

Unit 11



<b>Title:</b>	<b>Planning Law</b>
<b>Level:</b>	<b>6</b>
<b>Credit Value:</b>	<b>15</b>

<b>Learning outcomes</b>	<b>Assessment criteria</b>	<b>Knowledge, understanding and skills</b>
<b>The learner will:</b>	<b>The learner can:</b>	
<b>1 Understand the legal framework relating to land use and development in England and Wales</b>	<p><b>1.1</b> Identify the principal planning legislation, both primary and secondary</p> <p><b>1.2</b> Explain the main features of the historical development of the planning legislation</p> <p><b>1.3</b> Describe the central and local administration of the planning system</p>	<p><b>1.1</b> Town and Country Planning Act 1990 (TCPA) as amended by the Planning and Compensation Act 1991 (PCA) and the Planning and Compulsory Purchase Act 2004 (PCPA); Planning (Listed Buildings and Conservation Areas) Act 1990 (LBA); Planning Act 2008 (PA); delegated legislation</p> <p><b>1.2</b> Early planning controls; Town and Country Planning Act 1947 and subsequent developments, eg, the Town and Country Planning Acts of 1968 and 1971</p> <p><b>1.3</b> The role of Secretary of State responsible for planning; planning policy statements and circulars; legislative and administrative functions; regional planning bodies; local planning authorities (LPAs) - forward and regulatory planning functions; ministerial responsibility for historic buildings; English Heritage; arrangements for Greater London; in Wales, the role of the National Assembly and the Welsh ministers; national parks</p>

	<p><b>1.4</b> Explain the impact of the Human Rights Act 1998 (HRA) on planning law</p> <p><b>1.5</b> Analyse the key challenges facing the legal framework for land use and development in England and Wales</p> <p><b>1.6</b> Apply an understanding of the legal framework relating to land use and development in England and Wales to a given situation</p> <p><b>1.7</b> Critically evaluate a given issue or situation to predict probable legal implications</p>	<p><b>1.4</b> Relevant articles of European Convention and application of HRA; ie, Article 1, First Protocol; Article 6(1) and Article 8; relevant case law: eg, <i>R v SSETR, ex p Alconbury Developments Ltd, (2001)</i>; <i>South Bucks DC v Porter (2001)</i></p> <p><b>1.5</b> Streamlining the planning process for nationally significant infrastructure projects (NSIPs); PA 2008 – Infrastructure Planning Commission; national policy statements; categories of NSIPs; development consent orders – procedure and legal effect; enforcement. Proposals for further reform of infrastructure planning. Proposed legislation in the Localism Bill for reforming the planning system.</p> <p><b>1.6</b> Application of understanding to a complex scenario</p> <p><b>1.7</b> A reasoned opinion of likely legal implications, including remedies and defences, where appropriate</p>
<p><b>2 Understand the system of development plans</b></p>	<p><b>2.1</b> Explain the system of development plans that preceded the Planning and Compulsory Purchase Act 2004 (PCPA)</p> <p><b>2.2</b> Explain the system of development plans that followed the PCPA 2004</p>	<p><b>2.1</b> An explanation of the elements of the system; Local, Structure and Unitary Development Plans (UDPs); transitional arrangements</p> <p><b>2.2</b> The objective of sustainable development; regional planning; ie, the Regional Spatial Strategy (RSS): form and content and procedures for revision; change from RSS to Regional Strategies (RS) and proposals for abolition of regional planning; local development planning; ie, the Local Development Framework (LDF) and constituent planning documents; procedures</p>

