for international, national and local policy in the UK. This first section will analyse the UK's national policy for sustainability. Starting with an analysis of the development of multilateral conceptions of (environmental) sustainability within international law, it then refers to the relationship between this system and British democratic institutions to elucidate how sustainability has been broadly applied and understood in the UK.

### **2.1. International Context**

#### **2.1.1. 'Sustainability' in the Multilateral and International Context**

As concerns mounted over man's impact on the environment, the year 1972 marked a watershed for the international communities' approach to sustainability governance. The Club of Rome (a non-profit organisation comprised of intellectuals and business leaders seeking to advance critical discussion of pressing global issues<sup>5</sup>), following in the Malthusian school of thought, published *The Limits to Growth*<sup>6</sup> which emphasised the tangible limits to growth on this planet. Following this, the UN 1972 Stockholm Conference on the Rights of the Human Environment ("the Conference") opened a dialogue within the international community of nations on the importance of the environment and its relationship to human well-being and economic growth.

In the "Brief summary of the General Debate" (set out in Chapter VIII of the Report of the Conference Report, UN 1972 (the "UN Report"<sup>7</sup>)), the Secretary-General stated that "The concept of "no growth" could not be a viable policy for any society but it was necessary to rethink the traditional concepts of the basic purposes of growth."<sup>8</sup> The Conference "was

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<sup>5</sup> 'About us' (The Club of Rome undated)

<https://www.clubofrome.org/about-us/>

accessed 27 February 2024

<sup>6</sup> Donella Meadows and others *The Limits to Growth* (Potomac Associates – Universe Books 1972)

<sup>7</sup> 'Report of the United Nations on the Conference on the Human Environment, Stockholm, 5-16 June 1972' (United Nations 1972) 8

<https://digitallibrary.un.org/record/523249?ln=en>

accessed 27 February 2024

<sup>8</sup> Ibid 3 para 37

launching a new liberation to free men from the threat of their thralldom to environmental perils of their own making.”<sup>9</sup>.

The UN Report set out certain agreed Principles in Annex II:

Principle 1 stated: “[man] bears a solemn responsibility to protect and improve the environment for present and future generations...”

Principle 2 stated: “The natural resources of the earth ... must be safeguarded for the benefit of present and future generations through careful planning or management, as appropriate.”

Principle 8 stated: “Economic and social development is essential for ensuring a favourable living and working environment for man...”<sup>10</sup>

Thus, the principle of intergenerational equity was presented hand in hand with the “essential” need for economic development.

The Conference resolved to establish the United Nations Environment Program<sup>11</sup> (“UNEP”) to provide a leading global authority on the environment: to inspire, inform and enable nations and people to “improve their quality of life without compromising that of future generations”.<sup>12</sup> This was followed by many other international initiatives.<sup>13</sup> In 1983, the UN Secretary General constituted The World Commission on Environment and Development, better known as the Brundtland Commission. The Brundtland Commission

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<sup>9</sup> Ibid 3 para 34

<sup>10</sup> Ibid 3 Annex II 71

<sup>11</sup> ‘Who we are: About the United Nations Environment Program’ (The United Nations Environmental Program undated)

<https://www.unep.org/who-we-are/about-us>

accessed 4 March 2024

<sup>12</sup> The United Nations Environment Program, ‘First Report of the Governing Council of the United Nations Environment Program to the General Assembly’ (UNEP 1973)

<sup>13</sup> For example: ‘The Regional Seas Program’ (1974) the ‘Convention on International Trade in Endangered Species of Wild Fauna and Flora’ (“CITES”) which entered into force 1975; the ‘World Conservation Strategy’ (1980) prepared jointly between UNEP, the WWF and the International Union for the Conservation of Nature; ‘The Convention on Long Range Transboundary Air Pollution’ (entered into force 1983) and ‘The Vienna Convention for the Protection of the Ozone Layer’ (1985)

produced the Brundtland Report in 1987 entitled 'Our Common Future' (the 'BR').<sup>14</sup>

The Chairman's foreword of the BR reflected upon the task the Commission had been given: to create "a global agenda for change".<sup>15</sup> The four key aims of the Commission were:

1. to propose long-term environmental strategies for achieving sustainable development by the year 2000 and beyond;
2. to recommend ways in which concern for the environment could be translated into greater co-operation among developing countries and between countries at different stages of economical and social development and lead to the achievement of common and mutually supportive objectives that take account of the interrelationships between people, resources, environment, and development;
3. to consider ways and means by which the international community can deal more effectively with environmental concerns; and
4. to help define shared perceptions of long-term environmental issues and consider appropriate efforts needed to deal successfully with the problems of protecting and enhancing the environment, creating a long-term agenda for action during the coming decades, and aspirational goals for the world community.<sup>16</sup>

As the Chairman, Gro Harlem Brundtland's foreword noted, the challenge of postwar reconstruction had provided the "real motivating power"<sup>17</sup> behind the establishment of the post-war international economic system. "The challenge of finding sustainable development paths ought to provide the impetus - indeed the imperative - for a renewed search for multilateral solutions and a restructured international economic system of cooperation."<sup>18</sup>

The BR noted that "these challenges cut across the divides of national sovereignty, of

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<sup>14</sup> 'Our Common Future' (The World Commission on Environment and Development 1987)

<https://sustainabledevelopment.un.org/content/documents/5987our-common-future.pdf>

accessed 27 February 2024

<sup>15</sup> Ibid 10 1

<sup>16</sup> Ibid 10 1

<sup>13</sup> Ibid 10 2

<sup>18</sup> Ibid 10 2

limited strategies for economic gain”<sup>19</sup> “What is needed now is a new era of economic growth – growth that is forceful and at the same time socially and environmentally sustainable”.<sup>20</sup> This demonstrates a need for a change in approach to questions around growth – that the growth previously sought may not have been entirely in the interests of social and environmental sustainability, if sustainability had been sought at all.

For the Brundtland Commission, the international economic system needed to be “restructured”<sup>21</sup>. The key challenge was to “persuade nations of the need to return to multilateralism”<sup>22</sup>. The Brundtland Commission offered this definition of sustainable development:

*Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs. It contains within it two key concepts:*

- *the concept of 'needs', in particular the essential needs of the world's poor, to which overriding priority should be given; and*
- *the idea of limitations imposed by the state of technology and social organisation on the environment's ability to meet present and future needs.*<sup>23</sup>  
*(the “Definition”).*

The Brundtland Report was “the first overview of the globe, which considered the environmental aspects of development from an economic, social and political perspective”<sup>24</sup> It offered an holistic approach to the serious environmental and economic problems the world was facing: drought, oil shocks, depletion of the ozone layer and so forth: highlighting the need for an integrated consideration of transformative, wide ranging, complex and interdependent changes to the way in which mankind organises

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<sup>15</sup> Ibid 10 2

<sup>20</sup> Ibid 10 3

<sup>21</sup> Ibid 10 2

<sup>22</sup> Ibid 10 2

<sup>23</sup> Ibid 10 Chapter 2 “Towards Sustainable Development’ para 1

<sup>24</sup> Michael Redclift, ‘Sustainable Development (1987 – 2005): An Oxymoron Comes of Age’ [2005] Sustainable Development 13 212-2007

<https://onlinelibrary.wiley.com/doi/pdf/10.1002/sd.281>

accessed 25 November 2024

society, acknowledging that each country, when putting this into practice, may choose different approaches.<sup>25</sup> The Definition is far sighted in its reference to the limitations of technology and social organisation and how this might impact development, as can be seen today from the technological and societal problems of adjusting to a net zero world. The Brundtland Commission criticised the view of impacts on the environment a negative externality and development as something poor nations should do to become richer.

During its 37 year existence, to date the Definition has been adopted to serve many purposes in disparate areas of policy making and had to function in many different political contexts. “Sustainable development is a bridge concept connecting economics, ecology, and ethics.”<sup>26</sup> It has indeed acted as a bridging concept, yet as Redclift notes: “This definition has been brought into service in the absence of agreement about a process that almost everybody thinks is desirable. However the simplicity of this approach is deceptive, and obscures underlying complexities and contradictions.<sup>27</sup>” This once again raises the definitional issue raised in the first section in conceptions of sustainability. There are many questions raised by the Definition. It is often interpreted by reference only to human needs and an implied assumption that these are somehow static. As a result, when used in economic calculations for policy making the needs of future generations are often discounted.<sup>28</sup>

The Stern Review 2006<sup>29</sup> was controversial due to its lowering of the discount rate applied to the costs of climate change impacts on future generations.<sup>30</sup> There is still

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<sup>25</sup> Ibid 19 para 2

<sup>26</sup> Nitin Desai, ‘Framing Sustainable Development: The Brundtland Report – 2 Years On: Backgrounder’ (The United Nations Commission on Sustainable Development April 2007) [https://www.un.org/esa/sustdev/csd/csd15/media/backgrounder\\_brundtland.pdf](https://www.un.org/esa/sustdev/csd/csd15/media/backgrounder_brundtland.pdf) accessed 25 November 2024

<sup>27</sup> Ibid 20 213

<sup>28</sup> H M Treasury, *The Green Book 2022* (updated 16 May 2024) <https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government/the-green-book-2020> accessed 4 March 2024

<sup>29</sup> Sir Nicholas Stern, ‘The Stern Review on the Economics of Climate Change’ (2006) (Cambridge University Press 2006)

<sup>30</sup> Treasury Committee, *Fourth Report Session The Stern Review* (HC2007- 2008 para 22) <https://publications.parliament.uk/pa/cm200708/cmselect/cmtreasy/231/23105.htm> accessed 25 November 2024



considerable confusion about *what* is to be sustained<sup>31</sup>. Often, when referencing the meaning of sustainability only the first part of the Definition is quoted, without the explanatory second element, for example in the National Planning Policy Framework <sup>32</sup>. This leads to a focus on ‘needs’. However:

- 1) ‘Needs’ are not defined and may change; such change may arise as a result of sustainable development itself and in any event, the ‘needs’ of future generations may differ from those of the present generation.<sup>33</sup> ‘Needs’ may also mean different things for different cultures and may change depending on context<sup>34</sup>.
- 2) What are ‘needs’? Are these the essentials for human life? This could be implied by the subsequent reference to the essential needs of the world’s poor, yet often this clarifying second part of the definition is not included when used in policy or legislation. As currently used are ‘needs’ being interpreted as ‘wants’? <sup>35</sup>
- 3) As needs may change or differ, is it necessary to define ‘needs’ or reassess them for each context?<sup>36</sup>
- 4) What is meant by "development"?

Despite these ambiguities, over subsequent decades the UN and its members have worked towards sustainable development goals through various initiatives, <sup>37</sup> in a context where neoclassical economic ideology has gained become more pervasive in the Western World. Sustainability and environmental protection policies have often been evaluated through economic processes: where environmental impacts are monetised if

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<sup>31</sup> Ibid 20 214

<sup>32</sup> Ministry of Housing, Communities & Local Government *National Planning Policy Framework* December 2023

[https://assets.publishing.service.gov.uk/media/669a25e9a3c2a28abb50d2b4/NPPF\\_December\\_2023.pdf](https://assets.publishing.service.gov.uk/media/669a25e9a3c2a28abb50d2b4/NPPF_December_2023.pdf) accessed 25 November 2024

<sup>33</sup> Michael Redclift, ‘Sustainable Development: needs, values, rights’ (1993) Vol 2 Environmental Values 3

<sup>34</sup> Ibid 20 213

<sup>35</sup> Ibid 20 213

<sup>36</sup> Ibid 20 213

<sup>37</sup> See the creation of the IPCC (1988) the Espoo Convention (1991) Framework Convention on Climate Change (1992) The Millennium Development Goals (2000) The Johannesburg World Summit on Sustainable Development (2002) The UN 2030 Agenda for Sustainable Development: the 17 Sustainable Development Goals adopted in 2015

possible.<sup>38</sup> The outcomes of environmental protection, and the values that cultures placed in their environments, became formally expressed in terms of markets and prices”.

In 2015, the UN 2030 Agenda: ‘Transforming Our World’<sup>39</sup> was presented by UNEP. This set out a vision of sustainability in which an inclusive and human-centred focus dominated the discourse: ‘eradicating poverty in all its forms and dimensions ... is the greatest global challenge’.<sup>40</sup> The UN 2030 Agenda Declaration<sup>41</sup> states: ‘We are committed to achieving sustainability in its three dimensions – economic, social and environmental – in a balanced and integrated manner.’<sup>42</sup> Agenda 2030 set out 17 Sustainable Development Goals (“SDGs”) with 169 targets reflecting five basic priorities: people, prosperity, planet, peace, and partnerships. Whilst Agenda 2030 reflects the continuing international will to cooperate concerning the wide-ranging and existential issues which led to the BR, Agenda 2030 also reflected the continuing conceptual ambiguity and tension surrounding the concept of sustainability.

