



# Causeway Coast & Glens Borough Council

Section 46 of the Planning Act (Northern Ireland) 2011

25<sup>th</sup> May 2016

**PLANNING COMMITTEE**

## Linkage to Council Strategy (2015-19)

Strategic Theme	Outcomes
<b>Protecting and Enhancing Our Environments and Assets</b>	<ul style="list-style-type: none"><li>• Our natural assets will be carefully managed to generate economic and social returns without compromising their sustainability for future generations.</li></ul>
<b>Lead Officer</b>	Denise Dickson
<b>Cost:</b>	N/A

## For Decision

### 1.0 Background

- 1.1 Section 46 of the Planning Act (Northern Ireland) 2011 provides the legislative basis for Council to decline to determine subsequent (repeat) applications under certain circumstances.
- 1.2 Section 48 of the Act provides the legislative basis for Council to decline to determine overlapping (twin tracking) applications) under certain circumstances.
- 1.3 This power is discretionary and it is for the Council to decide whether to implement this power.
- 1.4 The powers provided by Section 46 and 48 are to inhibit the use of repeat applications being submitted which have already been determined by Council or dismissed at appeal by the Planning Appeals Commission where the application is substantially the same and there has been no change in circumstances, or, the submission of two similar application for the same site. They do not prohibit the submission of a subsequent application which has been amended to address issues previously raised or where planning policy has changed since their application was determined.

## 2.0 Detail

### Section 46 – power of Council to decline to determine subsequent application

2.1 The Council may use this discretionary power to decline to determine a subsequent (repeat) application received within a period of 2 years ending with the date on which the subsequent application is received, if the Council thinks there has been no significant change in the relevant considerations, ie development plan so far as relevant to the proposed application, and any other material considerations and:

- the Department has refused a similar application;
- the Planning Appeals Commission (PAC) has dismissed an appeal against the refusal of a similar application or a Section 60 non-determination appeal;
- Council has refused more than one similar application and there has been no appeal to the PAC against the refusal, or the appeal has been withdrawn; or,
- The PAC has refused a similar deemed application under Section 145(5) of the Act (appeal against an enforcement notice).

### Section 48 - power of Council to decline to determine overlapping application

2.3 The Council may use this discretionary power to decline to determine an overlapping (twin tracking) application where:

- Made on the same day as a similar application;
- Made at a time when a similar application is under consideration by the Department or the Planning Appeals Commission and a decision has not issued;
- A similar application has been granted or refused by Council or has not been determined by Council within the determination period and the time within which an appeal could be made to the PAC has not expired; or,
- A similar application which is a deemed application under Section 145(5) (appeal against an enforcement notice) is under consideration by the PAC and a decision has not issued.

#### *Notifying an applicant*

2.4 When Council declines to determine any application it must notify the applicant that it has exercised its discretionary powers under either Section 46 or 48 of the Act to decline to determine the application and include the reason(s) for the decision. It must notify the application within 16 weeks for a major application and 8 weeks for a local application, or such other extended period as agreed in writing between the applicant and the Council, otherwise the applicant has the right to appeal for non-determination of a planning application under Section 60 of the Act.

### 3.0 Options

*Section 46 – power to decline to determine subsequent applications*

3.1 **Option 1** – agree that Council declines to determine subsequent applications subject to the conditions set out in para. 2.1 above

**Option 2** – Council requests that decisions relating to the power to decline to determine subsequent applications must be present to the Planning Committee for agreement.

*Section 48 - power of Council to decline to determine overlapping application*

3.2 **Option 1** – agree that Council declines to determine overlapping applications subject to the conditions set out in para. 2.1 above

**Option 2** – Council requests that decisions relating to the power to decline to determine overlapping applications must be present to the Planning Committee for agreement.

### 4.0 Recommendation

4.1 **IT IS RECOMMENDED** that Members note the content of the report and agree the preferred option for determining whether to decline subsequent or overlapping applications.