	<p><b>2.3</b> Apply an understanding of development plans to a given situation</p> <p><b>2.4</b> Critically evaluate a given issue or situation to predict probable legal implications</p>	<p>for preparation of Development Plan Documents (DPDs); development plans in Wales and Greater London; role of Strategic Environmental Assessment (SEA). Proposals for reform</p> <p><b>2.3</b> Application of understanding to a complex scenario</p> <p><b>2.4</b> A reasoned opinion of likely legal implications, including remedies and defences, where appropriate</p>
<p><b>3 Understand the legal meaning of development</b></p>	<p><b>3.1</b> Explain the law relating to operational development</p> <p><b>3.2</b> Explain the law relating to material change of use</p>	<p><b>3.1</b> The definition of development in s55 TCPA; the concept of “operation”; building, engineering, mining and other operations; operations excluded from development; judicial tests for operational development; demolition; relevant case law: eg, <i>Parke v SSE (1978)</i>; <i>Cheshire CC v Woodward (1962)</i>; <i>Barvis v SSE (1971)</i>; <i>Fayrewood Fish Farms v SSE (1984)</i>; <i>Coleshill &amp; District Investments Ltd v MHLG (1969)</i></p> <p><b>3.2</b> The definition of development in s55 TCPA; concept of “use”; uses excluded from development; the Use Classes Order 1987; material change of use: general principles; the planning unit; incidental and composite uses; intensification of use; the loss of existing use rights: extinguishment and abandonment; cases of doubt: Certificates of Lawfulness of Proposed Use and Development (CLOPUDs); relevant case law: eg, <i>Wallington v SS Wales (1991)</i>; <i>Eastleigh BC v First SS (2004)</i>; <i>E Barnet UDC v BTC (1962)</i>; <i>Burdle v SSE (1972)</i>; <i>Guildford RDC v Penny (1959)</i>; <i>Hartley v MHLG (1969)</i>; <i>Petticoat Lane Rentals v SSE (1971)</i>; <i>Jennings Motors v SSE (1982)</i>; <i>White</i></p>

	<p><b>3.3</b> Apply an understanding of the relevant law to a given situation</p> <p><b>3.4</b> Critically evaluate a given issue or situation to predict probable legal implications</p>	<p><i>v SSE (1989); Pioneer Aggregates v SSE (1983)</i></p> <p><b>3.3</b> Application of understanding to a complex scenario; eg, analysis of the nature of development and need for planning permission in application to a scenario</p> <p><b>3.4</b> A reasoned opinion of likely legal implications, including remedies and defences, where appropriate</p>
<p><b>4 Understand the law relating to the obtaining of consent for development</b></p>	<p><b>4.1</b> Explain the concept of permitted development and deemed planning permission</p> <p><b>4.2</b> Describe the legal principles relating to express planning applications</p> <p><b>4.3</b> Identify the legal principles relating to Environmental Impact Assessment (EIA)</p>	<p><b>4.1</b> General Permitted Development Order 1995 (GPDO); Special Development Orders (SDOs); Local Development Orders (LDOs); deemed planning permission; Enterprise Zones (EZs) and Simplified Planning Zones (SPZs); Article 4 directions</p> <p><b>4.2</b> Types of planning application; form and content of planning applications, and design and access statements; General Development Procedure Order 1995 (GDPO); change to Development Management Procedure Order 2010 (DMPO); notification of owners; publicity and consultation; repeat applications and twin-tracking; relevant case law: eg, <i>Main v Swansea CC (1985)</i>; <i>R (Gavin) v LB Haringey (2003)</i></p> <p><b>4.3</b> The need for EIA, ie Schedule 1 and 2 development; the environmental statement; procedures and consequences of non-compliance; relevant case law: eg, <i>Berkeley v SSETR (No 1) (2001)</i>; <i>R (Barker) v Bromley LBC (2006)</i>; <i>R v N Yorks CC, ex p Brown (1999)</i>; <i>R v Durham CC, ex p Huddleston (2000)</i>; <i>R (Wells) v SSTR (2004)</i>; <i>R(Baker) v Bath and North Somerset DC (2009)</i></p>