### 2.1.2. The Paris Agreement

Having established the context of multilateral cooperation for sustainability, we now focus on environmental sustainability, specifically with respect to the issue of mitigating and adapting to the impacts of climate change. The ‘Paris Agreement’<sup>43</sup> adopted in 2015 under the United Nations Framework Convention on Climate Change<sup>44</sup> at the 2015 United

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<sup>38</sup> Robert V Bartlett, ‘Ecological Reason in Administration: Environmental Impact Assessment and Green politics’ in Robert Paehlke and Douglas Torgerson’s (eds), *Managing Leviathon* (University of Toronto Press 2005)

<sup>39</sup> United Nations Department for Social and Economic Affairs, ‘Transforming Our World: the 2030 Agenda for Sustainable Development United’ (2015)

<https://sdgs.un.org/2030agenda>

accessed 27 February 2024

<sup>40</sup> Ibid 35 Declaration para 2

<sup>41</sup> Ibid 35 para 2

<sup>42</sup> Ibid 37

<sup>43</sup> United Nations Framework Convention on Climate Change ‘The Paris Agreement: What is the Paris Agreement?’ (2024)

<<https://unfccc.int/process-and-meetings/the-paris-agreement>>

accessed 27 February 2024

<sup>44</sup> The United Nations Framework Convention on Climate Change ‘What is the United Nations Framework Convention on Climate Change?’ (1994)

Nations Climate Change Conference (“COP21”<sup>45</sup>), aims to combat climate change. Signed by 194 states and the European Union as of 2016, it establishes a global framework to limit global temperature rise to “well below 2 degrees Celsius above pre-industrial levels,” and “pursue efforts to limit the temperature increase to 1.5 degrees above pre-industrial levels”.<sup>46</sup> Each signatory country is required to submit a five-year plan for its nationally determined contribution (“NDC”) outlining its specific targets, and actions to address climate change by reducing greenhouse gas emissions and how it proposes to “build resilience to adapt to climate change”.<sup>47</sup> The UK signed the Paris Agreement on 22 April 2016 and ratified it on 17 November 2016. The Paris Agreement marked an historic milestone in international efforts to address the urgent and interconnected challenges of climate change.<sup>48</sup> In contrast with the preceding Kyoto Protocol, the Paris Agreement is a fully-fledged international treaty, imposing international obligations on states, although NDCs are not legally binding. (It should be noted here that the obligation to reach Net Zero carbon account by 2050 is a legally binding obligation on the UK Government having been enacted under section 1 of the Climate Change Act 2008, as amended <sup>49</sup>.)

By examining the text of the Paris Agreement, we observe that ‘sustainable development’ is paired with various climate-related goals, with the compatibility of these two aspects being presumed.<sup>50</sup>

The preambulatory clauses introduce the *‘intrinsic relationship that climate change actions, responses and impacts have with equitable access to sustainable development and*

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<<https://unfccc.int/process-and-meetings/what-is-the-united-nations-framework-convention-on-climate-change>>

accessed 4 March 2024

<sup>45</sup> United Nations Framework Convention on Climate Change ‘COP 21’ (undated)

<<https://unfccc.int/event/cop-21>>

accessed 4 March 2024

<sup>46</sup> Ibid 39

<sup>47</sup> Ibid 39

<sup>48</sup> Julia Kreienkamp ‘The Long Road to Paris: The History of the Global Climate Change Regime Policy brief’ (2019) November UCL Global Governance Institute

<[https://www.ucl.ac.uk/global-governance/sites/global-governance/files/the\\_long\\_road\\_to\\_paris\\_the\\_history\\_of\\_the\\_global\\_climate\\_change\\_regime.pdf](https://www.ucl.ac.uk/global-governance/sites/global-governance/files/the_long_road_to_paris_the_history_of_the_global_climate_change_regime.pdf)>

accessed 25 November 2024

<sup>49</sup> As amended in 2019. This is a different obligation than that set out in the Paris Agreement which does not set the date of 2050 as a target for Net Zero emissions for Carbon.

<sup>50</sup> United Nations (2015). Paris Agreement. [online] United Nations.

<[https://unfccc.int/sites/default/files/english\\_paris\\_agreement.pdf](https://unfccc.int/sites/default/files/english_paris_agreement.pdf)>

*eradication of poverty.*' The link between equitable sustainable development and climate change responses is presupposed here.

Similarly, Article 2(1) mentions a *'global response to the threat of climate change, in the context of sustainable development and efforts to eradicate poverty'*, while Article 4(1) repeats the pairing of sustainability with other SDGs, namely Goal 1: *'on the basis of equity, and in the context of sustainable development and efforts to eradicate poverty.'*

Article 6(2) encourages parties to demonstrate *'higher ambition in their mitigation and adaptation actions'* such as to *'promote sustainable development and environmental integrity.'* Grammatically, the sentence structure suggests that pursuing both the objective of 'sustainable development' and that of 'environmental integrity' is plausible. Again, the concept of sustainability is presented as unproblematically compatible with environmental integrity. The repetitive coupling of sustainability with climate goals outlined in the agreement is here almost compulsive; the compatibility and mutual interdependency of pursuing these objectives is presumed.

In a similar vein, Article 6(4(a)) discusses the promotion of the mitigation of greenhouse gas emissions 'whilst' fostering sustainability. The use of the adverb 'whilst' introduces, for the first time in the text, the potential for an inevitable contrast between mitigation and sustainability. However, if such contrast can even be imputed, it appears to be a one-off: Article 6(8) reinforces the trend of the presumed interdependency of sustainable development and other Paris Agreement goals by referring to 'the context of sustainable development and poverty eradication'.

The phrase 'with a view contributing to sustainable development' somehow also makes its way into the adaptation-focused Article 7(1). Article 7(9((e))) calls for resilient socioeconomic and ecological systems, 'including through economic diversification and sustainable management of natural resources'. The myriad plausible ways these ideas can be logically linked makes it impossible to ascertain one single interpretation. This elucidates wider issues within the legal dimensions of sustainability, notably the tensions between the prioritisation of socioeconomic and ecological outcomes. Particularly interesting cases are firstly that of Article 8(1), which grapples with the 'role of sustainable development in reducing the risk of loss and damage' and secondly that of Article 10 (5), which connects innovation, sustainability, and economic growth: 'enabling

innovation ... for an effective, long-term global response to climate change and promoting economic growth and sustainable development.’ This interconnection between sustainability and economic growth has largely gone unchallenged, as will be discussed later in the Paper. The strength of the presumption of the compatibility of ‘sustainability’ with all aforementioned Paris Agreement provisions is strong, as evidenced by the number of ‘paired’ references.

### 2.1.3. Conclusion

Thus far, we have outlined the international and multilateral expressions of sustainability, and the issues therein. Multilateral instruments are imbued with conceptual confusion, in that the compatibility of sustainability with other climate objectives has consistently been presumed, foregoing clear articulation. Moreover, the assumption that growth is inherent to sustainability survives the text of the most prominent multilateral instrument for collectively responding to climate change. This points to underlying conceptual and definitional ambiguity and tension. As a focus on sustainable development grows, the breadth of differing conceptualisations does too. The Definition neither holistically articulates the notion of needs, nor substantiates intergenerational dimensions. Growth and development are not effectively disentangled.

The three conceptual pillars of sustainability (social, economic and environmental), which shall be expanded on later in this Paper, are expressed through this tension between growth and environmental sustainability. It has been increasingly the case that the economic pillar has been prioritised over the social and environmental.<sup>51</sup>

Bearing all this in mind, we will now discuss the ways in which the UK’s constitutional arrangements compound these issues. We will then address an example of how sustainable development has been imported into UK law, and ultimately conclude that the UK’s constitutional arrangements and domestic approach can create challenges to a sufficient or satisfactory approach to the fulfilment of the UK’s climate obligations.

## 2.2. Evaluating the UK context

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<sup>51</sup> See 2.2.3 below for a further discussion of this.

### 2.2.1. Dualism

The international progress made and conceptual limits outlined above must be qualified in the UK context. UK Courts have consistently adopted a dualist approach to the relationship between national and international law. Dualism refers to the idea that national and international law are distinct.<sup>52</sup> A consequence of this is the common law rule that an international treaty is not considered part of English law. According to UK constitutional law, 'any [treaty] obligations which have not been embodied in the law by statute, [are] not part of the domestic law' and 'the courts accordingly have no power to enforce [them] directly'.<sup>53</sup> The UK Government does not appear immediately bound as a matter of UK law by international treaty obligations, though it remains bound by such obligations in the international realm, and other considerations apply in the political realm. In order for treaty rights and obligations to accrue domestically, a treaty must be 'incorporated' into national legislation through an Act of Parliament; international treaties are not 'self-executing'.<sup>54</sup> Moreover, in accordance with UK constitutional principles, Parliament can choose *how* to incorporate international treaties into domestic law - for example, it can opt not to incorporate treaty obligations *verbatim*.<sup>55</sup>

### 2.2.2. International Accountability

As exhibited by the USA's withdrawal from the Paris Agreement in 2016, the effectiveness of international conventions relies on the position of domestic governments, with some nations expressing concerns about disengagement or breakdown.<sup>56</sup> This is not merely a matter of opting out of climate obligations

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<sup>52</sup> see Heinrich Triepel, *Völkerrecht and Landesrecht* (Leipzig: C.L. Hirschfeld, 1899, repr. Aalen: Scientia, 1958)

<sup>53</sup> *R v Secretary of State for the Home Department, ex p. Brind* [1991] UKHL 4, [1991] 1 AC 696, 747-748 (Lord Bridge)

<sup>54</sup> *In re McKerr* [2004] 1 WLR 807, 826, para 65 (Lord Hoffmann): 'it should no longer be necessary to cite authority for the proposition that ... an international treaty ... is not part of English domestic law'; see also *JH Rayner (Mincing Lane) v Department of Trade and Industry* [1990] 2 AC 418, 500 (Lord Oliver), *R (Miller) v Secretary of State for Exiting the European Union* [2017] UKSC 5, para 55

<sup>55</sup> *R (European Roma Rights Centre) v Immigration Officer at Prague Airport* [2005] 2 AC 1, para 42, (Lord Steyn): '[T]here is no rule specifying the precise legislative method of incorporation'.

<sup>56</sup> Noah Sachs, 'The Paris Agreement in the 2020s: Breakdown or Breakup?' [2019] *Ecology Law Quarterly*, Vol. 46, No. 1, 2019 <<https://ssrn.com/abstract=3463892>>

completely - it is crucially a matter of degree. The UK Government cannot be held liable directly as a matter of domestic law for the extent to which its policies are incompatible with the Paris Agreement goal of limiting global temperature rise to well below 2°C. Government can only be held accountable in UK Courts for domestic legislative commitments. Multilateral accountability for international obligations will rely on international fora.<sup>57</sup>

### 2.2.3. Climate Change Act 2008

A brief examination of the institutional structures of Government under the British constitution will elucidate a potential accountability deficit. There is potential for ineffective implementation, reduction or even complete discontinuation of key climate policies, delaying or jeopardising the achievement of Net Zero, as will be discussed below.

The British governance framework is often described as “unwritten” - there is no formal written constitutional code or document, unlike those seen for example in France or the United States of America. Power vests in three main institutions: the Executive, the Legislature and the Judiciary and the constitutional convention assumes they operate independently – the “Separation of Powers”. The Legislative branch consists of the two Houses of Parliament: the House of Commons (where sitting members are called Members of Parliament or “MPs”) and the House of Lords. MPs are elected by the public, while members of the House of Lords are appointed or inherit their positions. The Executive branch, headed by the Prime Minister and the Cabinet, is drawn from MPs in the majority party in the House of Commons. The Legislature and Executive branches of the UK government operate separately, with distinct functions, yet there is a strong interdependence between them. As Elliott & Thomas<sup>58</sup> discuss, Parliament serves the dual purpose of sustaining the Government in power, while at the same time scrutinising what it does whilst in power, through mechanisms such as Prime Minister’s Questions

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<sup>57</sup> Mark C. Elliott, ‘Through the Looking-Glass? Ouster Clauses, Statutory Interpretation and the British Constitution’ in Chris Hunt, Lorne Neudorf and Micah Rankin (eds), *Legislating Statutory Interpretation: Perspectives from the Common Law World* (Carswell, 2018)

<sup>58</sup> Professor Mark Elliott and Professor Robert Thomas, *Public Law* (first published 2014, 4<sup>th</sup> edn, Oxford University Press 2020)

and Select Committee inquiries. The work of the Executive is also scrutinised by the Judiciary.

