

P-05-815 Control Rapidly Expanding Intensive Poultry Industry in Wales, Correspondence – Petitioner to Committee: Annex - Powys Professional Lead Planning Response, 17.06.20

Thank you for your email and attached letter dated 26th May 2020 addressed to the Council's Leader, Chief Executive and Head of Service for Property, Planning and Public Protection regarding intensive livestock units in Powys. Your letter has been forwarded to me to provide a response on behalf of the Council.

You have raised particular questions in your letter, which for ease of reference I have copied below in blue typeface and then responded to each beneath.

We understand that The Welsh Government has instructed that the environmental and residential impact of IPU's must be looked at cumulatively, so could you please explain what processes you have in place to consider the wider environmental and human health impacts, and how the impacts of the existing factory farms on the environment and human health are actively and regularly measured (e.g. dip-sample air and water quality measurements)? And who has overall accountability for this? The planning lead's reference to someone 'at a higher level' is worryingly vague!

Cumulative and in-combination impacts are material planning considerations which are taken into account and considered in the planning application decision making process. This happens in several different ways, for example:

1. The policies of the adopted Powys Local Development Plan, 2018 (LDP) require applications to consider such impacts.
2. Some applications, depending on the scale, size and location are subject to statutory assessment processes which consider cumulative and in-combination impacts and in so doing inform the decision-making process.
3. Consultees on planning applications are also able to consider cumulative impacts. For instance, Natural Resources Wales (NRW) is able to draw on monitoring data for the water quality of rivers in order to assess the contributions that an additional development would make in order to inform its consultation responses on planning applications.

Whilst the Environmental Health Service reviews and comments on planning applications in relation to environmental health matters, such as private water supplies, noise, dust, odours and flies, it has no duty or requirement to undertake pro-active monitoring post development. NRW is the principal environmental regulator for Wales.

We cannot find a single occasion where Powys has refused permission for an IPU based on the impact on those living close by, nor on the cumulative effects of the emissions, namely ammonia, other gases and particulates. We are therefore forced to question if approval is weighted towards seeking ways to accommodate, without genuine consideration of the many negative impacts on neighbouring residents and the wider community.

According to legislation, planning applications must be determined in accordance with the policies of the development plan – the LDP - unless material considerations indicate otherwise. Impacts on neighbouring residents and the wider community are material considerations that can and are taken into account when deciding planning applications. The consultation process on planning applications, including consultation with statutory bodies such as NRW or the Council's Environmental Health Service, ensures that the impacts arising from a specific development proposal are considered, alongside the cumulative and in-combination impacts from existing and proposed developments. The Authority welcomes comments on planning applications from neighbouring properties and local communities so that these too can be considered as part of the decision-making process.

Is anyone in Powys keeping count of how many million birds are now accommodated in the IPU's in our County? Could you please explain how Powys considers this growing risk to public health increased by each additional factory farming unit approved?

In terms of the responsibility for monitoring livestock numbers, poultry keepers must register with Welsh Government and with the Animal and Plant Health Agency (APHA). Where there is a suspected notifiable disease outbreak, for instance, APHA is notified and investigates, and should the outbreak be confirmed, enforcement is undertaken by APHA with the support of the Council's Animal Health Services.

As a Local Planning Authority, the Council holds information about the applications that have been received, but it is not required to complete monitoring returns to Welsh Government as it does for certain other types of development. However, it is possible that the forthcoming Technical Advice Note may specify additional requirements in this respect.

We ask that you urgently:

1. Implement a moratorium in respect of all current and future IPU and other intensive factory farm applications until you are able to accurately take stock of the current situation.

As a Local Planning Authority, the Council has a statutory duty, as set out in legislation, to determine planning applications. The Authority is therefore unable to impose a moratorium on any type of planning application because to do so would conflict with this statutory duty.

2. Undertake a comprehensive environmental survey to ascertain if current air and water quality in parts of Powys with a concentration of IPU's are near, or already beyond, saturation point.

There is no requirement upon the Council to undertake such an environmental survey although Welsh Government might stipulate evidence requirements as part of the forthcoming Technical Advice Note on intensive livestock units in order to inform future development plan policies.

Air and water quality are material planning considerations that are considered as part of the determination of applications for intensive livestock units. All planning application proposals for intensive livestock units are subject to consultation with various statutory bodies, including NRW and the Council's Environmental Health Service, to ensure that the environmental impacts are reviewed by the relevant statutory body.

In addition, various regulatory assessments may be required depending on the type, scale and location of the application. For example, a Habitats Regulations Assessment, and potentially an Appropriate Assessment, is required where applications would impact on a European designated site such as a Special Area for Conservation to ensure that its conservation status is not unacceptably affected.

3. Properly assess the human health considerations to residents posed by the already large number of factory farms present in Powys (based on actual studies rather than desk-based predictions).

Please refer to the response to number 2 above. Human health considerations such as impacts arising from odour, dust, noise and other emissions are material planning considerations that are taken into consideration by the Authority when determining planning applications.

4. Provide details of how Powys CC takes into account the provisions of the 'Well-being of Future Generations (Wales) Act 2015' when determining applications.

The Well-being of Future Generations (Wales) Act 2015 has been embedded into the planning system in Wales in several ways. The Planning (Wales) Act 2015 provided the following statutory purpose for the planning system in Wales – any statutory body carrying out a planning function must exercise those functions in accordance with the principles of sustainable development as set out in WFG Act.

By law, the Authority must determine planning applications in accordance with the development plan in place unless material considerations indicate otherwise. As part of its preparation, the draft LDP was assessed against the seven Well-being goals contained in the Well-being of Future Generations Act (2015), to ensure its policies met the goals. Material considerations include, for instance, Planning Policy Wales which has been revised and updated to reflect the sustainable development principle, the seven well-being objectives and five ways of working introduced by the WFG Act.

5. Cease determination of all IPU applications until the new Intensive farming TAN is in place to properly guide planning officers in their decision-making process.

Please refer to the response to number 1 above. The Authority has a statutory duty to determine the planning applications that we receive from our customers.