
Appeal Reference:	2022/A0163
Appeal by:	Mr Colin Crawford – Hilltop Free Range
Appeal against:	The refusal of full planning permission
Proposed Development:	Proposed extension to existing poultry unit to provide housing for 27,000 laying hens and construction of new ancillary building to store litter
Location:	Land approx. 350m NW of 34 Ballybogey Road, Clough
Planning Authority:	Mid and East Antrim Borough Council
Application Reference:	LA02/2019/0496/F
Procedure:	Written representations and Commissioner’s site visit on 15 th November 2024
Decision by:	Commissioner Gareth Kerr, dated 20 th November 2024

Finding

1. There is no valid appeal.

Reasons

2. Section 41 of the Planning Act (Northern Ireland) 2011 (the Act) states that arrangements for giving notice of applications for planning permission may be provided in a development order. The detailed requirements for publicising and giving notice of applications for planning permission are set out in Article 8 of the Planning (General Development Procedure) Order (Northern Ireland) 2015. This includes the advertisement of a planning application in the local press, serving notice on identified occupiers on neighbouring land and publication of applications on a local Council’s website. Article 8 (1) (d) prohibits the Council from determining a planning application until 14 days after it has published notice of the application. Under Article 8 (2) (d), the notice to be given must include the postal address of the land to which the development relates, or if the land in question has no postal address, a description of the location of the land.
3. The purpose of publicising a planning application is to inform people of the substance of what is proposed and to give them an opportunity, if they so desire, of following the matter up and making representations. Failure to publish a proper notice would defeat the purpose of publication and render any decision on the application invalid.
4. The validity of an appeal to the Commission against the refusal of planning permission under Section 58 of the Act is entirely dependent on there having been

a valid planning decision in the first place. If the Council's decision is not valid, then the Commission has no jurisdiction to consider an appeal against it.

5. The original application form submitted to the Council, and subsequent amendments, each described the location of the site as "Land approx. 350m NW of 34 Ballybogey Road, Clough". The application was advertised in the press and neighbours were notified on this basis. However, the site is in fact located approximately 350 metres **north east** of 34 Ballybogey Road, Clough.
6. The parties were invited to comment on the accuracy of the site address. Both the Council and appellant indicated that the published description of the site location was not accurate.
7. The description of the site location relied upon by the Council during the determination of the application was seriously misleading. It may have led interested members of the public to believe that the proposal related to land on the western side of Ballybogey Road in a position around 600 metres from where the development is actually proposed. Those reading the published address may therefore have assumed that the proposal would not affect them and may not have followed the matter up. In particular, there are several properties to the south and east of the site and their owners may have wished to comment on the proposed development if the address had been accurate.
8. The published address fails to inform people living in the locality of the proposal and could prejudice their ability to follow the matter up by making representations if they wish. Failure to publish a proper notice defeats the purpose of publication and renders the Council's decision on the application invalid. Accordingly, there can be no valid appeal.

COMMISSIONER GARETH KERR

List of Documents

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|----------------------|---|---|
| Planning Authority:- | A | Comments on site address
Mid and East Antrim Borough Council |
| Appellant:- | B | Statement of Case
Oonagh Given Chartered Town Planner |
| | C | Comments on site address
Oonagh Given Chartered Town Planner |