



Opposing A Planning Application

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Animal Welfare And The Planning System

1. Clearly any major advances in animal welfare and animal rights must come through political activity and public education.
2. The operation of the town and country planning system is of limited importance in the context of the long term ethical and political changes that are necessary to promote animal welfare issues. However, campaigners should be aware of the opportunities and the limitations, of the planning system to enable them to take the necessary action at the appropriate time. Awareness of how the system operates is important as the process is highly structured and confined by statutory procedures, so that intervention in the decision-making process is only possible at certain stages and in certain ways.
3. There are several areas of the planning system that may be of use to campaigners depending on the nature of the issues and these are discussed below.

The Review Of Structure And Local Planning

4. Structure plans (prepared by counties) and local plans or unitary development plans (prepared by districts and boroughs) set out the planning policy framework within which all planning decisions are made. These plans are reviewed every 8-10 years and policies may be changed, deleted or added, to reflect evolving economic, social and environmental issues. When the reviewed plans are published in draft form anyone may object to policies in the plan and these will generally be considered by an independent inspector at a public inquiry. This area of the planning system will probably be of least relevance to animal welfare groups since it is concerned with strategic planning policy rather than site-specific matters but there may be issues – for example policies relating to agriculture and intensive animal farming – where some participation could help promote animal welfare causes.

Objections To Planning Applications

5. If a planning application is submitted which appears to be harmful to animal welfare objectives, objections can be made within a specified time and these objections must be taken into account providing they are relevant to planning.

6. The law requires, and the courts have confirmed on many occasions, that planning decisions must be based on land use planning considerations (that is, matters which relate to the use and development of land) and if a planning application were to be refused for a non-planning reason it is very likely that the Secretary of State for Environment, Transport and the Regions (or the Courts in certain circumstances) would allow any appeal against such a refusal.

7. Matters which are generally regarded as material planning considerations include the following:

- a) The adopted policies contained in the structure and local plans.
- b) The relevant planning legislation, Circulars and other Central Government Guidance on planning issues.
- c) Protection of environments of particular character. This may be relevant where the area is considered important because of its architecture or landscape, e.g. a Conservation Area, Special Landscape Area or Area of Outstanding Natural Beauty.
- d) The residential amenity of an area, including noise, smell, activity.
- e) Would the proposal through its size, location, design or external appearance significantly harm the environmental character of the area – e.g. spoil the appearance of a group of houses, or spoil the appearance of a particularly pleasant street scene, or the natural landscape?
- f) Impact on adjoining properties in terms of privacy, daylight, sunlight.
- g) The effects on traffic, road access, visibility and parking.
- h) The appropriateness of the proposed land use, e.g. the conversion of a house in a quiet residential street to a shop or restaurant.

8. The volume of public opposition, in itself, is not a material consideration (Newport MBC v Secretary of State for Wales, 1998) unless the objections raised are based on planning matters and are objectively justified.

9. Public safety is a material consideration, but only if the potential safety hazard arises directly from the development itself (e.g. hazardous industrial processes, or increases in traffic on an unsafe piece of road) and not indirectly through a breach of the peace or traffic congestion arising from public demonstrations against a proposed use.



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10. To my knowledge, neither the Secretary of State nor the Courts have yet concluded that the effect of a development, either directly or indirectly, on the welfare or safety of animals is a proper planning consideration in the assessment of planning applications. Indeed, given the legal restrictions within which the planning system operates, it would be surprising if such a conclusion were reached.

11. Animal welfare campaigners will be aware that at Amsterdam Inter-Governmental Conference 1997, the EU agreed to add to the Treaty of Rome a Protocol recognising that animals are sentient beings and that their welfare needs should be taken into account. Some commentators take the view that this means that animal welfare issues are now material planning considerations. Although the matter has yet to be tested in the courts, I (regretfully) do not share this view. The Protocol states:

In formulating and implementing the Community's agriculture, transport, internal market and research policies, the Community and the Member States shall pay full regard to the welfare requirements of animals, while respecting the legislative or administrative provisions and customs of the Member States relating in particular to religious rites, cultural traditions and regional heritage (our emphasis).

12. It will be seen that the Protocol refers only to agriculture, transport, internal market and research policies, and makes no reference to planning policies. In my view the British Courts would almost certainly hold that planning and environmental issues do not fall within the welfare of animals when administering the British planning system. I hope I am proved wrong.

13. The lesson to be learned from the above is that **campaigners must, wherever possible, play by the planning rules and where they wish to oppose a planning application on animal welfare grounds they must try to also find legitimate planning objections (such as those mentioned at paragraph 7)**. This was the approach taken with the application by Huntingdon Life Sciences at Occold in Suffolk which was eventually refused permission in December 1997 for reasons relating to landscape, residential amenity, highway safety, noise, smell and nuisance.

Enforcement Of Planning Control

14. If development is carried out without planning permission (this can be the construction of buildings or the change of use of buildings or land) the local authority has powers under the Planning Acts to require the buildings to be removed or the uses to cease. Appeals against these enforcement proceedings can be made to the Secretary of State. In my experience, these enforcement procedures impact on animal welfare issues in two main ways.

a) Small animal welfare organisations, such as dog and cat rescue homes are often established by people in their homes. This use may or may not

(for reasons too complex to discuss here) need permission. These uses will often result in local objections, on both planning and non-planning grounds. These organisations, some of which are charities, often do not have the knowledge or resources to challenge the local authority and to make the best planning case. If campaigners become aware of animal rescue organisations which are in dispute with planning authorities they should bring them to the attention of Animal Aid or myself.

b) Some developments, which can be harmful to animal welfare, such as intensive livestock units or research establishments, are carried out without planning permission even though consent is required. In these cases the local authority can be requested by objectors to take enforcement action and if the authority refuses to investigate, a complaint can be made to the local Government Ombudsman. However, whether or not the authority is able to take enforcement action will always depend on the particular circumstances and on whether the development causes any significant and legitimate planning objections (see paragraph 7).

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