

**Declaration under Section 5 of
Planning & Development Act, 2000 (as amended)**



To:	Mary Quinn, Director of Services
From:	Joe Duffy – Assistant Planner
Reference No.:	ED 25-23
Referrer:	Michael McEnroy
Subject Matter	Determination under Section 5 of the Planning and Development Act 2000 (as amended) as to whether the construction of a 127m ² agricultural shed with slatted tank for the housing of sheep on an existing farm complex is exempt from planning permission.
Location	Loughmuirran, Glenade, Co. Leitrim
Date Received:	08 th May 2025

1. INTRODUCTION

This is a request for a Determination under Part 1, Section 5 of the Planning and Development Act 2000, (As amended). This referral case concerns the question as to whether the construction of a 127m² agricultural shed with a ridge height of 4.7 metres with slatted tank for the housing of sheep on an existing farm complex is development or is not development and whether it is or is not exempted development. The subject site is located in the townland of Loughmuirran, Glenade, Co. Leitrim in the open countryside on the west side of the R280 Regional Road. An existing agricultural storage shed (see photo below) already occupies this site of stated floor area of 14 metres x 9 metres and currently used for agricultural machinery storage. There is also a near demolished smaller shed adjacent that is presently unusable. The proposed development, the subject of this Section 5 request, provides for the construction of a new 127m² agricultural shed with slatted tank for the housing of sheep at this existing farm complex located in between the existing storage shed and partially demolished shed. This proposed new structure is to be set back 17 metres from the public road edge sited between the 2 aforementioned sheds. The farmyard adjoins the R280 Regional Road at a location where the road alignment looks reasonable in both directions. There are 3 no. dwelling houses (other than the applicant) within 100 metres of this subject site with letters of consent also included from same in the submitted details. The subject site is not located adjacent to any known recorded monuments.





Existing agricultural sheds/structures

- 1.1** Arroo Mountain Special Area of Conservation (Site Code 001403) is located approximately 0.8km east of the subject site. The subject site falls within the designated visually sensitive 'A3 Area Outstanding Natural Beauty', however any potential adverse visual impact arising from the proposal is mitigated as a result of its location within this existing complex of agricultural buildings.

2. REFERRAL SUBMISSIONS

- 2.1** The subject application was received by the Planning Authority on the 8th May 2025 from the named applicant Michael McEnroy with supplemental information supplied on the 27th May 2025.
- 2.2** This application seeks a determination on whether the construction of a 127m² agricultural shed with slatted tank for the housing of sheep on an existing farm complex is exempted development.

3. PLANNING HISTORY

No recent planning history documented.

4. RELEVANT LEGISLATION

4.1 Planning and Development Act, 2000 (as amended)

S.2(1) defines structure as '*any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined*'.

S.3 (1) In this Act 'development' means, except where the context otherwise requires, the carrying out of any works on, in, or under land or the making of any material change in the use of any structures or other land.

S.4 (1) The following shall be exempted developments for the purposes of this Act- (a) development consisting of the use of any land for the purpose of agriculture and development consisting of the use for that purpose of any building occupied together with land so used;

4.2 Planning and Development Regulations, 2001 (as amended)

Article 6(1) of the Planning and Development Regulations 2001, as amended, states that: *Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.*

Article 9(1) of the Planning and Development Regulations 2001, as amended, identifies restrictions on exemptions. Of relevance in this case would be the following:

- (a) if the carrying out of such development would –*
 - (i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act*
 - (iii) endanger public safety by reason of traffic hazard or obstruction or road users*
 - (vi), interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.*
 - (viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12 (1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,*

Class 6 of Part 3, Schedule 2 of the Planning and Development Regulations 2001, as amended, allows for the following exemption subject to conditions and limitations as set out in column 2:

Class 6 Agricultural Structures

Works consisting of the provision of a roofed structure for the housing of cattle, sheep, goats, donkeys, horses, deer or rabbits, having a gross floor space not exceeding 200 square metres (whether or not by extension of an existing structure),

- 1. No such structure shall be used for any purpose other than the purpose of agriculture.*
- 2. The gross floor space of such structure together with any other such structures situated within the same farmyard and any ancillary provision for effluent storage complex or within 100 metres of that complex shall not exceed 300 square metres gross floor space in aggregate.*
- 3. Effluent storage facilities adequate to serve the structure having regard to its size, use and location shall be constructed in line with Department of Agriculture, Food and Rural Development and Department of the Environment and Local Government requirements and shall have regard to the need to avoid water pollution.*
- 4. No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road.*
- 5. No such structure within 100 metres of any public road shall exceed 8 metres in height.*
- 6. No such structure shall be situated, and no effluent from such structure shall be stored, within 100 metres of any house (other than the house of the person providing the structure) or other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner and, as may be appropriate, the occupier or person in charge thereof.*
- 7. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.*

5. ASSESSMENT

- 5.1** The proposed works constitutes development as defined in Section 3 of the Planning and Development Act, 2000 (as amended).

5.2 I have considered all relevant exemptions available under the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations 2001 (as amended).

