

Title of Report:	Dfl Planning Advice Note – Response to Dfl Minister
Committee Report Submitted To:	Planning Committee
Date of Meeting:	27 October 2021
For Decision or For Information	For Decision

Linkage to Council Strategy (2021-25)	
Strategic Theme	Cohesive Leadership
Outcome	Our elected members work collaboratively and make decisions on an evidence led basis and in line with its policies.
Lead Officer	Head of Planning

Budgetary Considerations	
Cost of Proposal	Nil
Included in Current Year Estimates	
Capital/Revenue	
Code	
Staffing Costs	

Screening Requirements	Required for new or revised Policies, Plans, Strategies or Service Delivery Proposals.		
Section 75 Screening	Screening Completed:	N/A	Date:
	EQIA Required and Completed:	N/A	Date:
Rural Needs Assessment (RNA)	Screening Completed	N/A	Date:
	RNA Required and Completed:	N/A	Date:
Data Protection Impact Assessment (DPIA)	Screening Completed:	N/A	Date:
	DPIA Required and Completed:	N/A	Date:

FOR INFORMATION

1.0 Background

- 1.1 This Report is to seek agreement on the response to the DfI Minister on the Implementation of Strategic Planning Policy on Development in the Countryside Planning Advice Notice (PAN).
- 1.2 The PAN was previously presented to Planning Committee at its meeting held on 25 August 2021. At that meeting Members resolved to hold a workshop to discuss the content of the PAN and input into the response to the Minister on the PAN.

2.0 Details

- 2.1 At the workshop held on 08 September 2021, attended by 7 Planning Committee Members, the following points were raised to be included within the response:
- Dwelling on a farm:
- Concern regarding the impact the guidance will have in relation to out-farms where there are no buildings and will be very damaging to the farming community;
 - Does not take into account the changing farming practices in relation to the Young Farmers Scheme to encourage the handover of farms to younger farmers. Consideration should be given to next generation of farmers who have signed up to the Scheme but do not have an active farm business for 6 years;
 - Clustering on a farm is not always possible due to rights of way on access.
 - Consideration needs to be given to smaller farms where there are only dwellings and garages; these are buildings on the farm. Dwelling on farm should be allowed to cluster with these buildings on a farm; policy does not state otherwise.
 - Should be able to consider sequential test of: buildings, building, no building, including where the building is a dwelling on the farm.
 - Impact on rural communities struggling for housing solutions;
- Infill policy:
- Domestic garages can be substantial in size and can have as great a visual impact as the main dwelling. Domestic garages to the side and of substantial size should not be excluded from contributing to the assessment of a substantially and continuously built up frontage.
- Implementation
- Should be a lead in time for those applications in the system.
 - Do not consider the PAN to be a fair interpretation of the policy or to consider future rural needs.
- 2.2 Subsequent to the workshop correspondence was received from Ulster Farmers Union (UFU) (Appendix 1). The UFU raises concerns with the PAN and states that "Whilst the primary legislation has not changed, what has changed is councils' freedom to interpret and apply policy to planning applications in their area." The UFU are greatly concerned about the potential effects this PAN will have on rural dwellers

and communities requesting Council write to the Minister requesting that the PAN is withdrawn.

- 2.3** Correspondence has also been received from Lisburn and Castlereagh Council (Appendix 2) asking for confirmation of support regarding their letter to the Permanent Secretary. They further request confirmation that should they proceed with formal action against the Department that this Council and other Councils, agree to share the costs that may arise. The correspondence further advises that NILGA support the view that the Department ought to review their approach to the introduction of this guidance note.

Option 1

- 2.4** Council writes to DfI Minister outlining this Council's concerns and asking that the PAN is withdrawn and further consideration given to the needs of rural communities and the changing the changing farming practices.

Option 2

- 2.5** Council writes to the Minister as per Option 1 and in addition support the UFU asking for the withdrawal of the PAN.

Option 3

- 2.6** Council writes to the Minister as per Option 2 and writes to Lisburn and Castlereagh Council offering support to their letter to the Permanent Secretary asking for the PAN to be withdrawn.

Option 4

- 2.7** Council writes to the Minister as per Option 3 and agrees to financially support Lisburn and Castlereagh Council in any legal challenge to the PAN.

- 2.8** The preferred Option would be Option 3 as both UFU and Lisburn and Castlereagh Council are agreeing with Members that the PAN should be withdrawn. Option 4, supporting financial costs in relation to any legal challenge may be costly and there is no provision within the Planning Department budget to cover such costs. The Minister states the PAN is guidance and not policy. Council's interpretation of the policy is largely in line with the guidance with the exception of dwellings on a farm. The wording of the policy in relation to 'buildings' under policy CTY 10 remains.

3.0 Recommendation:

- 3.1 IT IS RECOMMENDED** that the Committee **agrees** to the Head of Planning issuing the attached letter to the DfI Minister as per **Option 3**.