The Judiciary constitutes the third branch of the British constitutional framework. UK Courts have consistently refrained from conferring upon themselves a capacity to interfere in unincorporated conventional obligations. Underlying this restraint by the Courts are the principles of Parliamentary Sovereignty: Parliament is sovereign and has supreme power over all other government institutions, to the extent that it cannot bind future Parliaments (the Separation of Powers: an independent judiciary does not interfere with the substantive content of primary legislation and there can be no judicial review of primary parliamentary legislation) and does not undertake judicial review of policy or interfere with the running of the country. It is also bound by the Rule of Law: all are subject to the law and treated equally before it: for more detail see the discussion of Dicey's concept<sup>59</sup>. UK Courts have no role in the passing of legislation by Parliament. Yet, recent Rule of Law-related cases are framed by some as challenges to Parliamentary sovereignty.<sup>60</sup> Elliott, commenting on ouster clause case law, has recently observed a 'rather chaotic game of constitutional brinksmanship'<sup>61</sup> between Parliament and the Judiciary, unfolding in the periphery of the unwritten UK Constitution'.<sup>62</sup> This, Elliott argues, can be viewed in a positive light, since when the limits of each branch are tested, the 'development of a form of constitutional balance' is facilitated.<sup>63</sup> It has been said that 'the dualist system is a necessary corollary of Parliamentary Sovereignty, or to put the point another way, it exists to protect Parliament not ministers.'<sup>64</sup> Thus, these constitutional principles, together with the dualist approach, preclude an obligation on the Courts to take unincorporated treaties into account.

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<sup>59</sup> Select Committee on the Constitution 'Sixth Report on the Constitution Appendix 5: Paper by Professor Paul Craig: The Rule of Law (HL Session 2006-07 11 July 2007 <https://publications.parliament.uk/pa/ld200607/ldselect/ldconst/151/15115.htm> accessed 26 November 2024

<sup>60</sup> Paul Craig, 'The Common Law, Shared Power and Judicial Review' (2004) *Oxford Journal of Legal Studies*, 24(2), 237–257. < <http://www.jstor.org/stable/3600591> >

<sup>61</sup> Mark C Elliott, 'Through the Looking-Glass? Ouster Clauses, Statutory Interpretation and the British Constitution' in Chris Hunt, Lorne Neudorf and Micah Rankin (eds), *Legislating Statutory Interpretation: Perspectives from the Common Law World* (Carswell, 2018)

<sup>62</sup> *Ibid* 57

<sup>63</sup> *Ibid* 57

<sup>64</sup> *R (Miller) v Secretary of State for Exiting the European Union* [2017] UKSC5 [57]



The Courts can, however, review the decision making process carried out by public bodies, through the common law process of judicial review. If an applicant requests permission for a judicial review of such a decision by the Courts, and succeeds in the case, a key remedy which can be granted is for the Court to request that the decision is retaken, by the appropriate decision maker, in accordance with the process. This is the means by which certain decision making by the Executive concerning environmental and sustainable development legislation is challenged. Judicial review proceedings require quick action and the investment of financial and other resources by interested actors, usually NGOs. The mechanism of judicial review is an important means by which the actions of the Executive can be checked: it is often referred to as a judicial check on potential abuse of power. Repeated judicial review cases using different approaches may need to be pursued to ensure policies are aligned with Executive obligations under such legislation, for example the Climate Change Act 2008<sup>65</sup> (the “CCA”).

#### 2.2.4. Separation of Powers and Judicial Review

The CCA serves as the cornerstone of the UK's legislative framework in combating climate change, targeting the reduction of greenhouse gas emissions. It establishes a legally binding target to reduce the net UK carbon account by at least 100% compared to 1990 levels by 2050 (section 1 CCA) (“Net Zero”) with further provisions relating to other greenhouse gases which can be, and created the Committee on Climate Change (section 32 CCA) (now known as the Climate Change Committee (“CCC”)<sup>66</sup>) to oversee evidence-based budget and target setting and to review progress made by Government against these targets annually.

The CCA mandates the setting of legally binding carbon budgets for five years periods (section 4 CCA), providing a roadmap towards the long-term target of net zero by 2050. These budgets are designed to be cost-effective and require corresponding policies to ensure compliance. The CCA also mandates the production of a UK Climate Change Risk

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<sup>65</sup> The Climate Change Act 2008

<sup>66</sup> The CCC is constituted as an independent statutory body to advise Government. Climate Change Committee ‘About the Climate Change Committee’ (*Climate Change Committee*, undated) <https://www.theccc.org.uk/about/> accessed 26 November 2024

Assessment every five years (section 56 CCA), informing the National Adaptation Programme (“NAP”), which addresses risks and opportunities presented by climate change. Government departments, notably the Department for Energy Security and Net Zero (“DESNZ”) and the Department for Environment, Food and Rural Affairs (DEFRA”), are tasked with implementing climate change policies, focusing respectively on emissions reduction and domestic adaptation. A Cabinet Committee on Climate Change, chaired by the Prime Minister, oversees climate policy, ensuring its integration across Government departments. This framework imposes a duty on the Government to act decisively in mitigating and adapting to climate change, underscoring the importance of collective action in combating this global challenge.

Professor Piers Forster, Interim Chair of the CCC, recently congratulated the UK Government on meeting its latest emissions target, stating that ‘the Climate Change Act is working.’<sup>67</sup> However, the CCC stated that in 2019 the Government ‘carried over 88 MtCO<sub>2</sub>e from the Second to the Third Carbon Budget, against our advice’.<sup>68</sup> Professor Forster has warned that ‘the path ahead is tougher’, while the UK is ‘already substantially off track for 2030, urging the Government to ‘resist the temptation to take their foot off the accelerator.’<sup>69</sup> In an interview reported on 24 April 2024 (four days before he retired from the CCC <sup>70</sup>), the CEO of the CCC, Chris Stark, stated” <sup>71</sup> the UK is less ambitious on climate than it once was, and that is extremely hard to recover.” Chris Stark’s warning is a clarion call for adherence to CCC advice.

The CCA imposes a date of 2050 by which to achieve Net Zero. However, of course, given Parliamentary Sovereignty, any future English Parliament can legislate to eliminate or

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<sup>67</sup> Climate Change Committee, ‘Future Emissions Targets Must Not Be Loosened’ (Climate Change Committee, 27 February 2024) <<https://www.theccc.org.uk/2024/02/28/future-emissions-targets-must-not-be-loosened/>> accessed 5 March 2024

<sup>68</sup> Ibid 63

<sup>69</sup> Ibid 63

<sup>70</sup> Climate Change Committee, ‘Chris Stark to step down as Chief Executive of the CCC’ (Climate Change Committee, 11 January 2024)

<https://www.theccc.org.uk/2024/01/11/chris-stark-to-step-down-as-chief-executive-of-the-ccc/> accessed 26 November 2024

<sup>71</sup> Laura Kuenssberg, BBC News, ‘UK less ambitious on climate than before’ says watchdog’ 20th April 2024)

<https://www.bbc.co.uk/news/av/uk-politics-68864787> accessed 26 November 2024 .

change the Net Zero target, and in that case, the then Government will only be required to achieve whatever new target (if any) is legislated for under domestic law. Given the dualist relationship between domestic law and international law, and the aforementioned weaknesses of international accountability fora, the UK's commitment to safeguarding environmental sustainability appears more fragile than the UK's current legal obligations at first suggest.

#### 2.2.5. A Limited Remedy?

The cycle is captured by a recent judicial review of Government compliance with the obligations imposed by the CCA. In July 2022, the High Court gave judgement in a case<sup>72</sup> brought by three environmental NGOs, holding that the Government, in implementing its Net Zero strategy, had breached sections 13 and 14 of the CCA (duties relating to preparing and reporting on policies and proposals relating to carbon budgets). The Government was ordered to reconsider its Net Zero strategy. This prompted the introduction of a revised 'Carbon Budget Delivery Plan'<sup>73</sup> in March 2023. Now, ClientEarth, Friends of the Earth and the Good Law Project have announced that they are initiating new legal action on the basis that the revised strategy is 'inadequate, and fails to meet core requirements of the Climate Change Act'.<sup>74</sup> This perhaps indicates that Government compliance with the CCA somewhat relies on pressure imposed through litigation initiated from NGOs. Whether this is a satisfactory and sufficient safeguard of environmental sustainability is questionable, since protracted litigation may not bring about changes in a timely manner.

#### 2.2.6. An International Comparison

The direct domestic applicability of international legal commitments in monist legal systems renders the challenges faced by the dualist system of the UK powerless, facilitating the judicial protection of environmental sustainability. Importantly, it is reiterated that the dualist position is connected to judicial deference to the principles of

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<sup>72</sup> *R (on the application of Friends of the Earth Ltd) v Secretary of State for Business, Energy and Industrial Strategy* [2022] EWHC 1841 (Admin)

<sup>73</sup> Department for Energy Security and Net Zero, 'Carbon Budget Delivery Plan' (GOV.UK, 30 March 2023) <<https://www.gov.uk/government/publications/carbon-budget-delivery-plan>>

<sup>74</sup> 'We're Taking the UK Government Back to Court over Its Climate Plan' (ClientEarth) <<https://www.clientearth.org/latest/news/we-re-taking-the-uk-government-over-its-net-zero-strategy/>>

Parliamentary Sovereignty and to the Separation of Powers in the UK. The contrast between the two types of relationship between domestic and international law and their impact on environmental sustainability is elucidated by the Dutch case of *Stichting Urgenda v Netherlands*<sup>75</sup>. In this case the written Dutch constitution and its monist legal system where international legal commitments were directly binding on Government, provided a very different legal environment to that prevailing in the UK. The Dutch Supreme Court, confirming the Dutch Court of Appeal ruling, ordered the Dutch Government to reduce the country's GHG emissions by 25% (compared to 1990) by the end of 2020. This ruling directly engaged the legal rights of Dutch citizens arising under Articles 2 (Right to Life) and 8 (Right to privacy and family life) of the European Convention on Human Rights (1950): an international treaty which is directly binding on the State. This demonstrates that monist legal systems facilitate the realisation of the objectives of international treaties – the international obligation immediately becomes a domestic one, and the judicial system is able to check its enforcement. By contrast, in dualist legal systems such as the UK's, the realisation of the UK's international commitments needs to surpass an additional domestic legislation hurdle, making its enforcement by the Courts more challenging.

#### 2.2.4 Conclusion

Several stakeholders, including the CCC itself, have commented on the accountability deficits of the international Paris Agreement, and its weaknesses in facilitating enforcement of NDCs. <sup>76</sup> Domestically, the CCA succeeds in imposing legally binding obligations, but Government accountability for compliance with these domestic obligations appears to rely on soft pressures and judicial review challenges. Further, as these obligations are set out in an Act of Parliament, they could theoretically be removed or altered by a subsequent Act of Parliament. Whether the mechanisms in place, aimed at encouraging the Government to implement policies which safeguard the environmental pillar are adequate, is an important question to ask.

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<sup>75</sup> *Urgenda Foundation v. State of the Netherlands* [2015] HAZA C/09/00456689

<sup>76</sup> Climate Change Committee, 'The Good, the Bad and the Ugly of the Paris Agreement' (Climate Change Committee, 21 December 2015) <<https://www.theccc.org.uk/2015/12/21/the-good-the-bad-and-the-ugly-of-the-paris-agreement/>> accessed 26 November 2024

## 2.3. Current UK Approach to “Sustainable Development”: English Land Use Planning

### 2.3.1. Ambiguity in Operation

3. Land Use policy is one of the most important economic and political levers available to Government in England. Without an effective integrated land use policy, not only will Britain not achieve sustainable development (whatever that is agreed to be), but it will be impossible to build the critical infrastructure and connectivity required to achieve Net Zero.<sup>77</sup>
4. In keeping with our unwritten constitution, discussed above, and the discretion and flexibility of our constitutional framework, the English state planning decision making framework: legislation; policy; regulation through to final decision, purposefully provides for a wide level of discretion to decision makers at every level.
5. Land use decisions (often referred to using the umbrella term of ‘planning’) are relevant to almost every one of the 17 Sustainable Development Goals (“SDGs”) and sustainable development has been integrated into the UK land use policy framework. For planning decisions and policies, (excluding nationally significant infrastructure planning), there is a “presumption in favour of sustainable development” under the National Planning Policy Framework (“NPPF”).<sup>78</sup> Sustainable development is defined in the NPPF, using part of the Definition.“ The purpose of the planning system is to contribute to the achievement of sustainable development”<sup>79</sup> ). The 17 SDGs are also referenced in the NPPF<sup>80</sup>. Sustainable development is further explained in the NPPF<sup>81</sup>as constituting three interdependent overarching objectives: social, economic and environmental, which “need to be pursued in mutually supportive ways”.<sup>82</sup> The term “need” is referenced in the NPPF 147 times, but (again) not defined.
6. Thus, one finds oneself again face to face with the all-encompassing statement of sustainable development and yet still not able to grasp firmly on to what this actually

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<sup>77</sup> Dieter Helm *Net Zero How we stop causing climate change* (1st ed, William Collins 2020)

