



Office for Environmental Protection

Office for Environmental Protection
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Unique IDs: CMS-227, 237, 240,
257
Date: 27 July 2022

By email only to:

[REDACTED]
[REDACTED]

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Unique Case ID numbers: CMS-227, 237, 240, 257

We write in relation to a series of complaints that the OEP has received regarding purported breaches of The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017 (2017 Regulations). The complaints allege that four councils have unlawfully failed to carry out Environmental Impact Assessments prior to granting planning permission for a series of intensive agricultural developments. The complainant is particularly concerned that screening determinations have failed to effectively consider the transboundary impacts arising from plans to export manure from the developments to farms in the Republic of Ireland for land spreading. A full list of the planning applications in question can be found in Annex A.

Part of the OEP's role is to receive, validate and assess complaints about potential failures to comply with environmental law. When considered a priority, the OEP has statutory powers to investigate complaints about serious failures and take enforcement action against public authorities. Our [enforcement policy](#) describes how we carry out our enforcement functions in more detail.

As the Department responsible for oversight of Northern Ireland's planning system, we are writing to notify you that we have now undertaken an initial assessment of the complaints.

Although we do have information which, in our view, indicates that councils may have failed to comply with environmental law, we are not currently minded to investigate these complaints.

However, we would like to draw your attention to the inconsistency with which the law is being applied in this area and action that could be taken to improve

consistency. In all four cases, councils have taken a different approach to screening for transboundary impacts. Whilst some have attempted to conduct due diligence to ensure that the proposed land spreading would be carried out in accordance with the relevant regulatory regimes in the Republic of Ireland, others do not believe that it constitutes a transboundary impact at all. This inconsistency risks undermining the ability of the planning system to identify and mitigate environmental impacts arising from proposed developments.

As we suspect there may be further inconsistencies which are yet to be detected, we strongly advise that the Department issues guidance to all 11 councils in Northern Ireland on the correct application of Schedule 3(3)(c) of the 2017 Regulations when conducting screening assessments relating to developments which propose to carry out activities with potential cross-border impacts. The Department may wish to consider the approach taken by Antrim & Newtownabbey Borough Council as an illustration of good practice.

If you have any questions relating to the information above, please use the contact details provided below.

We have notified both the complainant and relevant councils that we have written to you in relation to this matter.

Yours sincerely,

[Redacted]

[Redacted] | Office for
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