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FOR THE ATTENTION OF CHIEF EXECUTIVE AND LORD MAYOR

Causeway Coast & Glens Borough Council
Civic Headquarters
66 Portstewart Road
COLERAINE
BT52 1EY

20th September 2021

Re: Planning Advice Note (PAN) 'Implementation of Strategic Planning Policy on Development in the Countryside'

The Ulster Farmers' Union (UFU) is the largest farming organisation in Northern Ireland (NI) representing approximately 11,500 farming families. The UFU represents farmers from all areas of NI, across all sectors and has a vision of a productive, profitable and progressive farming sector. In addition to representing farming families, UFU also represent rural dwellers and their interests.

The UFU has recently become aware of the Planning Advice Note (PAN) issued by Minister Mallon - *Implementation of Strategic Planning Policy on Development in the Countryside*. Whilst the primary legislation has not changed, what has changed is councils' freedom to interpret and apply policy to planning applications in their area. The UFU is greatly concerned by the potential effects of this PAN on rural dwellers and communities. Rural communities form a very valuable contribution to the economy and society, this guidance will have serious implications for them and generations to come. It is extremely disappointing that this guidance has not been publicly consulted, on despite one of the core strategic objectives of DAERA is to facilitate generational renewal on our farms.

This PAN guidance asks councils to change their approach to assessing planning applications under PPS 21. If followed, it would result in applications for clusters and infill dwellings being refused, and dwellings on farms would have to be visually linked to the farmyard with no consideration given to other suitable sites on the farm, nor issues around mortgages or values.

Under PPS21 CT10 dwelling on farms policy states that new farm dwellings must be *visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane*. Every application to planning should be looked at on an individual basis. It is not always possible to integrate or cluster a new development with existing buildings. Whilst a farmer needs to live on the farm, from a safety point of view it is dangerous to expect a family to dwell immediately beside or within the yard. This is a major worry for our members as more than one generation needs to be able to live on farm. If adhered to, this PAN will not allow farmers to build elsewhere on their farm outside the actual yard and will make an already difficult system almost impossible.

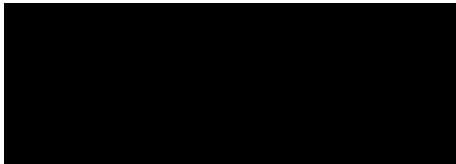
In addition, due to the expected proximity of the house to the farm, banks will not lend by way of a mortgage to self- builds on farm, as the property is not saleable in a forced sale situation. This means farmers are expected to borrow against their farm so that more than one generation can live on site. It's not viable most farm business to do this. In addition infill and cluster homes are prohibited by the guidance meaning farmers would be unable to mortgage a new build elsewhere on their land. Contradicting bank and planning policy will make building on farms and rural areas impossible for many people.

UFU support orderly, consistent and sustainable development of land, however this policy is too restrictive. The effect of this PAN is far reaching, not limited to farming families and has the potential to devastate rural communities. Schools, shops, churches, and other rural business and services rely on local people. If future generations cannot build on their family farm, or rural locations the rural population will decrease and these businesses and services will not have sufficient numbers to stay open and eventually close.

The UFU has written to Minister Mallon, requesting that this PAN is withdrawn due to it's potential to displace people from rural areas, destroy rural communities and negatively impact the rural economy through closure of services and businesses. UFU ask that you support rural communities by also requesting that the PAN is withdrawn.

If you require any further information please do not hesitate to get in contact. I look forward to your response.

Yours Sincerely,



David Brown
UFU President

Denise Dickson

From: Donal Rogan <[REDACTED]>
Sent: 08 October 2021 16:48
To: [REDACTED]
Cc:
Subject: Planning Advice Note - Strategic Planning Policy on Development in the Countryside
Attachments: Letter to Perm Sec from LCCC 8.10.21.pdf

Dear Colleague

As you may be aware at a recent SOLACE meeting it was agreed that Lisburn and Castlereagh would take the lead on behalf of Councils in respect of challenging the introduction of the August Planning Advice Note dealing with Strategic Planning Policy on Development in the Countryside. Please see attached a letter we are issuing to the Permanent Secretary.

Similar to many of the Council's approaches, we are holding a workshop with our Elected Members next week to discuss the ramifications of how the guidance note was introduced and the consequences it may have for live applications. In the spirit of the discussions at SOLACE could I ask by return email if you could confirm your support regarding the attached letter.

Should, and I appreciate it we have a limited window of opportunity, our Members decide to proceed with formal action against the Department I would also seek confirmation of your agreement to share with us and other partner Councils in respect of any costs that may arise.

I have asked our Head of Planning and Capital Development, Mr Conor Hughes, to also circulate this correspondence to the respective Heads of Planning in all Councils.

I also understand that this matter was discussed at NILGA and they have agreed to support what appears to be a consensus view in that the Department ought to revisit their approach to the introduction of this guidance note.

I look forward to hearing from you regarding (a) your initial support for the issuing of the letter to the Permanent Secretary and (b) whether you would be in a position to agree to share costs. I appreciate the latter may require you to seek approval through your respective governance models. An early return would be appreciated.