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	<p><b>4.4</b> Explain the legal principles relating to the determination of planning applications</p> <p><b>4.5</b> Explain the role of planning obligations in development control</p> <p><b>4.6</b> Explain the principles relating to planning appeals, applications to the High Court and judicial review</p>	<p><b>4.4</b> The status of the development plan; “material considerations”; validity of planning conditions, ie judicial tests; duration of planning permission; commencement of development; completion notices; relevant case law: eg, <i>Edinburgh CC v SSE (1998)</i>; <i>Stringer v MHLG (1971)</i>; <i>R v Westminster CC, ex p Monahan (1989)</i>; <i>Collis Radio v SSE (1975)</i>; <i>W Midland Probation Committee v SSE (1998)</i>; <i>Gateshead MBC v SSE (1994)</i>; <i>Newbury DC v SSE</i>; <i>R v Hillingdon LBC, ex p Royco (1974)</i>; <i>Bristol CC v Anderson (2000)</i> <i>Hall v Shoreham UDC (1964)</i>; <i>Grampian RC v Aberdeen DCC (1984)</i></p> <p><b>4.5</b> Old planning agreements; planning obligations under s106 TCPA; formalities and enforcement; modification and discharge; judicial tests for validity and materiality; Community Infrastructure Levy (CIL) – statutory framework under Part 11 PA 2008 as supplemented by the Community Infrastructure Levy Regulations 2010; proposals for reform of CIL; agreements under Highways Act s278; relevant case law: eg, <i>Jelson v Derby CC (2002)</i>; <i>Windsor &amp; Maidenhead RBC v Brandrose (1983)</i>; <i>Good v Epping Forest DC (1994)</i>; <i>R v Plymouth CC, ex p S Devon Co-operative Society (1993)</i>; <i>Tesco Stores v SSE (1995)</i></p> <p><b>4.6</b> Appeals to the Secretary of State under s78 TCPA against planning decisions; types of planning appeal; transferred and non-transferred cases; inquiry procedure and written representations procedure; costs; appeals under s288 TCPA; applications for</p>
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	<p><b>4.7</b> Describe the principles relating to the revocation and modification of planning permission</p> <p><b>4.8</b> Apply the law relating to the obtaining of consent for development to a given situation</p> <p><b>4.9</b> Critically evaluate a given issue or situation to predict probable legal implications</p>	<p>judicial review; procedures, standing and time-limits; relevant case law: eg, <i>Seddon Properties v SSE (1978)</i>; <i>Save Britain's Heritage v SSE (1991)</i>; <i>R v Bassetlaw DC, ex p Oxby (1998)</i>; <i>Okolo v SSE (1997)</i>; <i>Buxton v MHLG (1961)</i>; <i>R v Somerset CC, ex p Dixon (1997)</i>; <i>R v N Somerset DC, ex p Garnett (1997)</i>; <i>R (Kides) v Cambridgeshire DC (2002)</i>; <i>R v Hammersmith &amp; Fulham LBC, ex p Burkett (2002)</i></p> <p><b>4.7</b> Revocation and modification orders; discontinuance orders; rights to compensation; relevant case law: eg, <i>Pennine Raceway Ltd v Kirklees (1983)</i>; <i>Canterbury CC v Colley (1993)</i>; <i>Alnwick DC v SSETR (2000)</i></p> <p><b>4.8</b> Application of the law to a complex scenario</p> <p><b>4.9</b> A reasoned opinion of likely legal implications, including remedies and defences, where appropriate</p>
<p><b>5 Understand the law relating to the enforcement of development control</b></p>	<p><b>5.1</b> Explain the legal principles relating to enforcement notices</p>	<p><b>5.1</b> Enforcement notices; time limits; service and content; nullity and invalidity; enforcement appeals; injunctions; stop notices; Planning Contravention Notices (PCNs); Temporary Stop Notices (TSNs); Breach of Condition Notices (BCNs); criminal offences under s179 TCPA 1990 (Enforcement notice); s187 TCPA 1990 (Stop notice); s171D TCPA 1990 (PCN); s171G TCPA 1990 (TSN); s 187A TCPA (BCN); relevant case law: eg, <i>Sage v SSETR (2003)</i>; <i>Fidler v SSCLG (2010)</i>; <i>Stevens v LB Bromley (1972)</i>; <i>Miller-Mead v MHLG (1963)</i>; <i>R v Greenwich LBC, ex p Patel (1935)</i>; <i>R v</i></p>