An existing agricultural shed with a stated floor area of 126 metres (14m x 9m) already occupies this site which is used for agricultural machinery storage which falls under Class 8 of Part 3, Schedule 2 of the Planning and Development Regulations 2001, (as amended). The proposed development provides for the construction of a new 127m² agricultural shed with a slatted tank for the housing of sheep at this existing farm complex. Class 6 of Part 3, Schedule 2 of the Planning and Development Regulations 2001, as amended, applies in relation to this new proposal. The proposed new shed is not within 10 metres of the nearby public road and will not exceed 8 metres in height. The gross floor space of the existing structures situated within this same farm does not exceed 300 square metres gross floor space in aggregate. The development is under the aggregate gross floor space threshold under Class 6.

It is noted that this new intended structure is located within 100 metres of 3 no. 3rd party dwelling houses. However, 3 separate letters of consent (persons who are not the owners) have also been submitted from these named persons giving consent to same. A preliminary land registry search has been conducted which confirms the named owners of these 3 houses. Having regard to the infill site configuration and to the cluster arrangement of these existing structures at this location, the Planning Authority also considers that the restrictions on exemptions as stated in Article 9(1)(vi) of the Planning and Development Regulations 2001, as amended, which relates to interfere with the character of a landscape does not apply.

Class 6 Agricultural Structures

Works consisting of the provision of a roofed structure for the housing of cattle, sheep, goats, donkeys, horses, deer or rabbits, having a gross floor space not exceeding 200 square metres (whether or not by extension of an existing structure),

Conditions and Limitations

1. *No such structure shall be used for any purpose other than the purpose of agriculture.*
YES
2. *The gross floor space of such structure together with any other such structures situated within the same farmyard and any ancillary provision for effluent storage complex or within 100 metres of that complex shall not exceed 300 square metres gross floor space in aggregate.*
YES
3. *Effluent storage facilities adequate to serve the structure having regard to its size, use and location shall be constructed in line with Department of Agriculture, Food and Rural Development and Department of the Environment and Local Government requirements and shall have regard to the need to avoid water pollution.*
YES
4. *No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road.*
YES (stated to be 17 metres)
5. *No such structure within 100 metres of any public road shall exceed 8 metres in height.*
YES (stated to be 4.7 metres)

6. *No such structure shall be situated, and no effluent from such structure shall be stored, within 100 metres of any house (other than the house of the person providing the structure) or other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner and, as may be appropriate, the occupier or person in charge thereof.*

YES (3 separate letters of consent from persons who are not the owners of this new structure are included with this application from these persons giving consent to same).

7. *No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.*

YES

6. ENVIRONMENTAL IMPACT ASSESSMENT AND APPROPRIATE ASSESSMENT

Section 4(4) of the Act sets out that development shall not be exempted development if an Environmental Impact Assessment (EIA) or an Appropriate Assessment (AA) of the development is required.

The Planning Authority is satisfied that the subject development would not give rise to significant environmental effects and would therefore not require EIA.

The nearest Natura 2000 site is Arroo Mountain Special Area of Conservation (Site Code 001403) which is located approximately 0.8km east of the subject site. Given the nature of the project, its limited scale, the lack of direct connections with regard to the Source-Pathway-Receptor model between the subject site and any European site, it is considered that the subject development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

7. CONCLUSION

Having examined the proposal and reviewed all of the documents relating to this development, along with the relevant legislation, I conclude that the construction of a 127m² agricultural shed with slatted tank for the housing of sheep on an existing farm complex is development and is exempted development. Therefore, I recommend that the referrer be advised that the construction of a 127m² agricultural shed with slatted tank for the housing of sheep on an existing farm complex on an existing farm complex **is development and is exempted development.**

RECOMMENDATION

Having regard to the foregoing, I recommend that the Planning Authority issue the following Declaration under Section 5 of the Planning and Development Act 2000 (as amended):

WHEREAS a question has arisen as to whether the construction of a 127m² agricultural shed with slatted tank for the housing of sheep on an existing farm complex on an existing farm complex at Loughmuirran, Glenade, Co. Leitrim is development or is not development and whether it is or is not exempted development,

AND WHEREAS the said question was referred to Leitrim County Council by the Michael McEnroy on the **8th of May 2025**

AND WHEREAS Leitrim County Council, in considering this referral, had regard particularly to –

- (a) Section 3(1) of the Planning and Development Act, 2000 (as amended),
- (b) Section 4(1)(a) of the Planning and Development Act, 2000 (as amended),
- (c) Class 6 of Part 3, Schedule 2 of the Planning and Development Regulations 2001, as amended,

- (d) the documentation submitted as part of the referral;

AND WHEREAS Leitrim County Council has concluded that –

- (a) The construction of a 127m² agricultural shed with slatted tank for the housing of sheep on an existing farm complex on an existing farm complex at Loughmuirran, Glenade, Co. Leitrim is considered to be works and is, therefore, development within the meaning of the Planning and Development Act 2000, as amended;
- (b) the proposed development comes within the scope of Class 6 of Part 3, Schedule 2 of the Planning and Development Regulations 2001, as amended; and
- (c) the proposed development satisfies all relevant conditions and limitations associated with Class 6 of Part 3, Schedule 2 of the Planning and Development Regulations 2001, as amended.

NOW THEREFORE Leitrim County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the 2000 Act, as amended, hereby declares that:

The construction of a 127m² agricultural shed with slatted tank for the housing of sheep on an existing farm complex on an existing farm complex at Loughmuirran, Glenade, Co. Leitrim constitutes development which is exempted development.



Joe Duffy

Assistant Planner

Date: 29th May 2025



Liam Flynn

Senior Executive Planner

Date: 29/05/2025