<sup>78</sup> Department for Levelling up Housing and Communities *National Planning Policy Framework*2023) [https://assets.publishing.service.gov.uk/media/65a11af7e8f5ec000f1f8c46/NPPF\\_December\\_2023.pdf](https://assets.publishing.service.gov.uk/media/65a11af7e8f5ec000f1f8c46/NPPF_December_2023.pdf) accessed 7 February 2024

<sup>79</sup> Ibid 74 section 2 para 7

<sup>80</sup> Ibid 74 section 2 para 7

<sup>81</sup> Ibid 74 section 2 para 8

<sup>82</sup> Ibid 74 section 2 para 8

means. The contentions and ambiguities discussed earlier in this paper remain, but are able to be tolerated due to the wide discretion present in the state planning system. The NPPF framework <sup>83</sup> can also have an indirect influence on infrastructure planning decisions in England. <sup>84</sup>

7. However, most nationally significant infrastructure project planning decisions in England (“NSIPs”) are taken under a stand-alone infrastructure planning framework: the Planning Act 2008 (“PA2008”). Under this legislation, the Government formulates National Policy Statements <sup>85</sup> (“NPSs”) which evidence Government’s preferred policy for major infrastructure, establishing the “need” for infrastructure and thus (usually) precluding any debate about “need” in any planning examination for a planning permission for a major proposal relevant to that NPS, something which under the previous planning inquiry framework, could result in time consuming argument about what Government policy in fact was. Yet again that word “need” has reappeared, without definition or direction. Climate change and sustainable development are embedded in the PA2008 infrastructure planning framework. An NPS must give reasons <sup>86</sup>which include ‘an explanation of how the NPS policy set out in the statement takes account of Government policy relating to the mitigation of, and adaptation to, climate change’ <sup>87</sup> Under section 10(2) PA2008, in exercising those functions, the Secretary of State must ‘do so with the objective of contributing to the achievement of sustainable development’. Section 10(3) PA2008 states that with respect to section 10(2) “the Secretary of State must (in particular) have regard to the desirability of (a) mitigating, and adapting to, climate change’.
8. For all NPSs proposed, under Section 5(3), ‘the Secretary of State must carry out an appraisal of the sustainability of the policy’ to be designated as an NPS. A appraisal of sustainability is a systematic process which is undertaken during the preparation of the plan, project or proposal. ‘Its role is to promote sustainable development by assessing the extent to which the emerging plan, when judged against reasonable alternatives, will

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<sup>83</sup> It should be noted that the UK did not incorporate the ‘cultural’ objective from Brundtland - the paper discusses this in further detail below

<sup>84</sup> The Planning Act 2008 section 5

<sup>85</sup> Ibid 80

<sup>86</sup> The Planning Act 2008 section 5(7)

<sup>87</sup> The Planning Act 2008 section 5(8)

help to achieve relevant environmental, economic and social objectives.<sup>88</sup>

9. Sustainability is, thus, thoroughly embedded in the state land use planning process. The ambiguities and contentions in sustainable development therefore have wide ranging consequences, impacting major infrastructure decision making itself, critical to achievement of Net Zero (see above).<sup>89</sup>
10. However, planning decisions are also subject to other criteria and testing in addition their sustainability. Government policies, plans and projects, including those for land use planning, must be reviewed by civil servants who must act in the public interest under the Seven Principles of Public Life <sup>90</sup> and who apply, inter alia, HM Treasury Green Book <sup>91</sup>(the “Green Book”) rules to evaluate and monetise benefits and costs, calculating the social or public value of each proposition.<sup>92</sup> The various assumptions and modelling frameworks built into the Green Book are, of course, critical to the outcome of the decision, and under current Green Book rules, an economic and a strategic case is evaluated for each policy under consideration. If a cost or benefit cannot be monetised, they may be disregarded.<sup>93</sup> The importance of this will be examined below.
11. The New Labour Government (1997-2010) supported policies for sustainable economic growth which contributed to sustainable development. Although sustainable development was clearly incorporated within legislation and policy, as a result of the vagueness and open text framing of the term sustainable development and the wide discretion granted to decision makers regarding decisions concerning it, the Coalition

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<sup>88</sup> Department for Levelling Up Housing and Communities, *Strategic Environment Assessment and Sustainability Appraisal* (2020)

<https://www.gov.uk/guidance/strategic-environmental-assessment-and-sustainability-appraisal> accessed 5 December 2023

<sup>89</sup> For example: Department for Transport *Project for the Sustainable Development of Heathrow* (2007)

<sup>90</sup> Committee on Standards in Public Life *The Seven Principles of Public Life* (also known as the Nolan Principles of Public Life ) (1995)

<https://www.gov.uk/government/publications/the-7-principles-of-public-life/the-7-principles-of-public-life--2>

accessed 26 November 2024

<sup>91</sup> HM Treasury and Government Finance Function *The Green Book: appraisal and evaluation in central government* (2024)

<https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government>

accessed 26 November 2024

<sup>92</sup> Nancy Hey and Deborah Hardoon, ‘The Green Book Review’ (*whatworkswellbeing.org* 9 December 2020)

<https://whatworkswellbeing.org/blog/the-green-book-review-what-do-the-changes-to-government-appraisal-mean/> accessed 4 March 2024

<sup>93</sup> Ibid 87

Government (2010-2015) was able to subtly reposition the meaning of sustainable development to suit its political purposes, as New Labour had itself done. For example, sustainable development growth was linked in the 2011 Budget statement to 'supporting growth and job creation.'<sup>94</sup> The term "sustainable" was coupled with 'development', in land use planning, as a means of softening and making more acceptable the desire to import as the Budget 2011 called it "a powerful new presumption in favour of development, so that the default is 'yes'"<sup>95</sup> into planning legislation and policy.<sup>96</sup> The use of sustainable development as a phrase can be used to justify growth and development and yet at the same time allude to the possibility of environmental benefit.

12. The example of English land use planning illustrates how open text legislation and regulation gives wide discretion to decision-makers in the implementation of sustainable development policies. The evolution of what has been described as weak and strong concepts of sustainable development can be seen: the weak form stresses "that the loss of some assets may be accepted and effectively offset if there is a gain in other resources",<sup>97</sup> and it is this form which is often seen used in the planning system. A degree of environmental harm is permitted if there are sufficient other benefits.
13. Thus, the tensions between environmental and economic benefits and attempts to weigh benefits over adverse impacts are often decided in favour of economic benefits and the desirability of economic growth - with limited weight being given to the environmental issues or the needs of future generations.<sup>98</sup> Thus, the concept of sustainability and

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<sup>94</sup> HM Treasury *The Budget Report Executive Summary* (HC 836 2011) 4  
<https://assets.publishing.service.gov.uk/media/5a7cb09ded915d6822361ef8/0836.pdf>

accessed 26 November 2024

<sup>95</sup> *Ibid* 90 3

<sup>96</sup> Damian Carrington 'Planning law changes: the crux is defining 'sustainable development' (*The Guardian* 26 July 2011

<https://www.theguardian.com/environment/damian-carrington-blog/2011/jul/26/planning-policy-development-green-belt>

accessed 5 December 2023

(Note that the proposed changes were slightly softened after this article was written but the presumption in favour of sustainable development remains in the NPPF. )

<sup>97</sup> Alastair Mills, 'Meeting Lofty Aspirations? English National Planning Policy, International Law and Climate Change' (Brill website 14 August 2023) [https://brill.com/view/journals/ccla/13/3-4/article-p163\\_002.xml](https://brill.com/view/journals/ccla/13/3-4/article-p163_002.xml) accessed 13 November 2023

<sup>98</sup> For example: Department for Transport, *The Airports National Policy Statement: Moving Britain Ahead* (2018)

<https://assets.publishing.service.gov.uk/media/5e2054fc40f0b65dbed71467/airports-nps-new-runway-capacity-and-infrastructure-at-airports-in-the-south-east-of-england-web-version.pdf>

accessed 3 March 2024



sustainable development can be clearly present without clarity or effectiveness: it can evolve and/or be adapted as desired.

### 13.1.1. Contention in Practice

This paper has used Malthus to set the scene for the continuing problem facing mankind over demand and management of resources and the limits of Earth to satisfy these, both in the present and future. The Paper has set out ambiguities, contentions and context surrounding the Brundtland Report and Definition, the Paris Agreement, and the difficulties around implementation and enforcement of such international agreements in the UK. An example of policymaking in England, which exemplifies the problems in implementing provisions referencing climate change and sustainable development, is now discussed. The contention at the heart of the sustainable development problem in England is currently the discourse of priority of economic growth in a context of climate change, which contention sits within 'need' in the Definition. This can clearly be seen in the example of the 2018 designation of a major infrastructure land use policy by Government: the Airports National Policy Statement ("ANPS").<sup>99</sup> In designating the ANPS, Government selected the proposed new North-West Runway at Heathrow Airport ("NWR"), as its preferred airports capacity expansion infrastructure policy for the South East of England.

As outlined above, when creating an NPS, there are legal processes to assess sustainability to be complied with before it can be designated.<sup>100</sup>

The ANPS was designated in June 2018, over two years after the ratification of the *Paris Agreement*. The CCA had been enacted in 2008, and was still in place in 2018, with the then current version of Section 1 CCA setting an 80% Net Zero target by 2050 (see above). However, there was and is no reflection of the Paris Agreement temperature goal in the CCA or other English legislation.

During the consideration of the NPS, an appraisal of sustainability had been conducted and the Secretary of State had, under sections 5 and 10, PA2008, to consider the achievement of the objective of sustainability and the mitigation and adaptation of climate change.

The justification for the NWR sat entirely on the greater strategic economic benefits which

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<sup>99</sup> Ibid 94

<sup>100</sup> PA2008 section 5(3)

were claimed for NWR in the *Airports Commission Final Report 2015 (“ACFR”)*.<sup>101</sup> In para 1.5 of ACFR in July 2015, the Airports Commission unanimously concluded that the proposal for a Northwest Runway at Heathrow Airport, “combined with a significant package of measures to address its environmental and community impacts, presented the strongest case and offered the greatest strategic and economic benefits”.<sup>102</sup> Although the economic benefits were later reduced after the Department for Transport (“DfT”) had reviewed the work of the Airports Commission using Green Book principles,<sup>103</sup> and the House of Commons Transport Committee examining the draft ANPS policy had made 25 recommendations for change to the proposed ANPS, many reflecting concerns over very significant negative social and environmental impacts which would flow from a new runway and 260,000 extra flights a year<sup>104</sup>, for which there was no ready solution proposed by the Airports Commission, including suggestions related to quality of life, noise, air quality, noise, surface transport and carbon and other emissions, it was eventually designated (with an affirmative vote by the House of Commons) with little change overall. The designation was justified by the Secretary of State in view of the value of strategic benefits the new NWR offered.<sup>105</sup> This was an example of priority being given to economic growth and strategic economic benefits despite major adverse environmental impacts, in the application of the definition of sustainable development.

After the ANPS was designated as official Government policy, a judicial review of the designation<sup>106</sup> was launched by various environmental and community groups, including Friends of the Earth, Plan B Earth, Greenpeace, the Mayor of London, various local London

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<sup>101</sup> The Airports Commission, *Final Report* (2015)

<https://assets.publishing.service.gov.uk/media/5a808ab4e5274a2e8ab50bd4/airports-commission-final-report.pdf>

accessed 3 March 2024

<sup>102</sup> Ibid 98

<sup>103</sup> Department for Transport, *Review of the Airports Commission’s Final Report* (2015)

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/851284/review-of-the-airports-commissions-final-report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/851284/review-of-the-airports-commissions-final-report.pdf)

accessed 26 November 2024

<sup>104</sup> The House of Commons Transport Committee, *The Airports National Policy Statement* (2018)

[https://publications.parliament.uk/pa/cm201719/cmselect/cmtrans/548/54803.htm#\\_idTextAnchor005](https://publications.parliament.uk/pa/cm201719/cmselect/cmtrans/548/54803.htm#_idTextAnchor005)

accessed 26 November 2024

<sup>105</sup> “...much needed airport capacity that is essential for trade and economic growth.” The Rt Hon Chris Grayling MP, *Written statement to Parliament on the ANPS* (Department for Transport 2018)

<https://www.gov.uk/government/speeches/airports-national-policy-statement>

accessed 26 November 2024

<sup>106</sup> Policy decisions cannot be challenged from the policy aspect but the process of how the decision was taken can be reviewed by the Courts under judicial review. This is a common law remedy to prevent abuse of power by the state, however in this case the right to bring a judicial review was set out in the PA2008, section 13 as this section limited when the judicial review action could be applied for.

Boroughs adjacent to Heathrow–Airport and one individual resident who lived near to Heathrow Airport.<sup>107</sup> Several of the climate change challenges brought referenced the PA2008 sections 10 and 5 duties of the Secretary of State regarding sustainable development, climate change and the appraisal of sustainability. As the Paris Agreement had been ratified by the UK at the time of the ANPS designation but *not* implemented into domestic law, although it had been referenced by Ministers in speeches, should the Secretary of State have considered the Paris Agreement when making the designation, how should he have considered it and if the court found him to have failed to do so should the judicial review succeed?

