

Planning Section
Antrim and Newtownabbey Borough Council
Mossley Mill
Newtownabbey
BT36 5QA

Dear Sir or Madam,

I am writing on behalf of Friends of the Earth, Farms Not Factories and the Soil Association to register a joint objection to the application LA03/2015/0051/F for a proposed pig farm.

Our objections are based on research findings and evidence from The Netherlands on the health and environmental impact of the siting of intensive pig factories. We have also taken leading Counsel's advice on the planning authority's obligations to consider the human rights of interested third parties.

Environmental and Health Impact

A significant body of recent research indicates that large intensive pig farms such as that proposed in the application are likely to result in a number of emissions and/or effluents that have a significant potential deleterious effect on the health of people in the vicinity. In particular there is a considerable risk of the contamination of the area with pathogens such as *salmonella*, *clostridium difficile*, *campylobacter* and *E.coli*, and research suggests that within a certain distance of such facilities, in spite of mitigating measures, there are likely to be emissions such as ammonia and bio-aerosols in concentrations that are potentially harmful to human health.

In September 2011 GGD Netherlands, the government body that oversees public health in the Netherlands, stated that,

“No intensive livestock farm should be built within a radius of 250 metres of sensitive locations.

The measurable concentrations of endotoxins and livestock-specific MRSA-bacteria decrease up until a background concentration at a distance of 1000 metres. Because of this, GGD Netherlands is of the opinion that when there is a distance of 250--1000 meters between an agricultural development area or

company and a living area an additional risk assessment by a health expert must be carried out.”

A September 2012 report <http://www.gezondheidsraad.nl/en/publications/preventie/health-risks-associated-with-livestock-farms> by the Netherlands Health Council said,

“...the use of air scrubbers enabled many pig farms to limit their odour emissions and expand the scale of their operations. The fact is, however, that the operating efficiency of air scrubbers at many farms leaves much to be desired. As a result, there is an increased risk that local residents will suffer severe odour nuisance.”

In addition, the livestock- specific MRSA bacteria was detected more frequently and in higher concentrations within a radius of 1,000 meters of livestock farms.”

There is, it is submitted, sufficient scientific evidence to suggest that the siting of a facility such as that which is the subject of this application poses a significant risk to the health of nearby residents as well as an interference with their private and home life.

Human Rights law and Obligations

Planning Authorities, as emanations of the state, have an obligation under the Human Rights Act 1998 to consider the effects of their decisions on the human rights of affected third parties. The grant of permission in circumstances where there is “*reasonable and convincing evidence*” that the development in question would have a direct effect on the quality of life of concerned third parties has the potential to engage the Article 8 rights of those third parties, and to confer “victim” status on them under the Human Rights Act in respect of anticipated breaches (*R (Vetterlein) v Hampshire County Council* [2002] Env. LR 8).

Whilst there is no human right to the preservation of the environment, as such, within the European Convention on Human Rights, the right to protection of private and family life under Article 8 can be affected in a situation involving environmental pollution even absent serious damage to health (*Lopez Ostra v Spain* [1995] 20 EHRR 277). The right to private and family life prevents not just physical incursions into the home or residence, but also interference from things such as noise, smell, emissions. Any serious effect of this nature may result in a breach of Article 8 rights if it prevents the person concerned from enjoying the

amenities of their home (*Moreno Gomez v Spain* [2005] 41 EHRR 40, a case involving noise pollution resulting from the licensing of nightclubs in the vicinity of the claimant's property).

The case law on the issue emphasizes the obligation on the state to carry out a fair and reasonable balancing exercise between the Article 8 rights of individuals and the legitimate interests contained in Article 8(2).

Support for this opinion can be found in the similar case of *Fadeyeva v Russia* [2007] 45 EHRR 10, which involved a claimant living near a steel production plant, who claimed a right to be moved outside of the "buffer zone" established in the vicinity of the plant for the protection of residents' health. On the basis that the state had sufficient ability to take preventative or ameliorative steps, and that the balance required by Article 8 supported the argument that the claimant's rights had been infringed, it was held that the state had breached its positive obligation to protect her right to private and family life.

Again this case involved a privately owned enterprise, and the basis of the claim was that the state should have taken action to lessen the health and/or environmental impact of the site. In the current circumstances, in which the issue is being considered at the planning stage, the balance should tilt all the more in favour of the rights of affected third parties.

Conclusions

Health is a core planning consideration in the Draft Strategic Planning Policy Statement for Northern Ireland. The proposed development would carry serious risks to the health and wellbeing of local residents. There has been cogent and persuasive evidence adduced to illustrate these risks, notwithstanding the fact that the science surrounding the health risks of such facilities is at a developing stage. Whilst the barrier to any legal challenge based on alleged prospective human rights breaches might be higher than one based on existing breaches, that is not to undermine the point that the Antrim and Newtownabbey Borough Council would be well advised to consider the position of the human rights of those affected, since there is at present an opportunity to avoid such risk, by refusing planning permission. If permission is granted, however, and the indicated health risks do in fact come about, as predicted, then the only option for those concerned is litigation that would be time consuming and costly for all concerned.

For the reasons given above, it is requested that the application for planning permission be refused.

Yours sincerely,

Friends of the Earth, Farms Not Factories, Soil Association