

**Case Name:** *R (Animal Equality UK) v North East Lincolnshire Borough Council [2025] EWHC 1331 (Admin)*

**Full case:** [Read here](#)

**Commentary:** The claimant, Animal Equality UK, unsuccessfully challenged the decision of North East Lincolnshire Borough Council to grant planning permission for an onshore salmon farm. Animal Equality UK is a non-governmental organisation concerned with animal welfare, particularly farmed animals. ASL New Clee Limited, a salmon farm operator and owner of the onshore salmon farm site appeared as an interested party.

The Claimant alleged that the committee was advised in the Officer's Report that it could not take animal welfare concerns into account. The Council and Interested Party disputed this, and contended that the advice was that, whilst the committee could take those concerns into account, officers recommended that they should not be with the existence of other permitting regimes meaning that animal welfare concerns would be subject to consideration elsewhere. Giving the judgment of the Court, Karen Ridge, sitting as a Deputy High Court Judge rejected the application for judicial review and also provided instructive guidance on the limited import of comments made in local authority planning committee meetings by committee members to serve as grounds for legal challenge.

#### The Officer's Report

The claimant was granted permission to challenge the decision on one ground: that the Council's planning committee were materially misled in that they were advised that animal welfare concerns were not a material consideration to be taken into account in their decision making. All parties agreed that animal welfare concerns were capable of constituting a material consideration as a matter of law, and also agreed that a planning committee is not required to have regard to, or to disregard, animal welfare concerns, but can legitimately chose to do so.

The contentious paragraph in the Officer's Report dealing with fish welfare read as follows:

*"Regarding fish welfare and the moral concerns of fish farming that have been raised in representations received whilst these concerns are noted they are not considered to be material land use planning considerations. Indeed, in that way the proposal is akin to other well established on land intensive livestock units such as for chickens, turkeys and pigs."*

Counsel for the claimant contended that the words 'those concerns are noted' meant that concerns had been registered as having been made but could not be taken into account in the assessment. Further, it was submitted that the words "material land use

planning considerations” were a particular formulation of words used to reference the legal test of in principle materiality.

Read in context, the Court did not accept that the words “they are not considered to be” were a literary flourish, but signalled that the Officer’s view was that concerns in relation to fish welfare were not material. They were not categorical, but an expression of a professional opinion as to materiality.

The Court did not accept the submission that the use of the term “material land use planning consideration” meant that the Officer was advancing a general proposition of law or was giving a legal direction to members, but rather was an expression of planning judgment as to materiality. The fact that this statement was not caveated to the effect that members could come to their own view was also not determinative, as demonstrated by the fact that all other planning judgments in the report were expressed in similar terms.

The Court also pointed to other references in the report to fish welfare, specifically in the section on permitting regimes, as indicating that while the Officer had opined elsewhere that welfare concerns were not material to the application, he was informing members that such concerns would be subject to consideration elsewhere. In the Court’s view, while the general conclusion that the existence of other permitting regimes meant that animal welfare was not a material consideration in this, and potentially other, applications, it did not constitute an unlawful blanket legal direction.

#### Comments during the Committee Meeting

Counsel for the claimant also submitted that the oral advice of officers in the Committee meeting compounded the unlawful advice in the report. Counsel for the Council submitted that this was not the case, and that the oral advice was consistent with the written advice, which was an expression of planning judgment, not a blanket legal direction.

During the meeting, the Officer stated that: *“This is where, in terms of what we can or can’t consider, in regards to the moral side of what is being proposed, that is not considered a material consideration. That goes along with the welfare of the fish involved as well. But this is a permitted process, it does require as we see on page 20 in the report a number of permits to ensure it is run appropriately.”*

The words “can or can’t” were said by counsel for the claimant to be imperative, indicating that the committee were not entitled to look at such concerns. However, the Court disagreed, emphasising that words used in a committee meeting are not to be forensically dissected, and that the oral advice was generally in accordance with the

report. The Court also noted that the Officer first referenced the extensive permitting requirements of the operation before referencing what could and could not be considered, as well as the fact that the next sentence began with the word “but”, both of which went against the interpretation advanced by the claimant.

Counsel for the claimant highlighted statements made by individuals in the meeting, but the Court treated these with a significant degree of caution, emphasising that they were less considered than a written report, reflected a progressing debate and so were not definitive, and often only expressed the view of one member of the committee and so could not represent a definitive understanding of the officer’s advice. In any event, the Court held that the particular comments made by the chairman highlighted by counsel for the claimant were highly ambiguous. Therefore, comments made at the meeting did not advance ground 1 any further.

### Conclusion

For all of those reasons, Ground 1 failed and the application for judicial review was dismissed.

*Case summary prepared by Gregor Donaldson*