	<p><b>5.2</b> Describe the principles relating to certificates of lawfulness</p> <p><b>5.3</b> Apply the law relating to the enforcement of development control to a given situation</p> <p><b>5.4</b> Critically evaluate a given issue or situation to predict probable legal implications</p>	<p><i>Tower Hamlets LBC, ex p Ahearn (1989); Nelsovil v MHLG (1962) R v Wicks (1998); S Buckinghamshire DC v Porter (2003)</i></p> <p><b>5.2</b> Certificates of Lawfulness of Existing Use or Development (CLEUDs); relevant case law: eg, <i>Nicholson v SSE (1998); Panton v SSETR (1999); Staffordshire CC v Challinor (2007); Welwyn Hatfield Council v SSCLG (2010)</i></p> <p><b>5.3</b> Application of the law to a complex scenario</p> <p><b>5.4</b> A reasoned opinion of likely legal implications, including remedies and defences, where appropriate</p>
<p><b>6 Understand the law relating to historic buildings and areas</b></p>	<p><b>6.1</b> Explain the law relating to buildings listed as being of special architectural or historic interest</p> <p><b>6.2</b> Describe the legal provisions relating to conservation areas</p>	<p><b>6.1</b> The statutory list; the role of English Heritage; definition of a listed building; Building Preservation Notices (BPNs); listed building consent; listed building enforcement; appeals; repair of listed buildings; criminal offences; the role of Cadw in the protection of the historic environment in Wales; relevant case law: eg, <i>Debenhams Plc v Westminster CC (1987); Kennedy v SS Wales (1996); Shimizu (UK) Ltd v Westminster CC (1987); R v Wells Street Metropolitan Stipendiary Magistrate, ex p Westminster CC (1986); R v Leominster DC, ex p Antique Country Buildings (1988); Robbins v SSE (1989)</i></p> <p><b>6.2</b> Designation of conservation areas; legal consequences of designation; enforcement in conservation areas; relevant case law: eg, <i>R v Canterbury CC, ex p Halford (1992); S Lakeland DC v SSE (1992)</i></p>

	<p><b>6.3</b> Explain the law relating to ancient monuments and areas of archaeological importance</p> <p><b>6.4</b> Apply the law relating to historic buildings and areas to a given situation</p> <p><b>6.5</b> Critically evaluate a given issue or situation to predict probable legal implications</p>	<p><b>6.3</b> Protection under the Ancient Monuments and Archaeological Areas Act 1979; scheduled monuments; ancient monuments; archaeological research facilities; protection under planning control</p> <p><b>6.4</b> Application of the law to a complex scenario</p> <p><b>6.5</b> A reasoned opinion of likely legal implications, including remedies and defences, where appropriate</p>
<b>7 Understand the principles relating to special planning controls and special cases</b>	<p><b>7.1</b> Explain the law relating to nature conservation and landscape protection</p> <p><b>7.2</b> Explain the law relating to the protection of trees and hedgerows</p> <p><b>7.3</b> Explain the legal principles relating to the control of outdoor advertising</p> <p><b>7.4</b> Explain the law relating to the control of caravan sites</p>	<p><b>7.1</b> National parks; Sites of Special Scientific Interest (SSSIs); Areas of Outstanding Natural Beauty (AONBs); Conservation (natural habitats, etc) Regulations 1994; change to Conservation of Habitats and Species Regulations 2010; green belts</p> <p><b>7.2</b> Tree preservation orders (TPOs); TPO consent; principles of enforcement; protection of hedgerows under the Hedgerows Regulations 1997; relevant case law: eg, <i>Kent CC v Bachelor (1976)</i>; <i>Bullock v SSE (1980)</i>; <i>Maidstone BC v Mortimer (1980)</i>; <i>R v Brightman (1990)</i>; <i>Perrin v Northampton BC (2006)</i>; <i>Palm Developments v SSCLG (2009)</i></p> <p><b>7.3</b> The advertisement regulations 2007; principles of control; express and deemed consent; exceptional cases; enforcement; areas of special control; relevant case law: eg, <i>Newport BC v SS Wales (1997)</i>; <i>G Yarmouth BC v SSE (1987)</i>; <i>O'Brien v Croydon LBC (1999)</i>; <i>Butler v Derbyshire CC (2005)</i></p> <p><b>7.4</b> Caravan Sites and Control of Development Act 1960; definition of "caravan"; requirement for</p>