This judicial review case was one of the most complex judicial reviews ever brought. “The scale of the litigation was extraordinary... the issues were fascinating.... This was environmental law at the cutting edge.”<sup>108</sup> A “rolled up hearing” took place, where due to the sheer scale of evidence and parties, permission to hear the judicial review and then the case itself were all heard at once, in order to reduce costs and delay. After a hearing lasting two weeks in the Divisional Court, and time to consider and write a judgment, the Divisional

606. It is well-established that English law is a dualist legal system under which international law or an international treaty has legal force at the domestic level only after it has been implemented by a national statute (see, e.g., J H Rayner (Mincing Lane) Limited v Department of Trade and Industry [1990] 2 AC 418 at page 500 per Lord Oliver of Aylmerton, and Brind at page 747F-H per Lord Bridge of Harwich). Therefore, none of them having been incorporated, any obligation imposed on the UK Government by the Paris Agreement has no effect in domestic law.

Court judgment was released. All challenges were dismissed. As Mr Justice Holgate (as he then was) said in his judgement (described by the Court of Appeal in the ensuing appeal of the same case as a “tour de force”):

During the appeal, in the Court of Appeal, Lord Justice Lindblom asked if sustainable development was defined in English law? He was advised that there was no definition of it under English law (other than the Definition as set out in the advisory NPPF.) Lord Justice Singh then later interjected: “I can understand why the Divisional Court refers to the NPPF

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<sup>107</sup> *R (Spurrier) v Secretary of State for Transport* [2019] EWHC 1070 (Admin) (there were three linked judgments for this case) (“Spurrier”) <https://www.judiciary.uk/wp-content/uploads/2019/05/Heathrow-main-judgment-1.5.19.pdf> accessed 4 May 2024

<sup>108</sup> James Maurici K.C., ‘My NIPA story – environmental law at the cutting edge’ (Linkedin 21 March 2023) <https://www.linkedin.com/pulse/my-nipa-story-environmental-law-cutting-edge-james-kc-maurici-k-c/> accessed 26 November 2024

but that is simply a statement by the Executive of this country at a particular point in history. What we may have to construe is a statutory phrase used by Parliament: ‘sustainable development;’ and it wouldn’t necessarily follow that what the Executive thinks that means at any given point in history is actually what it means.”

In what was seen as a potentially ground-breaking judgment, the Court of Appeal held the ANPS to be unlawful. As the Secretary of State for Transport (who had designated the ANPS and against whom the judicial review case was brought) had pleaded that he had been legally advised that he was not able to take into consideration the *Paris Agreement* when considering whether to designate the ANPS - as it was only an international agreement and not enacted in English law, the Court of Appeal’s view (differing from that of the Divisional Court) was that as the Paris Agreement was one of the UK’s most important international obligations relevant to climate change, it was obviously materially relevant when taking this decision and should have been considered.<sup>109</sup> The Court of Appeal ordered that the ANPS would be of no legal effect until the Secretary of State reconsider his decision. Here was an example of an international agreement being acknowledged by the Courts.

However, although the Government did not appeal this ruling, therefore accepting its policy as unlawful until reconsidered, Heathrow Airport itself was able to challenge the ruling in the Supreme Court as it had been an interested party in the legal proceedings in the courts below. The Court of Appeal decision was overturned by the Supreme Court, with the Paris Agreement now ruled to have been considered to a satisfactory extent by the Secretary of State. It was an extraordinary series of cases, as Mr Maurici KC noted.<sup>110</sup>

For the purposes of drawing to a close the discussion of the meaning of sustainable development, it is worth quoting a small part of the Supreme Court judgement of December 2020: ‘Section 10 of the Planning Act 2008 applies to the Secretary of State’s function in promulgating a National Policy Statement. In exercising that function the Secretary of State must act with the objective of contributing to the achievement of sustainable development. Sustainable development is a recognised term in the planning context and its meaning is not controversial in these proceedings.’<sup>111</sup>

However, the Supreme Court did not go on to define what that “recognised term” of sustainable development actually meant. The Court of Appeal’s view of what the term means

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<sup>109</sup> Damian Carrington, ‘Heathrow Third runway ruled illegal over climate change’ *The Guardian* (London 27 February 2020)

<https://www.theguardian.com/environment/2020/feb/27/heathrow-third-runway-ruled-illegal-over-climate-change>

accessed 4 March 2024

<sup>110</sup> *R (oao Friends of the Earth and others) (Respondents) v Heathrow Airport Ltd (Appellant)* [2020] UKSC 52 1 <https://www.supremecourt.uk/cases/docs/uksc-2020-0042-judgment.pdf>

accessed 4 March 2024

<sup>111</sup> *Ibid* 107 para 115

is also quoted above. All that can be said is that in the case of the ANPS, in balancing the overarching objectives of sustainable development, the environmental and social impacts were outweighed by considerations of strategic economic growth. The Court of Appeal found it possible to acknowledge the most important international agreement on climate change to a certain extent even though it had not been directly imported into English law.<sup>112</sup>

At present the ANPS remains in force. Since the ANPS designation, the Paris Agreement has been incorporated into English legislation: section 1 of the CCA has been amended (July 2019) to increase the 80% target to reflect a 100% obligation for Net Zero by 2050, compared to 1990, however requests to the Government to review the ANPS (under section 6 PA2008) have all been refused to date.

The aim of this Paper is not to criticise the Brundtland Report or the Definition. Rather, the failure appears to be in the implementation of the Definition. The phrase sustainable development is at present malleable, lacking direction or clarity, producing problems with accountability. Despite - or perhaps because of this shape-shifting form, which enables widespread acceptance - the Definition and its use in understanding sustainable development has remained resilient within English policy and incorporation within legislation to date. Many of the problems concerning the Definition and its interpretation are, it is proposed, exacerbated in the UK by the current context of an assumption of the 'need' for economic growth within the context of sustainable development. Is economic growth a "need" which can be consistent with the ability of future generations to meet their 'needs'? UK domestic conceptions of sustainable development, which focus on economic growth, have made for a 'weak' conception of sustainability.

### 2.3 Conclusion:

This section has identified the ambiguity and contention inherent in the national and international spheres in relation to sustainable development. Conflicting and obscure multilateral definitions fail to clearly articulate differences within the aims of growth and development, intergenerational tensions, and the notion of 'needs'. In addition, the British Government's constitutional, legislative and regulatory context has enabled if not compounded this. Dualism, Parliamentary Sovereignty and the limited scope of Judicial Review have enabled the 'exploitation' or 'dismissal' of international definitional ambiguities. This has enabled the concept of 'needs' to focus excessively on 'growth' at the

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<sup>112</sup> *R (on the application of Plan B Earth) v Secretary of State for Transport* [2020] EWCA Civ 214

expense of broader sustainable development, while still technically conforming to legal commitments in respect of sustainable development. The tensions between environmental and economic benefits, the difficulties in evaluating environmental benefits and costs and the balance of general benefits over adverse impacts are often concluded in favour of economic benefits and the desirability of growth, with limited weight given to the environment or the needs of future generations. Thus, the meaning of sustainable development can be clearly present without clarity: it can be adapted as desired: a position which is not sustainable.

### **Section III: UK Policy in the Localities**

The first part of this section outlines in greater depth the possibility of utilising new metrics to examine and evaluate concepts such as economic growth and national output. This section will examine 'green growth' and degrowth initiatives. The objective of this Paper is not to get too drawn into this distinction, but it is worth elucidating the ambiguities and contentions inherent within this aspect of sustainability. The second part examines some of the tensions between community initiatives for achieving sustainability and national/international targets. This second part will explore some of the spatial ambiguities and contentions within conceptions of sustainability. The third part considers these tensions in the context of UK policy.

#### **3.1. Sustainable Growth versus Degrowth:**

Before expanding on the tension between communities and national/international targets, it is necessary to look at the possibility of examining economic growth and development through the remit of metrics other than GDP and national output, in a framing of communities. This underpins wider debates around inherent tensions.

It has long been assumed that a high rate of economic growth is the best means of enhancing socioeconomic development, the wellbeing of people and transitioning to cleaner energy sources.<sup>113</sup> Yet there is increasing evidence to suggest that it is incompatible with sustainability objectives. Perpetual growth and limitless extraction beyond planetary boundaries sustain what Naomi Klein calls a logic of 'extractivism', or a 'nonreciprocal, dominance-based relationship with the earth'.<sup>114</sup> Both the rewards and consequences of this

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113 Paul Dalziel, Caroline Saunders and Joe Saunders, *Wellbeing Economics: The Capabilities Approach to Prosperity* (Palgrave Macmillan, 2018), p. 1, eBook, <<https://doi.org/10.1007/978-3-319-93194-4>> [accessed 10 December 2023].

114 Naomi Klein. *This Changes Everything* (New York: Simon & Schuster, 2014), pp. 33, 176.

relationship have been shared unequally, with the richest nations collectively responsible for 92% of excess emissions. This is whilst those in the poorest nations remain most vulnerable to climate breakdown and its effects.<sup>115</sup>

Moving away from GDP growth as a primary measure of progress entails a number of difficulties. More subjective indicators of well-being, such as health, community engagement, democratic participation or equity, are harder to quantify numerically.<sup>116</sup> And yet, as Romina Boarini et al. discuss, 'it is not possible to say if well-being is being enhanced or reduced unless all indicators are expressed in a common metric'.<sup>117</sup> Alternative measures must attempt to aggregate numerous social indicators, from health and equity to sense of belonging in a wider community.<sup>118</sup> Various economists have attempted this task. An entire field of 'wellbeing economics' has emerged to organise political economy around human values and desires.<sup>119</sup>

As Fankhauser and Stern outline, the ethics discourse in economics has often neglected 'wider philosophical, ethical, and religious perspectives'. It therefore seems appropriate here to discuss alternative indicators of development within a literary framework that considers existential questions alongside pragmatic methods of measuring progress. This Paper is less interested in evaluating the alternative indexes or suggesting that any given one should supplant traditional economic analysis outright, but more interested in offering alternative means of measuring development that privilege happiness, equality and ecological responsibility over GDP and economic growth for its own sake.

This considered, this section will examine the debate between 'green growth' and 'degrowth', considering alternative indicators of development, attempting to reframe sustainability and planetary health as intertwined with human well-being.

Jason Hickel explains that 'there is no causal relationship between GDP growth and social outcomes' in high-income nations, despite a focus on achieving economic growth in the UK, for example, as has been highlighted in this paper.<sup>120</sup> This indicates an argument against

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115 Jason Hickel, 'Degrowth is about Global Justice', Green European Journal, 5 January 2022, <<https://www.greeneuropeanjournal.eu/degrowth-is-about-global-justice/>> [accessed 10 December 2023].

116 Romina Boarini, Åsa Johansson and Marco Mira d'Ercole, 'Alternative Measures of Well-being', Statistics Brief, OECD, 11 (2006), p. 1, <<https://www-oecd-org.ezp.lib.cam.ac.uk/els/soc/36967254.pdf>> [accessed 10 December 2023].

117 Ibid. page. 1

118 Ibid. Page. 5.

119 Dalziel et al., p. 8.

120 Stella Levantesi, 'Jason Hickel on the Cult of Degrowth', Il Manifesto, 20 April 2021, <<https://global.ilmanifesto.it/jason-hickel-on-the-cult-of-growth/>> [accessed 10 December 2023].

'green growth' initiatives, or at least brings into question the value of growth. In fact, Hickel states that past a certain point, 'even the correlation breaks down' and instead attributes most human progress to progressive social movements.<sup>121</sup> Hickel's argument can be mapped onto the UK context, where wealth and income inequality remain profound despite GDP growth.<sup>122</sup> In 2022, for example, as GDP saw an increase of approximately £94.6 billion compared to the previous year, incomes for the poorest 14 million people fell by 7.5%, whilst incomes for the richest fifth saw a 7.8% increase.<sup>123</sup>

Sustainable growth is largely achieved in developed countries only by shifting from fossil fuels to other forms of extraction and exploitation.<sup>124</sup> Degrowth economist Timothée Parrique explains that 'if you decarbonise the economy but then you just re-materialise by using a lot of minerals [to] build a constantly increasing renewable infrastructure, you've just shifted the problem elsewhere'.<sup>125</sup> This dynamic is seen most acutely perhaps in the push for electric vehicles, as batteries entail water-intensive production methods and hazardous metal extraction processes.<sup>126</sup>

As Klein elaborates, 'the approach of polite incremental change, attempting to bend the physical needs of the planet to our economic model's need for constant growth' has proved 'disastrous'. Indeed, decoupling efforts have failed to achieve necessary climate goals.<sup>127</sup> According to a systematic review, 'large rapid absolute reductions of resource use and GHG emissions cannot be achieved through observed decoupling rates, hence decoupling needs to be complemented by sufficiency-oriented strategies and strict enforcement of absolute reduction strategies'.<sup>128</sup>

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121 Ibid.

