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6 February 2022

To: NI Public Accounts Committee Members

Subject: NIAO report on Planning in N Ireland, published 2 February 2022.

Dear Members of Committee

1. A response to PAC is apparently required by 7 February. That is six days to read a substantial report and to respond in a meaningful manner, having given due attention to the details of the content. That is not possible, in my opinion, and goes against the Aarhus Convention which allows for the right of citizens to participate in environmental decision-making and also to review procedures.
2. It appears that the shortage of time offered is because it is wished to complete the examination of the report by DfI and Solace ‘within the mandate of the current Assembly session’. For a paper that is so critical of procedures and leadership, time must be given for proper consideration. Otherwise the public will conclude that the rush is an attempt to bury bad news. The Audit Office report, long awaited, is an impressive document and its authors deserve the dignity of full scrutiny by all user of the legislation. There must be public participation if Aarhus is to be upheld. . The time-frame offered does not permit this. It is my assertion that final responses should follow the Assembly elections and hopefully the restoration of a new Assembly session.
3. 3.10 confirms that there are no third-party rights of appeal. This is a denial of civil rights as access to PAC depends on the financial status of the third party, not the justice of the appeal that they might wish to make,
4. On the issue of ‘Enforcement’ the document refers to the need for ‘credibility’ and ‘integrity’. I found it astonishing that 70% of notified complaints were to be enforced inside 39 weeks.(2.29) Where issues of environmental concern are proven , the ‘Stop Notice ’ must be immediate and the ‘Enforcement’ must follow in short order. Potential/proven environmental damage cannot wait for 39 weeks for resolution. I find it shocking (2.33) that ‘unauthorised development may be allowed to occur’ . It appears (2.34) that it is ‘discretionary’ . Either the conditions of the Planning permission have been adhered to or not. Are the planning conditions ‘discretionary’? I think not!
5. SES is not a statutory consultee (5.8) but they are tasked with considering levels of ammonia emissions which come mainly from agriculture with potential. damage to public health They (5.36) produced new guidance in July 2019 reducing to 10% of previously acceptable levels, faced a legal challenge in October 2019, and withdrew the document in 2020. This is very worrying.

(5.37) refers to the ‘cumulative effect’ of emissions in an area and the SES ‘vulnerability to legal challenge’ . It appears that ( 5.38) NIEA do not always respond to SES and (5.39) ‘clarification is required’ on DAERA’s position. Shocking! ’

To many environmentalists, the A in DAERA does not sit comfortably with the E. To avoid the potential conflict of interests between Agriculture and the Environment , an Environmental Protection Agency should be set up immediately. There is also the question of Public Health. It is known that Ammonia burns the lungs. So it follows that the high levels of ammonia in the Province, are causing damage to humans and that at a time when Covid is still with us. SES were

quite right in their aborted document. Ammonia's acceptable levels should be a tenth of what is currently allowed. In England, Scotland and Wales levels are much lower than those in N Ireland. Yet (5.34) ammonia guidance from DAERA is absent and they do have a legal obligation in that respect. This issue demands immediate attention- public attention.

6. Councils are responsible (5.31) for EIAs and they have been given training by DfI. The necessity for such training evidences a situation where the Legislation was not always being 'read' correctly. So what needed correction? It would be helpful to have copy of the training manual used. Perhaps this can be provided at the time of the PAC enquiry. If the public know where things were not done correctly, they have the chance, given third -party rights of appeal, to have redress.

Time-frame for consideration:-

7 February submissions to PAC;  
In 6 days I have barely scratched the surface.

10 February Northern Ireland Assembly considers the report;  
An afternoon session will allow time for superficial consideration only.

17 February Solace to discuss findings:-  
They have a day and more time to consider the findings.

All of this this will be followed by a PAC enquiry.

Judging by my shallow reading of this important document in the time- frame available to me, the public's voice will not be much heard, through submissions, in the PAC enquiry.

The rights, enshrined in law by the Aarhus Convention, have been denied me. I seek redress and access to a public meeting to discuss, with others, the finding of this valuable report for which NIAO, and its two authors, are to be congratulated.

Yours sincerely

Olga Harper