	<p><b>7.5</b> Explain the position of Crown land under the planning legislation</p> <p><b>7.6</b> Describe the position regarding development by LPAs</p> <p><b>7.7</b> Explain the provisions under planning law regarding mineral and waste development</p> <p><b>7.8</b> Apply the law relating to special planning controls and special cases to a given situation</p> <p><b>7.9</b> Critically evaluate a given issue or situation to predict probable legal implications</p>	<p>and issue of site licence; conditions</p> <p><b>7.5</b> Meaning of Crown land; abolition of Crown immunity under PCPA; special procedures and exceptional cases</p> <p><b>7.6</b> Rules relating to the obtaining of planning permission by local planning authorities; Town and Country Planning General Regulations 1992; relevant case law: eg, <i>Steeple v Derbyshire CC (1984)</i>; <i>R v Lambeth BC, ex p Sharp (1984)</i>; <i>R v Camden LBC, ex p Cummins (2002)</i></p> <p><b>7.7</b> Specific provisions relating to mineral development; Interim Development Order permissions (IDOs); review of minerals permissions; EIA; National Waste Strategy; waste and development plans</p> <p><b>7.8</b> Application of the law to a complex scenario</p> <p><b>7.9</b> A reasoned opinion of likely legal implications, including remedies and defences, where appropriate</p>
<p><b>8 Understand the powers relating to land acquisition in planning law</b></p>	<p><b>8.1</b> Explain the principles relating to compulsory purchase for planning purposes</p> <p><b>8.2</b> Describe the role of inverse compulsory</p>	<p><b>8.1</b> Compulsory purchase for planning purposes under TCPA, s226; powers of acquisition; procedures under the Acquisition of Land Act 1981 and rights to compensation (NB: an awareness of compensation rights, but not the legal rules relating to the assessment of compensation); relevant case law: eg, <i>Alliance Spring Co Ltd v First SS (2005)</i>; <i>R (Sainsbury's Supermarkets Ltd) v Wolverhampton CC (2010)</i></p> <p><b>8.2</b> Land incapable of reasonably beneficial use:</p>

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	<p>purchase in the planning legislation, ie purchase and blight notices</p> <p><b>8.3</b> Apply the law relating to land acquisition to a given situation</p> <p><b>8.4</b> Critically evaluate a given issue or situation to predict probable legal implications</p>	<p>purchase notices; planning blight: blight notices; procedures; role of the Lands Tribunal and rights to compensation; (NB: an awareness of compensation rights, but not the legal rules relating to the assessment of compensation); relevant case law: eg, <i>Adams &amp; Wade Ltd v MHLG (1965)</i>; <i>General Estates Ltd v MHLG (1965)</i>; <i>Brookdene Investments Ltd v MHLG (1970)</i>; <i>Colley v SSE (1998)</i></p> <p><b>8.3</b> Application of the law to a complex scenario</p> <p><b>8.4</b> A reasoned opinion of likely legal implications, including remedies and defences, where appropriate</p>
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<b>Additional information about the unit</b>	
Unit aim(s)	To accredit a broad and detailed understanding of Planning Law
Unit expiry date	31 March 2015
Details of the relationship between the unit and relevant national occupational standards (if appropriate)	This unit may provide relevant underpinning knowledge and understanding towards units of the Legal Advice standards
Details of the relationship between the unit and other standards or curricula (if appropriate)	Na
Assessment requirements specified by a sector or regulatory body (if appropriate)	Na
Endorsement of the unit by a sector or other appropriate body (if required)	Na
Location of the unit within the subject/sector classification	15.5 Law and Legal Services
Name of the organisation submitting the unit	ILEX (Institute of Legal Executives)
Availability for use	Available to all Awarding Bodies to award credit (shared)
Availability for delivery	1 September 2009

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