Kind regards
Donal



Donal Rogan

Director of Service Transformation
Tel: 028 9244 7806
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Lisburn & Castlereagh City Council

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www.lisburnccc.gov.uk

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TO BE PRINTED ON LISBURN & CASTLEREAGH CITY COUNCIL LETTERHEAD

MsKatrina Godfrey
Perm Sec

Our Ref:
Your Ref:
Date:

Dear Katrina

We refer to the publication on 2 August 2021 of the Planning Advice Note entitled Implementation of Strategic Planning Policy on Development in the Countryside. The content of the PAN, the publication of which came with no notice or forewarning whatsoever, has caused this Council great concern and difficulty with regard to the proper application and interpretation of planning policy, in particular Planning Policy Statement 21: Sustainable Development in the Countryside.

Having received advice from Leading Counsel, the Council is of the firm view that the PAN creates new planning policy because it purports to bring a specific definition to a term in the policy that is not the subject of definition and does so in an unlawful manner.

This Council has no desire to engage in litigation in the form of judicial review with your Department, but the content of the PAN and the manner in which it was introduced is a matter of serious concern.

In these circumstances we would urgently call upon you to withdraw publication of the PAN. We would appreciate you giving your urgent attention to this matter and would be grateful to receive a response by the 13th October 2021.

Yours faithfully



**Causeway
Coast & Glens
Borough Council**

Planning Department
Cloonavin
66 Portstewart Road
COLERAINE
BT52 1EY

DfI Minister Mallon
Private.Office@infrastructure-ni.gov.uk

Date: 28 October 2021

Your Ref:

Our Ref: DfI PAN

(Please quote at all times)

Dear Minister Mallon

Subject: Publication of Implementation of Strategic Planning Policy on Development in the Countryside Planning Advice Note

I write on behalf of Causeway Coast and Glens Borough Council Planning Committee in relation to the above.

At its meeting held on 27 October 2021, the Planning Committee resolved that I should write on their behalf to express their extreme disappointment at the publication of the above Planning Advice Note (PAN) and the lack for further consultation on the 'Call for Evidence' Report findings. Members request that you withdraw this PAN immediately and they wish to record their support to similar requests by the UFU and Lisburn and Castlereagh Council.

Members, in reaching their decision for this request have considered the overall aim of the 'Call for Evidence' to provide an updated evidential context to inform the best strategic planning policy approach for development in the countryside. It is considered that this has not been forthcoming through the publication of this PAN.

Members do not consider the PAN to reflect a two-tier planning system but rather imposes DfI interpretation of policy on Councils. The continual reference to the preparation of the LDPs to take account of this PAN restricts their ability to develop policies for their own Council area, based on their local knowledge of the needs of the rural communities, the main purpose of transferring plan-making powers to Council.

Members further consider that the publication of the PAN was an inappropriate response to the 'Call for Evidence'. It has not taken account of the changing farming practices and up-to-date needs of rural communities some 11 years after the publication of the PPS and 6 years from the publication of the SPPS. For example, no account has been taken of the DAERA supported Young Farmers Scheme, encouraging the handover of farms to younger farmers, and the difficulty they may have in demonstrating an active farm business for 6 years due to them working within another farm business. Furthermore, the use of existing shared accesses is problematic in obtaining a mortgage for the development. Small farm business may

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not have multiple buildings on the farm and may rely on an existing domestic outbuilding for sheltering their small herd during lambing season; the sequential test of buildings, a building (including a domestic dwelling) or no building (in the situation of out-farms) has not been considered in response to this.

In terms of 'Dwellings on a Farm' policy, Members note the following contradictions between the wording of Policy CTY10 of PPS21 and that contained within the PAN. The PAN at para.19 states that '...the Department considers that new dwellings on farms should be sited to visually link or cluster with an established group of buildings on the farm holding, which would not include a dwelling and domestic garage only.' However, Policy CTY 10 itself refers to the new dwelling as a building at criteria (c) which states "...the new building is visually linked or sited to cluster with an established group of buildings on the farm...". There is no further definition within the policy, nor indeed the justification and amplification to define a building on the farm. It is clear from the policy text that a dwelling is considered as a building. It is therefore unacceptable to attempt to exempt a dwelling and ancillary buildings from the definition of a building for the purposes of this policy within this PAN.

The needs of rural communities and consideration of rural deprivation has been omitted from any consideration within this PAN. This, aligned with the restrictive Housing Growth Indicators set for this area, will have a negative impact on rural communities. The need to support rural schools, through the ability of the younger generation to remain in the rural area requires to be considered as does the need to reduce social isolation and to live close to family for support. This PAN does not address these issues.

I therefore urge you to withdraw this PAN and seek further consultation and consideration of the current and future needs of the rural population with supportive policy that allows Council to develop its own rural policy that supports its rural communities.

Yours sincerely

Denise Dickson
Head of Planning

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