

*Planning for Pigs  
and Poultry*  
*Maximising your Chances*



Deborah Sharples is a partner and the head of planning and environmental law at NFU Legal Panel Firm Hewitsons. Hewitsons' specialist Agriculture, Food and Rural Business team delivers timely, practical and commercial advice to rural clients nationally. It draws on the long commercial experience of its members who work in conjunction with other lawyers in the firm. The firm offers a broad range of services to individuals, businesses and charities and not-for-profit organisations. Hewitsons has a commitment to rural matters which makes it a leader in the field.

## *Introduction*

Making an application for planning permission for a large scale pig or poultry unit is a significant undertaking, even if things go smoothly. It is quite likely that an environmental impact assessment will be needed with all the costs and input of time that that entails. The application fees alone will be a significant outlay. This means that anyone making an application needs to maximise the chances of success.

Deborah Sharples of Hewitsons solicitors has many years of experience in relation to planning for pig and poultry units and in this article offers some practical advice on how to maximise the chances of success.

## *The issues*

This type of planning application can lead to significant anxiety and adverse reaction amongst local residents who fear problems from odour, flies, traffic, noise and disease. The objections often have as their background misinformation and lack of understanding of what is involved as well as prejudice against intensive livestock rearing systems. None the less these matters must be dealt with properly at an early stage in the application. The first step, I suggest, is to appoint a planning consultant who understands livestock and farming.

## *Location, location, location*

Your consultant can help you with one of the early decisions, which is the location and layout of the unit. There will be operational matters which will drive this to a great extent but a good deal of time and trouble could be saved by careful choice of site.

A site which has good access to a main road (ideally without passing through a village, especially where broiler depopulation takes place at night) will minimise highways objections. These objections can relate to highway safety, environmental impacts and the standard of the road. They can include allegations that traffic will damage the roads and verges. Clear information as to the real, rather than perceived, level and type of traffic is important.

It is obvious, perhaps, that a site which is as far as possible (ideally at least 400m) from houses, schools, pubs and similar will make it easier to show that there will not be an issue with odour or with bioaerosols. Bioaerosols are essentially small particles (dust) of organic matter which enter the atmosphere. They can be produced by livestock facilities and they are the latest health issue to be picked up by objectors. Conditions are occasionally included on environmental permits in relation to them. Modelling is not currently possible but data is being collected which should enable modelling to be carried out in the future. It is important to remember that the point with odour and other "nuisances" is not just getting the planning permission but also ensuring that the unit can operate in the future without justified claims of nuisance. Dealing with these is a distraction from the real business of farming.



Consider the landscape impact of the proposal. Some landscapes are more forgiving than others and allow more effective landscaping to be undertaken. Bunds and even trees are sometimes objected to by planning authorities as being alien features in a rural landscape. Feed bins and biomass buildings can be tall and prominent and in some landscapes they are hard to conceal. It would be worthwhile to appoint a landscape architect at the time that the site is being chosen, particularly in a sensitive landscape, to make sure that the scheme which is proposed will be as well assimilated into the landscape as it realistically can be.



Another issue which is of increasing prominence recently, partly as a result of a decision in the Court of Appeal, is the impact which intensive livestock developments might have on the settings of listed buildings and on other “heritage assets”, both designated and non designated. Many farmhouses, churches and some farm buildings are listed so it is not unusual to find that there are some listed buildings in the area. Non designated assets are more difficult to identify since they are not defined and not listed on any particular record. There is a risk of a conservation officer taking a very far reaching view of what is a heritage asset. There does not need to be a clear view from the site to the building or in reverse for the suggestion to be made that the development will affect the setting of the listed building. It is worth considering this issue at the outset. The preparation of a heritage statement to accompany the application may be a way of ensuring that the issue is taken into account properly at the application stage and does not become either an issue at appeal or a basis on which a challenge by way of Judicial Review can be made.

## *Benefits*

If there is any potential harm to heritage assets or indeed any other harm from the development the decision maker must weigh those against the public and private benefits of the proposal. Profit is not a dirty word, so there is no reason not to be clear that the development is intended to and indeed must, make a profit. That in turn will introduce money into the economy and generate employment both directly and indirectly, which can be quantified. The meat or eggs that are produced will also contribute towards UK food supply and security, which are all public benefits. The application should contain information about the benefits so that they can be weighed in the balance in favour of the application.

## *Policies*

There will be policies in the local development framework as well as those in the National Planning Policy Framework which are relevant to the application and it is important to consider those and to make the application accord with them as far as possible. This means looking beyond those which relate to agricultural buildings directly to consider more general ones relating to matters such as employment, landscape, heritage, design, traffic and renewable energy. The fact that a development is sustainable in terms of energy is something which can be put forward as a benefit in favour of the development.

## *Permits*

Where an environmental permit is needed it is increasingly common for the permit to be obtained first and this is generally a good idea since it allows the point to be made that the Environment Agency is happy with and will control many of the potential environmental impacts. It must be remembered, though, that they will not deal with off site muck spreading or off site traffic, which are both areas of concern. A good application for planning permission will contain detailed information about traffic flows and how and where muck will be disposed of.

## *Local People*

One of the most challenging areas can be dealing with the local residents and striking a balance between consultation and openness and not allowing an early and strong body of objection to develop. It is all too often true that a small number of people will circulate alarmist "information" about what will happen in and around the unit once built. The best way to deal with this is to ensure that the information in the application is clear and presented in a straightforward manner. It is worth making the point in a non confrontational way that everyone wants good food and good value for money and that intensive rearing is the best way to achieve that. The high standards of welfare can be stressed. In practice there is not much which can be done about comments on social media, but if it gets really out of hand it may be possible to ensure that the offending material is taken down - and the mention quietly around the local area of slander or libel might have a sobering effect.

## *The Devil May be in The Detail*

It is important to pay attention to detail not only in your own application, but in the Council's handling of the application. Committed objectors will not limit themselves to simple letters of objection to a planning application but will sometimes pick over the application in great detail and draw out areas in which there are or they perceive that there are inconsistencies. Once a planning permission has been granted there is a six week period in which the decision can be challenged on judicial review. Any such challenge will be of the way in which the Council has dealt with the application, so you may not be to blame for an error, but you will be the victim of it, if it means that your permission is revoked. For this reason it is worth keeping a watching eye on whether the Council has gone through the correct procedures in terms, for example, of advertising the Environmental Statement or in reporting accurately to committee. Do not be afraid to comment while you have the opportunity.

## *Appeal*

If the application is refused you have a right to appeal and will need to decide whether to proceed by written representations, a hearing or an inquiry. In any case it is important to prepare thoroughly and an experienced professional team, to make the appeal, is likely to be a good investment.

## *Summary*

A wise choice of site will do the most to smooth the way for your application, but beyond that a well thought through application with simply presented accurate information, supported by appropriate experts, is most likely to succeed. Keep an eye on the opposition as well as on the Council and do your best to head off issues before they take a hold.



Deborah Sharples is a partner in Hewitsons Solicitors and can be contacted on 01223 532757 or by email [deborahsharples@hewitsons.com](mailto:deborahsharples@hewitsons.com).

