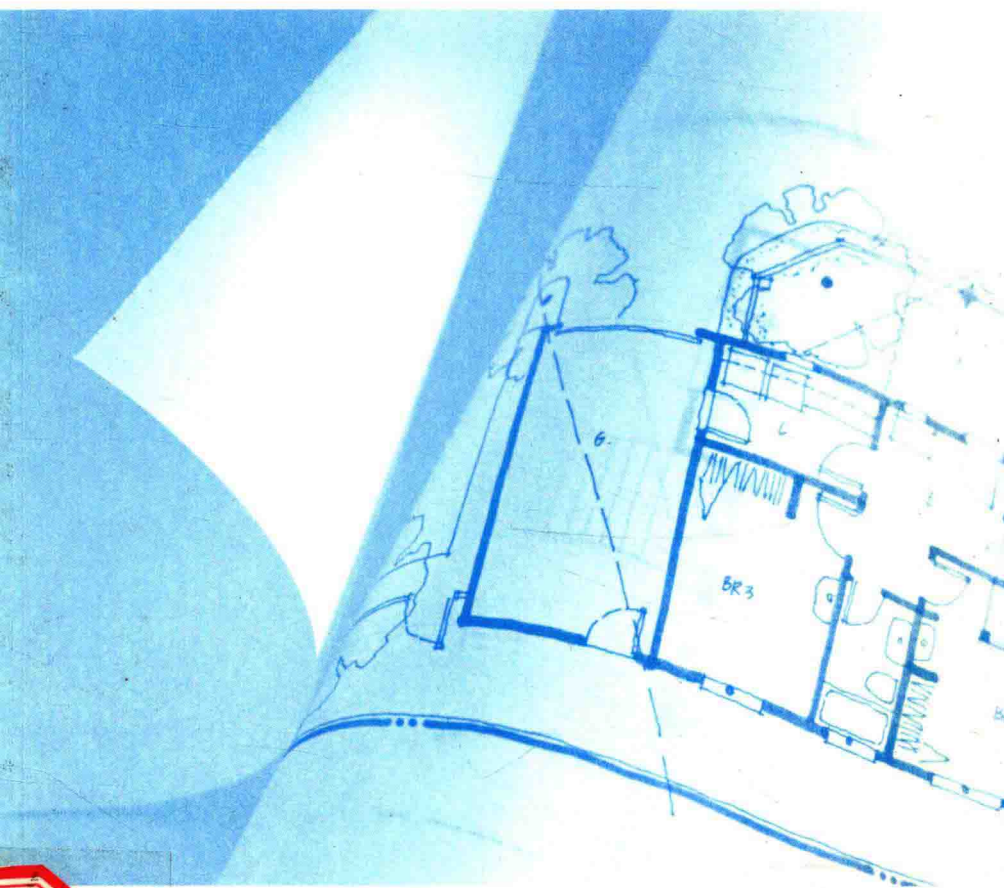


Planning and **Human Rights**



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PLANNING AND HUMAN RIGHTS

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PREFACE

Twenty years ago the journal, *Scottish Planning Law and Practice*, published an article entitled "European Convention on Human Rights and Fundamental Freedoms—A New Dimension to Planning Law?". When Lord Macfadyen issued his judgment in the *County Properties* case on July 25, 2000, it seemed that human rights had indeed created a new dimension to planning law.

Although the decisions in the *Alconbury* and *County Properties* appeals have poured cold water on the notion that Article 6(1) requires radical changes to the planning system, attention is now turning to the implications of other Convention Rights such as Article 8.

As Convention Rights are expressed very broadly, it is difficult to predict how the courts will apply them to individual planning cases. The lack of "right" answers is perhaps why the planning guidance from the Scottish Executive says little more than:

"All planning authorities should be aware of the possible implications of the Human Rights Act and should seek legal advice with a view to ensuring that processes and practices are compatible with the ECHR." (NPPG 1 (Revised) para. 78).

There are many books on the general topic of human rights. The focus of this book is firmly on how Convention Rights may affect the planning system. The Human Rights Act has encouraged scrutiny of many aspects of the current system, such as the lack of a third party right of appeal to the Scottish Ministers, the arrangements for local plan inquiries, and the role of reporters. This book highlights these and many other issues which might arise, and discusses the likely competing arguments.

The initial chapters explain the background and outline the relevant provisions of the Human Rights Act 1998, the Scotland Act 1998 and the European Convention. These chapters should therefore be a starting point for readers. The rest of the book discusses particular aspects of the planning system, such as development plans and the requirement for planning permission. This follows the structure of my book *Planning*.

The law is stated as September 2001.

This book is dedicated to my wife Paula, for all her encouragement while putting up with the seemingly endless evenings and weekends spent in its preparation. My thanks also go to Jim Colquhoun at Brodies for tracking down copies of judgments and other information, and everyone at Greens. I am also grateful to Richard Hickman and James McCulloch of the Scottish Executive Inquiry Reporters for providing details about the procedures for appointment and training of reporters; and to Gordon Steele Q.C., DLA and County Properties Limited for information on the *County Properties* case.

NEIL COLLAR
Edinburgh
October 2001

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- R. v. Secretary of State for the Environment, Transport and the Regions, ex p. Challenger; *sub nom.* R. v. Secretary of State for the Environment, ex p. Challenger [2001] Env. L.R. 12; [2000] H.R.L.R. 630; *The Times*, July 11, 2000, QBD 3.09, 9.21
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- v. South Northamptonshire D.C. ex p. Crest Homes Plc; *sub nom.* R. v. South Northants D.C., ex p. Crest Homes, 93 L.G.R. 205; [1994] 3 P.L.R. 47, CA 7.24
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- Ruxton v. Starrs. *See* Starrs v. Ruxton.
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- Saunders v. United Kingdom [1998] 1 B.C.L.C. 362; [1997] B.C.C. 872; (1997) 23 E.H.R.R. 313, ECHR 8.04
- Scottish Coal Co. Ltd v. East Lothian Council; *sub nom.* R. v. East Lothian Council, ex p. Scottish Coal Co. Ltd, 2001 S.L.T. 495; [2001] 1 P.L.R. 1; 2000 G.W.D. 17–701, OH 8.15
- Scottish Housebuilders Association v. Secretary of State for Scotland, 1995 S.C.L.R. 1039; [1996] J.P.L. 591, Ex Div 4.04
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- Starrs v. Ruxton; *sub nom.* Ruxton v. Starrs; Starrs v. Procurator Fiscal (Linlithgow), 2000 J.C. 208; 2000 S.L.T. 42, HCJ Appeal 3.03, 9.05
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