

Planning and Infrastructure Bill 2025 - House of Lords Committee Stage and beyond Briefing from the Wild Animal Welfare Committee and UK Centre for Animal Law

Introduction

The Wild Animal Welfare Committee (WAWC) is an independent expert committee set up in 2014 to inform policy and legislative decision-making affecting wild animals in the UK administrations. WAWC aims to address the anomaly that, while wild animals are sentient individuals, under current legislation they enjoy significantly less welfare protection than domestic or research animals.

The UK Centre for Animal Law (A-LAW) is a charity that brings together lawyers and other people interested in animal protection law to share experience and to harness that expertise for the benefit of animals.

This briefing discusses the potential impact of the Planning and Infrastructure Bill 2025 on the welfare of sentient wild animals. WAWC and A-LAW are aware that numerous conservation organisations have commented on the likely harmful effects of Part 3 of the Bill on protected animal and plant populations and on local biodiversity.

For example, Born Free Foundation stated in May 2025 that the Bill “*proposes the weakening of protection for some of our best loved and iconic wild animals. Under the proposals, developers could be allowed to kill or take badgers or interfere with their setts, and to ignore the need for site-specific bat surveys, in order to facilitate developments that are considered to be of ‘overriding public interest’, while reducing the ability of communities to challenge bad planning decisions.*” Wildlife and Countryside Link has commented that “*There is no evidence that nature protections are a significant barrier to development.*”

WAWC and A-LAW share these concerns but wish also to draw attention to the potential negative impacts of the proposed measures on the welfare of individual wild animals.

By taking an overarching, rather than local, perspective on proposed developments (by viewing payment into a national biodiversity fund as mitigation for local damage) the Bill does not provide for proper consideration of the actual impacts on individual animals, living in a location scheduled for development. But in fact, these animals are at risk of being killed, injured, displaced or otherwise harmed when their habitat is altered and vehicles and machinery enter their living spaces. Individuals of both protected and non-protected species are equally vulnerable to welfare harms as a consequence.

This lack of consideration for animal welfare is at odds with the general acceptance in the UK, both cultural and legislative, that we should not cause sentient animals to suffer. For domesticated animals, the Animal Welfare Act 2006 not only prohibits the causing of unnecessary suffering but places a duty of care on responsible individuals to provide for their animals’ welfare needs. Currently, this level of responsibility extends only to animals when they are under the control of humans. When it comes to free-living wild animals, the law makes little specific provision for the welfare of the individual. But wildlife are directly affected by

development and can suffer in the process. In addition to ensuring that our planning and development processes are compliant with our obligations to protected animals under international law, we should also consider the individual welfare harms caused to wildlife.

Due regard to animal welfare

The Animal Welfare (Sentience) Act 2022 incorporates into domestic law a previous European Union obligation to pay due regard to the welfare of animals, as sentient beings. It gives the Animal Sentience Committee (ASC) statutory powers to report on whether, or to what extent, the Government is having, or has had, all due regard to the ways in which the policy might have an adverse effect on the welfare of animals as sentient beings.

It is therefore significant that the ASC found it necessary to write to the EFRA Committee to raise its concerns that the Planning and Infrastructure Bill does not mention the welfare of sentient animals *“although it is incumbent on the government to pay all due regard to the ways a policy might impact animal welfare. The PIB appears to conceptualise ‘biodiversity’ or ‘the environment’ as a single entity, without recognising that these are populated by individual animals capable of experiencing positive and negative welfare states.”* (ASC, 2025)

The ASC drew attention to the fact that *“the current approach to overall net biodiversity and environmental restoration is predicated on restoring or improving future habitats without considering impacts on existing populations of sentient animals. For example, an EDP may conclude that the destruction of an area of land inhabited by certain species (such as hares, voles, wrens, badgers, great crested newts) can go ahead if new habitats suitable for species of conservation concern are provided elsewhere. This should result in increased future numbers of some species and greater overall diversity. However, under this model the needs (and often lives) of existing animals are forfeited for the future benefits of other animals and ecosystems.”* (ASC, 2025).

Beyond the point the ASC makes, planning law should consider both overall and individual animal impacts in any consideration of development plans.

Five Domains and Seven Principles

WAWC and A-LAW believe that decisions around proposed developments should draw on two widely recognised models: the Five Domains models for assessing the welfare of individual animals (Mellor, 2017; Mellor et al., 2020) and the International Consensus Principles for Ethical Wildlife Control (Dubois et al., 2017).

The Five Domains provide a framework for organising scientifically derived information to assess the experience of an individual animal in a particular situation or condition. The model consists of three physical (or functional or “fitness”) Domains (very briefly: nutrition and hydration; physical environment; health, including disease or injury); and a fourth of behavioural interaction with the animal’s environment. Scientific information from these four Domains is then assessed and their impact on the fifth Domain, mental experience, inferred. This in turn allows us to predict the likely overall welfare state of an individual and consider this in assessing “impact”.