122 The Equality Trust, 'The Scale of Economic Inequality in the UK', <<https://equalitytrust.org.uk/scale-economic-inequality-uk>> [accessed 10 December 2023].

123 D. Clark, 'Gross Domestic Product of the United Kingdom from 1948 to 2022', Statista, 28 November 2023, <<https://www.statista.com/statistics/281744/gdp-of-the-united-kingdom/#:~:text=The%20gross%20domestic%20product%20of,economy%20was%202.18%20trillion%20pounds>> [accessed 15 December 2023]; The Equality Trust.

124 Olúfẹ́mi O. Táíwò, 'How a Green New Deal Could Exploit Developing Countries, The Conversation, 25 February 2019, <<https://theconversation.com/how-a-green-new-deal-could-exploit-developing-countries-111726>> [accessed 10 December 2023].

125 Circular Metabolism Podcast, 'Vers une Société Post-Croissance (Podcast avec Timothée Parrique), online audio recording, Spotify, 5 April 2023.

126 Lakshmi R B, 'The Environmental Impact of Battery Production for Electric Vehicles', Earth, 11 January 2023, <<https://earth.org/environmental-impact-of-battery-production/>> [accessed 15 December 2023].

127 Helmut Haberl et al, 'A systematic review of the evidence on decoupling of GDP, resource use and GHG emissions, part II: synthesizing the insights', Environmental Research Letters, vol. 15, no. 6 (2020), <doi: 10.1088/1748-9326/ab842a> [accessed 10 December 2023].

128 Ibid.



Clearing the way for various potentialities could help cultivate more attractive and sustainable notions of development. This could be adapted and performed according to the specific people, places and ecologies they serve, where economic growth is no longer the primary measure of progress.

It is thus worth briefly considering the value of degrowth initiatives. This is because these seek to transition away from growth not only as the sole metric of success but as a reasonable aim for developed countries. This is important for this Paper because it offers an alternative index for measuring the success of sustainability initiatives, indicating possible problems with the British Government's approach to sustainability. This view raises issues such as carbon budgets, historic carbon debt, the necessity of growth in the Global South, and the continued inequality in the UK despite its high GDP (child poverty rates, cost of living and so forth).

As this Paper turns to consider the policy implications of a newly defined 'sustainable development', there is an inclination to focus on top-down reforms: carbon taxes, heat-pump subsidies or even free public transit; that could be realised without a direct assault on capitalist structures. However, sustainability more broadly needs to be approached on multiple fronts, with attention to specific community and ecosystem needs, desires and capabilities.

The purpose of this discussion has not been to undermine the validity of sustainable growth initiatives as against degrowth initiatives. This debate is ultimately outside the remit of this Paper. However, it raises an important point about the need for the UK Government to transition towards alternative metrics for measuring economic and social development, for example amending or rebalancing those used in the Green Book to evaluate projects such as the NWR. The central ambiguity of sustainability: the failure to achieve a commonly accepted purpose or desired outcome of sustainability initiatives (i.e. environmental vs human) is discussed in the following section.

Given the UK's current prioritisation of economic growth in policymaking, and the issues raised to this in terms of hindering sustainable development, it is time to examine alternative human indicators in order to advance discussions and implementations of sustainability.

### 3.2. Tensions of Scale: Communities against the national and international

### 3.2.1. Context

This Paper has thus far discussed the limitations to sustainability in the UK by examining it both through an international and national legal lens, incorporating a focus on the environmental aspects which are an inevitable component in discussions around sustainability. It has also considered some of the scholarly criticisms of 'green growth' as a UK policy advancing sustainability initiatives whilst balancing this with economic growth. Just as tensions exist between the national and international spheres of governance, this tension also manifests itself in the context of local and national needs.

The SDGs are seen as a progressive evolution of the Millennium Development Goals, providing a broader range of goals and targets and identifying communities as co-implementers and not just beneficiaries.<sup>129</sup> Thus, not only do these goals respect postcolonial sovereignty, but they also provide agency to each country's local communities, facilitating decentralised determination of the ends and means used to calculate their achievement. This tension, implicit within the title of this Paper, is defined by the variability of definitions of sustainability throughout different social and community contexts.

Communities, within the context of civil society, are dynamic social entities characterised by shared identities, values, and interests. These entities transcend geographical boundaries and can manifest at various scales, encompassing local neighbourhoods, ethnic or cultural groups, non-governmental organisations (NGOs), and other organised collectives. Importantly, communities within civil society serve as vital agents in the implementation of SDGs, representing the diverse and interconnected web of actors essential for achieving sustainable development.

A significant hurdle that continues to exist within the SDGs is the presence of tensions that are pertinent at a theoretical and practical level, such as between community, national, and international objectives, and the need to pursue sustainable development policies that do not deprive future generations of necessary resources. Arguably, such tensions are most strongly felt by policymakers who are faced with the challenge of balancing international demands and local needs. Since such tensions manifest themselves as explicit or implicit costs for any community that implements policy design, it is important to understand the nature and forms of such tensions. These can be understood in terms of decisions related to which SDGs are prioritised, targets and indicators of SDGs and the distribution of responsibilities in implementing SDGs.

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<sup>129</sup> Sakiko Fukuda-Parr, 'From the Millennium Development Goals to the Sustainable Development Goals: Shifts in Purpose, Concept, and Politics of Global Goal Setting for Development' (2016) 24 *Gender and development* 43.

### 3.2.2. Contention: Priorities

It is widely debated that the concept of sustainability in itself is an oxymoron.<sup>130</sup> The current pathways to achieve economic development are hugely dependent on the exploitation of natural resources. With large parts of the Global South unable to secure basic access to food, water, and energy, it is difficult to imagine redirecting limited resources towards the protection of the environment. The impacts of climate change are most acutely felt by these most vulnerable sections of society and are most likely to jeopardise the wellbeing of future generations. Yet the Global South is intricately dependent on the economic, social and political success of the Western world, including the UK.

Local communities' perceptions of well-being and development are profoundly influenced by their cultural contexts.<sup>131</sup> The deeply rooted values, traditions, and practices within a community contribute to a unique cultural framework that shapes its development aspirations. Consequently, when internationally determined SDGs are imposed without due consideration for this cultural embeddedness, conflicts emerge as communities grapple with reconciling externally prescribed objectives with their culturally nuanced priorities.

One of the most significant cultural values which seems to be violated during the implementation of SDGs related to food security, forests and biodiversity is the displacement of indigenous and local communities from their lands and forests<sup>132</sup>. Such decisions often take place centrally, with no consultation or even compensation for such loss of cultural livelihoods. This not only violates human rights but also leads to the loss of cultural values and heritage, thereby creating a rift between global demands of climate protection and local demands of environmental autonomy.

Cultural conflicts are often exacerbated by power dynamics inherent in the goal-setting process. The imposition of SDGs through top-down approaches, where international organisations wield considerable influence, may side-line local perspectives and impede community ownership.<sup>133</sup> This power asymmetry creates an environment where cultural values are overshadowed, leading to a sense of alienation and resistance from the very

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130 Herman E Daly and Kenneth N Townsend, *Valuing the Earth: Economics, Ecology, Ethics* (MIT Press 1993).

131 Amartya Sen, *Identity and Violence: The Illusion of Destiny* (W,W, Norton 2006).

132 United Nations General Assembly, 'Development and Cultural Rights: The Principles: Note by Secretary General'.

133 Stefanie Linser and others, '25 Years of Criteria and Indicators for Sustainable Forest Management: How Intergovernmental C&I Processes Have Made a Difference' (2018) 9 *Forests* 578.

communities these goals aim to uplift.

### 3.2.3. Contention: Indicators and Targets

The achievement of the 17 SDGs is based on the fulfilment of 169 targets and 242 indicators.<sup>134</sup> This creates a common language of development in the form of quantified numbers that can be understood by experts and non-experts involved in the process. Furthermore, it also provides a clear identification of the finish line that countries and communities are required to cross in order to ensure that their development is sustainable. It also allows for monitoring and evaluation of the progress made by various parties thus far. The use of such targets and indicators serves as a beacon for policymaking. Therefore, it is crucial to critically review the selection and use of such indicators and their potential impacts on policies.

Working within the framework of creating quantified goals, it is assumed that such goals function as objective numbers that are value free and politically neutral, thereby drawing a linear relationship between science and policy. However, it is important to recognise that the boundaries of science and policy are not clearly demarcated, with both feeding into each other. This is especially relevant when asking who decides the numbers for each target and indicator. The Inter-Agency and Expert Group (IAEG) on Sustainable Development Indicators was given the responsibility for designing the global framework of targets and indicators for Agenda 2030. In the field of international development, the power of different political actors is reflected in such decisions, resulting in the play-out of power politics even in the setting of “objective numbers”.<sup>135</sup> It is also important to note that, in the IAEG’s technical processes, IAEG did not provide any avenues for participation or review by organised groups in civil society, thereby making it a very opaque process<sup>136</sup>.

Another deeply contested aspect of the SDGs is its oversimplified quantification of deeply complex social issues. Only what can be measured is reflected in the setting of such goals, whereas cultural, ethical and moral aspects to such development continue to be ignored<sup>137</sup>.

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134 United Nations, ‘Global Indicator Framework for the Sustainable Development Goals and Targets of the 2030 Agenda for Sustainable Development’.

135 Sakiko Fukuda-Parr and Desmond McNeill, ‘Knowledge and Politics in Setting and Measuring the SDGs: Introduction to Special Issue’ (2019) 10 Global Policy 5.

136 Serge Kapto, ‘Layers of Politics and Power Struggles in the SDG Indicators Process’ (2019) 10 Global Policy 134.

137 Simon Mair and others, ‘A Critical Review of the Role of Indicators in Implementing the Sustainable Development Goals’ in Walter Leal Filho (ed), Handbook of Sustainability Science and Research (Springer International Publishing 2018) <[http://link.springer.com/10.1007/978-3-319-63007-6\\_3](http://link.springer.com/10.1007/978-3-319-63007-6_3)> accessed 10 December 2023.

Simultaneously it also provides the opportunity for states to obscure the real beneficiaries and actual impact behind such nominal numbers. Often, policies are designed in a manner that seeks to achieve such targets and indicators, making them the ends rather than the means to an end, thus running the risk of jeopardising the larger goals that are trying to be achieved.<sup>138</sup> There is also a tendency to pursue “low hanging fruits”, improving the easiest and quickest issues usually faced by the more privileged sections of society. This is deeply problematic and even dangerous, especially in relation to communities, since it can threaten their ability to realise sustained development by widening gaps within their own generation as well as deeply entrenching systematic challenges for future generations.

It is also important to note that while targets and indicators are useful for monitoring the world’s progress towards a sustainable future, the collection of such data comes at a huge cost, which in a world of limited resources, comes with huge opportunity costs. The Global South lacks the administrative capacity and financial resources to collect such data on a large scale and provide for adequate measurement. Even where data is present, the most vulnerable sections of society, such as women, slum-dwellers, people with disabilities, indigenous populations, and so forth, are extremely under-represented.

Ultimately, this highlights the question of whose development is actually measured. This underlines further the ambiguities and tensions inherent within conceptions of sustainability. Who is actually the object of sustainability measures and how is this effectively being evaluated?

#### 3.2.4. Contention: Responsibility

Although Agenda 2030 has huge consequences for the present and the future, it is not a legally binding document. Who bears the responsibility of fulfilling these commitments both between and within countries? The implementation of Agenda 2030 rests on the political and moral will of countries. In this context, national policies implementing Agenda 2030 will reflect the ambitions of those who author them and seek to fulfil such ambitions by demanding actions from various sections of society.

At the international level, the debate about distribution of responsibilities has been most publicly manifested in the form of the Global North-South divide in climate action, underlying the principle of Common But Differentiated Responsibilities and Respective

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138 Sarah Fredericks, *Measuring and Evaluating Sustainability: Ethics in Sustainability Indexes* (2014) <<https://www.routledge.com/Measuring-and-Evaluating-Sustainability-Ethics-in-Sustainability-Indexes/Fredericks/p/book/9781138188976>> accessed 20 February 2024.

