

**CERTIFICATE OF LAWFUL USE OR
DEVELOPMENT DELEGATED REPORT OF
HANDLING**

PROPOSAL:	Agricultural Shed and Access Track
LOCATION:	Land to the north of Molmontend, Newmilns East Ayrshire, KA17 0NZ
REFERENCE:	25/0616/LDPU
RECOMMENDATION:	Refuse

APPLICATION AND DEVELOPMENT DESCRIPTION

Land At Sornhill and Middlethird U1 Galston Moor from U2 Branfield to C104 Sornhill
Newmilns Newmilns East Ayrshire

The application site is located approximately 1.5 miles south-east of Galston and 1.1 miles south of Newmilns. The site extends to approximately 4.4 Ha and is currently rough grassland. The site slopes significantly near the boundaries in a southerly and westerly direction, with a level section towards the centre of the site. The site is located to the north of the U1 public road. The site is approximately 115 metres to the north-east of Molmontend Farm (which is directly opposite the south-west corner of the site), 180 metres south-west of Hillend House and 240 metres west of Littlewood.

Agricultural Shed and Access Track

The proposed agricultural building will measure:-

- 20.0 metres in width
- 6.0 metres in depth
- 2.95 metres to the eaves.
- 3.8 metres in total height
- 120sqm in area

The proposed agricultural building will be finished utilising the following materials:-

- Walls- Steel Kingspan panels – Green
- Roof- Steel Kingspan panels - Green with translucent polycarbonate panels

It is noted that the floor plans shows a floor area of 195.3sqm however this does not correspond to the dimensions of the building which when measured provides for an internal floor area of approximately 101sqm.

The Supporting Statement (and application form) provided by the applicant advise that the proposed building will be used for the *housing of livestock (goats and sheep), storage of feed, equipment, and associated agricultural functions.*

The proposed access track will run in a northerly direction from the existing field gate at the U1 public road. The private way will run for approximately 45 metres in a northerly direction before turning 90 degrees to the west and running for a further 25 metres, wrapping around the proposed agricultural building.

PLANNING HISTORY

24/0169/PN- Prior notification for farm related building works (non-residential). Refused 27/06/2024.

24/0517/PN- Prior notification for farm related building works (non-residential). Prior Notification returned 09/12/2024.

25/0405/PN- Prior notification for farm related building works (non-residential). Prior Notification returned 11/09/2025.

25/0514/PN- Prior notification for farm related building works (non-residential). Prior Notification returned.

The applicant has submitted the above prior notifications for the same development on the same application site. For each submission, the Planning Authority have concluded that the proposal is not entitled to permitted development rights under Class 18 of the Town and Country Planning (General Permitted Development)(Scotland) Order 1992, as amended (GPDO).

It is noted that the Planning Authority have set out their position in relation to the development and Class 18 and GPDO in each of their responses to the submissions, that Class 18 is not applicable to this development and therefore planning permission would be required.

ASSESSMENT OF APPLICATION

Section 151(2) of the Town and Country Planning (Scotland) Act 1997 sets out that if the planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

In this instance, the Planning Authority are not content with the level of information provided by the applicant to demonstrate that the proposed operations would be lawful.

Of primary relevance in taking this view are the interpretations of 'agricultural land' and 'agricultural unit' which are set out within the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended (GPDO). The "Interpretation of Part 6" within the GPDO sets out that-

"agricultural land" means land which, before development permitted under this Order is carried out, is land in use for agriculture and which is so used for the purposes of a trade or business and excludes any dwellinghouse or garden or any land used for the purposes of fish farming; and,

"agricultural unit" means agricultural land which is occupied as a unit for the purposes of agriculture other than fish farming, but includes:-

(a) any dwelling or other building on that land occupied for the purpose of farming the land by the person who occupies the unit; or
(b) any dwelling on that land occupied by a farmworker;

Taking each of these in turn, there is insufficient information provided to suggest that the land is being used for “*the purposes of a trade or business*”. Similarly, there is no evidence to show that this piece of land is part a wider agricultural unit. In this regard the applicant has submitted a plan highlighting that in addition to the application site they own the wider field, however there is no evidence to suggest there is any further land holding or established farm steading that the agricultural operations are linked to.

Consequently, it is the opinion of the Planning Authority that, in this instance, Class 18 is not applicable to this development and planning permission is required.

CONCLUSIONS

Overall, the Planning Authority consider that the proposed development is **not lawful** and the applicant would require planning permission to undertake this development. The applicant has not satisfactorily evidenced that they are entitled to development under Class 18 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended.

RECOMMENDATION

It is recommended that this application be refused.

REASONS FOR DECISION

The proposed development is **not** considered to be lawful under Section 151 of the Town and Country Planning (Scotland) Act 1997.

Case Officer – Michael Main

Appointed Officer – Fiona Finlay

Chief Planning Officer – Pamela Clifford