The Five Domains are widely recognised by scientists and policy makers around the world and can be applied to assess the welfare of companion, farmed, captive and free-living wild animals. For example, scientists have used them to make detailed assessments of the humaneness of

different pest control methods (Sharp and Saunders, 2011; Baker et al., 2022). WAWC has also applied the Five Domains model to make a general assessment of the welfare harms associated with the use of live traps such as snares, glue traps and cage traps (WAWC, 2022).

The International Consensus Principles for Ethical Wildlife Control (Dubois et al., 2017) (“the ethical principles”) were developed by a panel of 20 experts convened in 2015 at the University of British Columbia to explore international perspectives on and experiences with human–wildlife conflicts and develop principles for ethical wildlife control. The resultant academic paper, published in 2017, foresaw the ethical principles approach being incorporated into international or domestic regulations and decision-making by public authorities or by private operators such as land managers, animal control businesses and others.

The ethical principles mean that the acceptability of a wildlife control action is based on a comprehensive analysis of the necessity for control, benefits, feasibility, costs to people and animals, alternatives, and effects on animal welfare in terms of the humaneness of the physical methods employed. While the ethical principles are not intended to prohibit or prevent wildlife control, including lethal control, their application allows for significant reduction and mitigation of harmful effects on individual animals and populations, as well as promoting the public acceptability of justifiable interventions. They provide a robust framework for developing management standards at either local or national level, assessing government policies and formulating individual management plans.

In its 2023 position paper stressing the need to take account of the welfare of the individual in management decisions, the Scottish Animal Welfare Commission (SAWC) recommended use of the ethical principles (SAWC, 2023). SAWC noted:

“While not outlawing legitimate wildlife control, application of these principles works through a process of refining options and achieving a socially acceptable goal while causing the least welfare harm when looking at situations where there is potential human-wildlife conflict.”

Potential approaches to paying due regard

The obligation to pay due regard to animal welfare is not reflected in the Bill at present. WAWC and A-LAW strongly recommend that all of the comments by the ASC in its letter to the EFRA committee (ASC, 2025) should be taken into account, in particular that the Bill should include a requirement to predict and consider the impact of construction on animal welfare. We also support the suggestions by ASC for a number of positive methods to consider the welfare of wild animals through thoughtful design (such as tunnels or bridges to reduce roadkill).

The ASC notes that it may also be possible to translocate certain species to a suitable alternative habitat. Translocation can, however, be problematic if not carried out to strict welfare protocols. Professor David Macdonald of the Wildlife Conservation Research Unit at the University of Oxford and others have observed that live trapped and transported animals are likely to experience stress, hunger, thirst, environmental challenge and behavioural restrictions, and their welfare will be compromised by fear, distress, anxiety and frustration (Teixeira et al., 2007; Dickens et al., 2010; Macdonald, 2023). Modern guidelines for conservation translocations place an increasing emphasis on welfare (Harrington et al., 2013) but where animals are not protected and are simply unwanted, there may be less focus on their welfare. As the ASC observes, translocation *“would have less of a welfare impact than simply allowing animals to die out of sight”*, but it should not be seen as a panacea.

Amendments

WAWC and A-LAW welcome and support amendments already lodged that provide for:

- using bird-safe building design and glass to reduce bird collisions (Amendment 225, referring to Clause 106)
- requiring the installation of integrated swift nest boxes in new developments (Amendment 212, referring to Clause 106)
- making regulations for the provision of features like bat boxes, hedgehog highways, and swift bricks in new developments. (Amendment 338, referring to Clause 87).

We believe it is also necessary to write specific provision for animal welfare into the Bill. We are aware that animal welfare advocates have proposed additional amendments to the clauses covering spatial development strategies and environmental development plans (EDP). WAWC and A-LAW support these proposals, in particular:

1. that Clause 52(12G)(2)(b) on spatial development strategies be amended to include:

(iv) the welfare of animals in the strategy area, where “animal” has the meaning given by section 5(1) of the Animal Welfare (Sentience) Act 2022.

2. that Clause 57 be amended after 57(6) to include:

() An EDP must pay due regard to the protection of populations of protected animals and the welfare of individual animals in the strategy area, where “animal” has the meaning given by section 5(1) of the Animal Welfare (Sentience) Act 2022.

If the government prefers not to legislate for the above provisions, it could instead make a policy commitment that the Secretary of State will:

- include due regard for animal welfare as a “prescribed matter” for spatial development strategies (under clause 12G(2)(d)) - “any other prescribed matters.”)
- include due regard for animal welfare under clause 58(5) - “The Secretary of State may by regulations make provision about other things that must be done by Natural England when preparing an EDP.”

In addition, the government should issue voluntary guidelines on wild animal welfare-friendly approaches to planning, infrastructure development and building. This could build on guidance that has been issued elsewhere, for example the Chartered Institute of Ecology’s Environmental Management’s Good Practice Guidance for Habitats and Species, but with a specific focus on welfare. WAWC and A-LAW would be pleased to assist in the formulation of such voluntary guidance.

Wild Animal Welfare Committee

www.wawcommittee.org

Scottish Charity Number SC045958

UK Centre for Animal Law (A-LAW)

www.alaw.org.uk

Registered Charity 1113462

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