Capabilities.<sup>139</sup>

The unequal distribution of development has profound social, economic, and environmental implications. Socially vulnerable populations can experience reinforced cycles of poverty as the burdens placed upon them hinder their ability to break free from economic deprivation.<sup>140</sup> This is something experienced in many post-industrialised sections of the UK where pockets of regional structural unemployment have led to vicious circles of social marginalisation and declining living standards.<sup>141</sup> From an economic standpoint, the unequal distribution of development impedes overall economic growth. Vulnerable populations, burdened with tasks beyond their capacity, are constrained in contributing meaningfully to economic activities. This results in a suboptimal utilisation of human capital and skills, hindering the potential for inclusive economic development.<sup>142</sup> Moreover, the overreliance on vulnerable populations for development tasks can lead to a vicious cycle of underdevelopment. Scarce resources are diverted towards immediate, short-term projects rather than long-term investments in education, healthcare, and infrastructure. This short-term focus limits the potential for sustainable economic advancement, perpetuating a cycle of poverty.<sup>143</sup>

### 3.3. Applications for the UK

A report by Friends of the Earth<sup>144</sup> suggests that the UK's national planning policy still does not facilitate new offshore wind projects. Following a change to the law in 2015, Friends of the Earth claim that the National Planning Policy Framework presents a de facto ban on new offshore wind projects in line with the Conservative Government pledge to “empower local communities”. The expansion and implementation of wind farms has, Friends of the Earth claims, been limited by a Conservative Party political justification of prioritising the local community preferences.

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139 United Nations, 'United Nations Framework Convention on Climate Change'.

140 Jeffrey Sachs, *The End of Poverty: Economic Possibilities for Our Time* (Annotated edition, Penguin Books 2006).

141 Joseph E Stiglitz, *Globalization and Its Discontents* (2002)

<<https://www.norton.co.uk/books/9780393051247-globalization-and-its-discontents>> accessed 20 February 2024.

142 Janet Momsen, *Women and Development in the Third World* (1991)

<<https://www.routledge.com/Women-and-Development-in-the-Third-World/Momsen/p/book/9780415016957>> accessed 20 February 2024.

143 Paul Collier, *The Bottom Billion: Why the Poorest Countries Are Failing and What Can Be Done About It* (1st edition, Oxford University Press 2007).

144 A lack of “suitable areas” for onshore wind in local plans | Policy and insight (friendsoftheearth.uk), 18th August, 2022.

Despite overhauls made to planning legislation in 2021, establishing new offshore wind power plants remains restricted by the need for local community consent and the need to identify a place as “suitable for wind energy” within an adopted local or neighbourhood plan. A report from 2019 alongside Possible and the Centre for Renewable Energy found that only 25% of councils (from the 20 identified) had “suitable areas” outlined in their adopted or emerging plan.<sup>145</sup> The investigative pool was then expanded to 165 councils in a 2022 research report and supported initial findings suggesting that 89% of councils had failed to find “suitable areas”. These findings illustrate an important dynamic underlying our recommendations in this Paper. Community-led projects such as transition towns, timebanks and citizens’ assemblies evidence some desire to pursue sustainable development on a local level; yet tension arises when community interests conflict with projects proposed in the national interest that may be less immediately desirable. This highlights a major tension within definitions of sustainability, that being when statutory targets for ‘need’ can be made at a national/international level, yet can they be implemented at a local level when ‘need’ is not accepted by a local community.

A possible solution to this may be pursuing localised measures to tackle broader sustainability goals that directly benefit the community itself and thus help to alleviate these tensions. Examples of such local initiatives are the following 2020 Citizens’ Assembly in Scotland resolutions, which included votes to restore peatlands and native woodlands at higher levels than planned by the Scottish Government, making public transport cheaper or free by focusing government subsidies into nationalised public/private partnerships; developing an ‘ambitious plan’ across Scotland to retrofit all existing homes by 2030; and reform community land ownership, encouraging local communities to manage underused, unproductive and/or unoccupied land.

These reforms, among the many others proposed within the full Scottish Climate Assembly Report, take ambitious steps to meet climate targets while enriching communities, restoring natural landscapes and lowering transport and energy costs. The very process of conducting a Citizens’ Assembly also develops democracy, as citizens are invited to play an active role in their transition towards sustainability. Bottom-up initiatives also exist, often promoted by environmental activist groups. In the UK, for example, a network of ‘Transition Towns’ has emerged in an effort to achieve ‘a low-carbon, socially just future with resilient

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145 Ibid 102

communities, more active participation in society, and caring culture'.<sup>146</sup> To this end, these community-led groups may 'set up renewable energy projects, re-localis[e] food systems, and create[e] community and green spaces', among other projects.<sup>147</sup>

### 3.4. Conclusion

This section has outlined the ambiguities and tensions between (and within) the local and national dimensions of sustainability. It has shown that there is a tension between an excessive focus on growth-based metrics and the economic pillar ('economic growth') and a broader understanding of sustainability, including the missing cultural pillar. It has highlighted issues over prioritisation and responsibility between tiers of government. Implicitly, it has alluded to the fact that conceptualisations of sustainability should broaden in scope to balance growth with other developmental metrics and consider the economic pillars alongside the social, environmental and cultural alternatives. Decision-making power should be conferred to the localities, to foster a more specific sense of sustainability relative to the community in question. This should be done in coordination with the national government.

This final section will look to substantiate these recommendations as well as others which have been alluded to throughout the above sections.

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146 Transition Network, 'Who is Involved?' (2023), <<https://transitionnetwork.org/about-the-movement/who-is-involved/>> [accessed 10 December 2023].

147 Ibid, 'What is Transition?'.



## **Section IV: Recommendation Summary**

This Paper has outlined certain fundamental ambiguities and tensions arising from the use of the term sustainable development both in an international and in a UK context . Having considered these, it will now offer a series of broad recommendations.

Firstly, it calls for greater definitional clarity, seeking to examine and define what sustainability means and what it entails. This can be achieved through clarification of and attention to how balancing between sustainable development pillars (environmental, economic and cultural/social) is undertaken (with consideration given to community and location) and for consideration of metrics other than economic growth (which often operates to the detriment of cultural objectives and values) and specifically environmental objectives to be used for this balancing evaluation. The Paper concurs with the view that considers decentralising economic growth as the primary metric

Secondly, it argues in favour of a more devolved and localised decision-making process to improve engagement and acceptance of decisions and a more effective judicial process to improve accountability and enable better enforcement of sustainability obligations.

This is just the start. Each of the policy recommendations presented below warrants further and deeper analysis to reveal additional ambiguities and tensions.

### **4.1. Need for Greater Definitional Clarity**

Throughout this Paper, the definition and understanding of sustainability are shown to lack clarity. A significant problem is the ambiguity around legal definitions of the term, as it is used in the UK. As the focus on sustainability grows, the breadth of differing conceptualisations does too. Key terms such as ‘needs’ are left unresolved.

Accordingly, greater specificity and clarity are required in each conceptualisation. Although this cannot remove points of tension, it can ensure greater clarity and, by doing so, it can facilitate more effective implementation. In the case of the Brundtland Definition, its ambiguity, albeit enabling its widespread acceptance and usage, has enabled policymakers to avoid committing themselves to concrete sustainability policies. Specifically, this should ensure the balancing of national/international targets with the empowering of local communities to deliver these objectives. This might entail a more participatory approach, as

outlined in the context of community empowerment, engaging with participatory democratic outcomes, and citizen assemblies.

## 4.2. Need for Re-examination of Growth-based Perspectives

1. The conceptual ambiguities and tensions within sustainable development inhibit effectiveness. How does one balance present and future interests, growth and development, local and national focuses, and the economic, social, environmental and cultural pillars? Advantage has been taken of the scope and vagueness of the term 'need', defining it with a focus on 'growth' at the expense of broader sustainability. The Government should move beyond a sole focus on growth-based perspectives to recognise the greater variation within concepts of sustainable development. Technical guidance on how to advise government officials on green policies has been offered within the 'Green Book',<sup>148</sup> providing a groundwork for countries to potentially transition towards an effective implementation of policies aimed at future sustainability.
2. The tension and balance between the different pillars of sustainability must be properly considered. Given that local community perceptions of well-being and development are profoundly influenced by their cultural contexts, culture (as the missing pillar) should be included. While tension remains, a more even balance between the four pillars must be found. As discussed above, this may require more community engagement and participatory processes.
3. The Government should look at efforts to examine sources beyond pure numerical data in order to measure growth and development more holistically and with greater nuance. Examples of alternative metrics should include total carbon emissions, quality of life, health, standard of living and labour productivity.

Such an approach is not yet in favour with the current UK government. Sir Keir Starmer, heading the official opposition to the Government, has emphasised 'Borrow to invest': a possible £28 billion 'Green Industrial package' aimed at growing the British economy.<sup>149</sup> New metrics, some of which have been outlined above, should be

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148 HM Treasury, 'The Green Book' (2022). Available at: <https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government/the-green-book-2020>. [Accessed 6 March 2024.]

149 This target has since been watered down, yet the underlying logic and metrics have remained.

considered as indicators of good performance.

#### 4.3. Need for better Accountability and Regulatory Oversight

The practical implementation of sustainability has been hampered by the UK's constitutional framework and its failure to enable sufficient accountability. Parliamentary sovereignty, dualism, and the limited scope of judicial review each work against providing strong enforcement mechanisms for commitments stemming from the international sphere of governance. This has enabled the 'exploitation' of definitional ambiguities, with current policy focusing on 'weak', economic, and growth-based ideas of sustainable development.

1. One recommendation is the need for greater legislative clarity in regulating the aims and processes of sustainability policies. The current open text and long-term (2050) targets set out in domestic legislation of international obligations have undermined enforcement. This is due to the lack of effective mechanisms of accountability around its domestic enforcement, the disjuncture between international obligations and the ability to circumvent this at a domestic level. The outcome for failure to comply with, for example, carbon budget targets set by the CCC under the CCA will currently result in a minister needing to explain this in Parliament: not a sanction with many teeth. Accountability must be affordable, effective and open to the public to demand.

The Urgenda case, discussed in Section 2.2.6., serves as a useful example of how, in the Netherlands, the monist legal system enabled the direct application of international law to assist in national climate change litigation, allowing the Dutch Courts to hold the Dutch Government to its national policy and international legal commitments. This forms an interesting comparison with the UK dualist system. While it may be beyond realistic scope to expect a review of UK dualism, the need for expanded judicial remit and powers over sustainability is clear.

#### 4.4. Need for Recognition of Community-based Perspectives on Sustainability

Greater decision-making power could be conferred to the localities to facilitate the creation of effective and balanced sustainability policies. This should include 'flagship' citizen assemblies, yet it should not be limited to this alone. Lasting devolution of policymaking

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capacities could thus foster a more specific sense of sustainability relative to the community in question by empowering individuals and allowing for effective discussion and debate around key issues. This should be done in coordination with the national government.

#### 4.5. Conclusion

Scholars, scientists, and most politicians can agree that addressing the climate crisis and achieving sustainable development is one of the most pressing issues of our time. Where opinions differ is which policy solutions should be implemented to effectively tackle the problems it poses, including direct loss of land, people and material resources over time, not to mention our very survival as a species. This Paper has sought to provide its small contribution to advancing a sustainable future, pinpointing the major obstacle as the ambiguities and contentions inherent within its very definition. This is compounded by the constitutional framework in the UK and a prioritisation of economic growth at the expense of other indices, which have allowed the UK Government to stay relatively uncommitted in formulating policy responses to meet international objectives. The recommendations provided here aim to lay the groundwork for increased clarity, accountability and effectiveness.

## Bibliography:

Airports Commission *Final Report* (Airports Commission July 2015)

<https://assets.publishing.service.gov.uk/media/5a808ab4e5274a2e8ab50bd4/airports-commission-final-report.pdf> accessed 3 March 2024

Barker, T., 'Achieving the European Union's 2 degree centigrade target through carbon trading' Cambridge Centre for Climate Change Mitigation Research (4CMR) (*ECG Bulletin* July 2008)

<https://www.envchemgroup.com/terry-barker.html> accessed 25 November 2023

British Council, 'The Missing Pillar: Culture's Contribution to the UN Sustainable Development Goals'

Brundtland Commission *Our Common Future* (The World Commission on Environment and Development 1987)

(<https://sustainabledevelopment.un.org/content/documents/5987our-common-future.pdf> accessed 27 February 2024

Carrington D. 'Planning law changes: the crux is defining 'sustainable development' *The Guardian* (London online 26 July 2011)

<https://www.theguardian.com/environment/damian-carrington-blog/2011/jul/26/planning-policy-development-green-belt> accessed 5

December 2023

Carrington D. 'Heathrow Third runway ruled illegal over climate change' *The Guardian* (London 27 February 2020)

(<https://www.theguardian.com/environment/2020/feb/27/heathrow-third-runway-ruled-illegal-over-climate-change> accessed 4 March 2024

Client Earth. 'We're Taking the UK Government Back to Court over Its Climate Plan'

<<https://www.clientearth.org/latest/news/we-re-taking-the-uk-government-over-its-net-zero-strategy/>>

Climate Change Committee 'Progress Report 2023' (*CCC website* 28 June)

<https://www.theccc.org.uk/publication/2023-progress-report-to-parliament/> accessed 5 December 2023

Climate Change Committee, 'Future Emissions Targets Must Not Be Loosened' (Climate Change Committee, 27 February 2024)

<<https://www.theccc.org.uk/2024/02/28/future-emissions-targets-must-not-be-loosened/>>

Climate Change Committee, 'Future Emissions Targets Must Not Be Loosened' (Climate Change Committee, 27 February 2024)

<<https://www.theccc.org.uk/2024/02/28/future-emissions-targets-must-not-be-loosened/>>

Climate Change Committee, 'The Good, the Bad and the Ugly of the Paris Agreement' (Climate Change Committee, 17 November 2017) <<https://www.theccc.org.uk/2015/12/21/the-good-the-bad-and-the-ugly-of-the-paris-agreement/>>

Club of Rome 'About Us' (*clubofrome.org*) <https://www.clubofrome.org/about-us/> accessed 27 February 2024

Collier P, *The Bottom Billion: Why the Poorest Countries Are Failing and What Can Be Done About It* (1st edition, Oxford University Press 2007)

Craig, P. 'The Common Law, Shared Power and Judicial Review' [2004] *Oxford Journal of Legal Studies*, 24(2), 237–257 < <http://www.jstor.org/stable/3600591>>

Daly HE and Townsend KN, *Valuing the Earth: Economics, Ecology, Ethics* (MIT Press 1993)

Department for Energy Security and Net Zero, 'Carbon Budget Delivery Plan' (*GOV.UK*, 30 March 2023) <<https://www.gov.uk/government/publications/carbon-budget-delivery-plan>>

Department for Levelling up Housing and Communities *National Planning Policy Framework* gov.uk online 20 December 2023  
[https://assets.publishing.service.gov.uk/media/65a11af7e8f5ec000f1f8c46/NPPF\\_December\\_2023.pdf](https://assets.publishing.service.gov.uk/media/65a11af7e8f5ec000f1f8c46/NPPF_December_2023.pdf) accessed 7 February 2024

Department for Levelling Up Housing and Communities, *Strategic Environment Assessment and Sustainability Appraisal* (gov.uk 31 December 2020)  
<https://www.gov.uk/guidance/strategic-environmental-assessment-and-sustainability-appraisal> Accessed 5 December 2023

Department for Transport 'The Airports National Policy Statement: Moving Britain Ahead' (Department for Transport 2018)  
<https://assets.publishing.service.gov.uk/media/5e2054fc40f0b65dbed71467/airports-nps-new-runway-capacity-and-infrastructure-at-airports-in-the-south-east-of-england-web-version.pdf> accessed 3 March 2024

Department for Transport *Beyond the Horizon : The Future of UK Aviation: Making best use of Runways* (gov.uk Department for Transport 2018) accessed 3 March 2024

Department for Transport *Project for the Sustainable Development of Heathrow* (Department for Transport 2007)

Department for Transport 'Jet Zero Strategy' (*gov.uk* July 2022)  
<https://assets.publishing.service.gov.uk/media/62e931d48fa8f5033896888a/jet-zero-strategy.pdf> accessed 3 March 2024

Elliott, Mark C., 'Through the Looking-Glass? Ouster Clauses, Statutory Interpretation and the British Constitution' in Chris Hunt, Lorne Neudorf and Micah Rankin (eds), *Legislating Statutory Interpretation: Perspectives from the Common Law World* (Carswell, 2018)

- Fredericks S, *Measuring and Evaluating Sustainability: Ethics in Sustainability Indexes* (2014)  
<<https://www.routledge.com/Measuring-and-Evaluating-Sustainability-Ethics-in-Sustainability-Indexes/Fredericks/p/book/9781138188976>> accessed 21 February 2024
- Friends of the Earth 'Heathrow Airport Expansion Supreme Court Briefing' (*Friends of the Earth website* 5 October 2020) <https://friendsoftheearth.uk/climate/heathrow-airport-expansion-supreme-court-appeal-briefing> accessed 3 March 2024
- Fukuda-Parr S, 'From the Millennium Development Goals to the Sustainable Development Goals: Shifts in Purpose, Concept, and Politics of Global Goal Setting for Development' (2016) 24 *Gender and development* 43
- Fukuda-Parr S and McNeill D, 'Knowledge and Politics in Setting and Measuring the SDGs: Introduction to Special Issue' (2019) 10 *Global Policy* 5
- HC Deb 25 July 1834 Vol.25.
- HM Treasury, 'The Green Book' (2022). Available at:  
<https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government/the-green-book-2020> accessed 6 March 2024.
- Heinrich Triepel, *Völkerrecht and Landesrecht* (Leipzig: C.L. Hirschfeld, 1899, repr. Aalen: Scientia, 1958)
- Helm D., *Net Zero How we stop causing climate change* (1st ed, William Collins 2020)
- Hey N., 'The Green Book Review' (*What works wellbeing* December 9 2020)  
<https://whatworkswellbeing.org/blog/the-green-book-review-what-do-the-changes-to-government-appraisal-mean/> accessed 4 March 2024
- H M Treasury 'The Green Book' (27 October 2023)  
<https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government/the-green-book-2020> accessed 4 March 2024
- Kapto S, 'Layers of Politics and Power Struggles in the SDG Indicators Process' (2019) 10 *Global Policy* 134
- Kreienkamp J (The Long Road to Paris - UCL) <[https://www.ucl.ac.uk/global-governance/sites/global-governance/files/the\\_long\\_road\\_to\\_paris\\_the\\_history\\_of\\_the\\_global\\_climate\\_change\\_regime.pdf](https://www.ucl.ac.uk/global-governance/sites/global-governance/files/the_long_road_to_paris_the_history_of_the_global_climate_change_regime.pdf)>
- Letter: Lord Deben Chair of CCC to the RH Grant Schapps, Secretary of State for Transport 24 September 2019 <https://www.theccc.org.uk/wp-content/uploads/2019/09/Letter-from-Lord-Deben-to-Grant-Schapps-IAS.pdf> accessed 4 March 2024
- Linser S and others, '25 Years of Criteria and Indicators for Sustainable Forest Management: How Intergovernmental C&I Processes Have Made a Difference' (2018) 9 *Forests* 578

Malthus, T, *An Essay on the Principle of Population* (Electronic Scholarly Publishing Project 1998).

Mair S and others, 'A Critical Review of the Role of Indicators in Implementing the Sustainable Development Goals' in Walter Leal Filho (ed), *Handbook of Sustainability Science and Research* (Springer International Publishing 2018)  
 <[http://link.springer.com/10.1007/978-3-319-63007-6\\_3](http://link.springer.com/10.1007/978-3-319-63007-6_3)> accessed 11 December 2023

Meadows, D., Meadows, D., Randers J., Behrens III W. *The Limits to Growth* (The Club of Rome 1972)

Mills A., 'Meeting Lofty Aspirations? English National Planning Policy, International Law and Climate Change' (*Brill website* 14 August 2023)  
[https://brill.com/view/journals/clla/13/3-4/article-p163\\_002.xml](https://brill.com/view/journals/clla/13/3-4/article-p163_002.xml)  
 accessed 13 November 2023

Ministry of Housing Communities and Local Government *Planning for a Sustainable Future* Cm7120 (gov.uk 21 May 2007)

Momsen J, *Women and Development in the Third World* (1991)  
 <<https://www.routledge.com/Women-and-Development-in-the-Third-World/Momsen/p/book/9780415016957>> accessed 21 February 2024

*R (oao Friends of the Earth and others) (Respondents) v Heathrow Airport Ltd (Appellant)* [2020] UKSC 52 1 <https://www.supremecourt.uk/cases/docs/uksc-2020-0042-judgment.pdf>  
 accessed 4 March 2024

*R (oao Spurrier and others) v Secretary of State for Transport* : [2019] EWHC 1070 (Admin)  
<https://www.judiciary.uk/wp-content/uploads/2019/05/Heathrow-main-judgment-1.5.19.pdf> accessed 4 May 2024

*R (oao Friends of the Earth and others)(Appellants) v Secretary of State for Transport (Defendant)* (Court of Appeal 26 February 2020) [2020] EWCA Civ 214 Paragraph 6

Redclift, M. 'Sustainable Development: needs, values, rights' (1993) Vol 2 Environmental Values p3

Redclift, M. 'Sustainable development (1987 - 2005) An oxymoron comes of age' (2005) Wiley Interscience 22 July 2005  
[https://onlinelibrary.wiley.com/doi/epdf/10.1002/sd.281?saml\\_referrer](https://onlinelibrary.wiley.com/doi/epdf/10.1002/sd.281?saml_referrer) accessed 3 March 2024

Reuters 'Aviation industry split on whether net zero goal achievable, GE survey shows' (*Reuters online* 15 June 2023 <https://www.reuters.com/sustainability/aviation-industry-split-whether-2050-net-zero-goal-achievable-ge-survey-2023-06-15/#:~:text=The%20aviation%20industry%20set%20a,0.1%25%20of%20airline%20fuel>



[%20consumption](#). accessed 3 March 2024

Sachs J, *The End of Poverty: Economic Possibilities for Our Time* (Annotated edition, Penguin Books 2006)

Sachs, N. 'The Paris Agreement in the 2020s: Breakdown or Breakup?' [2019] *Ecology Law Quarterly*, Vol. 46, No. 1, 2019 <<https://ssrn.com/abstract=3463892>>

Sen A, *Identity and Violence: The Illusion of Destiny* (W,W, Norton 2006)

Solicitors Journal 'Naturalist Chris Packham secures high court permission to challenge UKs abandonment of crucial green policies for net zero' *Solicitors Journal*(4 March 2024) <https://www.solicitorsjournal.com/sjarticle/naturalist-chris-packham-secures-high-court-permission-to-challenge-uks-abandonment-of-crucial-green-policies-for-net-zero> accessed 4 March 2024

Stiglitz JE, *Globalization and Its Discontents* (2002) <<https://wwnorton.co.uk/books/9780393051247-globalization-and-its-discontents>> accessed 21 February 2024

Tewdwr-Jones M., *Spatial Planning and Governance* (Bloomsbury 2012 p118)United Nations Department for Social and Economic Affairs *Transforming our world: the 2030 Agenda for Sustainable Development* un.org (2015) <https://sdgs.un.org/2030agenda> accessed 27 February 2024

United Nations, 'United Nations Framework Convention on Climate Change'United Nations Framework Convention on Climate Change, \uc0\u8216{}Global Indicator Framework for the Sustainable Development Goals and Targets of the 2030 Agenda for Sustainable Development\uc0\u8217{}

United Nations General Assembly, 'Development and Cultural Rights: The Principles: Note by Secretary General'

United Nations Framework Convention on Climate Change *The Paris Agreement* unfccc.int (2024) <<https://unfccc.int/process-and-meetings/the-paris-agreement>> accessed 27 February 2024

United Nations Framework Convention on Climate Change 'COP 21' unfccc.int <<https://unfccc.int/event/cop-21>> accessed 4 March 2024

United Nations (2015). Paris Agreement. [online] United Nations. <[https://unfccc.int/sites/default/files/english\\_paris\\_agreement.pdf](https://unfccc.int/sites/default/files/english_paris_agreement.pdf)>

United Nations Framework Convention on Climate Change unfccc.int (1994) <https://unfccc.int/process-and-meetings/what-is-the-united-nations-framework->

[convention-on-climate-change](#) accessed 4 March 2024

United Nations Framework Convention on Climate Change 'COP 21' *unfccc.int*

<https://unfccc.int/event/cop-21> accessed 4 March 2024

United Nations Framework Convention on Climate Change *The Paris Agreement unfccc.int (2024)*

<https://unfccc.int/process-and-meetings/the-paris-agreement> accessed 27 February 2024

United Nations *Report of the United Nations on the Conference on the Human Environment un.org*

(1972 p8) <https://digitallibrary.un.org/record/523249?ln=en> accessed 27 February 2024

United Nations Environment Programme, *First Report of the Governing Council of the United*

*Nations Environment Program to the General Assembly unep.org (UNEP 1973)*

[https://wedocs.unep.org/bitstream/handle/20.500.11822/17274/73\\_06\\_GC1\\_report\\_%20K7309025.pdf](https://wedocs.unep.org/bitstream/handle/20.500.11822/17274/73_06_GC1_report_%20K7309025.pdf) accessed 27 February 2024

United Nations Environmental Program 'Who we are: About the United Nations Environment

Programme' (*unep.org*) <https://www.unep.org/who-we-are/about-us> accessed 4 March 2024

### Cases:

R (Miller) v Secretary of State for Exiting the European Union [2017] UKSC 5

R v Secretary of State for the Home Department, ex p. Brind [1991] UKHL 4, [1991] 1 AC 696

In re McKerr [2004] 1 WLR 807

JH Rayner (Mincing Lane) v Department of Trade and Industry [1990] 2 AC 418

R (European Roma Rights Centre) v Immigration Officer at Prague Airport [2005] 2 AC 1

R (on the application of Friends of the Earth Ltd) v Secretary of State for Business, Energy and Industrial Strategy [2022] EWHC 1841 (Admin)

Urgenda Foundation v. State of the Netherlands [2015] HAZA C/09/00456689