



Leitrim County Council Planning Report

Reference No:	ED25-13
Applicant:	Michael Reilly
Location:	Beagh More, Carrigallen, Co. Leitrim H12 AD05
Application Type:	Declaration under Section 5 of the Planning and Development Act 2000, as amended
Proposal:	Construction of an internal farm road to Department of Agriculture specifications
Date of Site Inspection:	14/04/2025
Due Date:	05/05/2025

Introduction

This subject request for a declaration under Section 5 of the Planning and Development Act 2000, as amended, was received by the Planning Authority on the 7th of April 2025 and relates to whether the proposed construction of an internal farm road serving the existing farmyard at Beagh More, Carrigallen, Co. Leitrim H12 AD05 is development and whether it is exempted development.

Site Location and Context

The subject site is located within the rural townland of Beagh More, approximately 3.6km south of Carrigallen. The land is located within Landscape Character Type 15 Undulating Hill Farmland which is described in the County Leitrim Landscape Character Assessment of the Leitrim County Development Plan 2023-2029 (Appendix VII) as follows:

‘The topography of this landscape comprises a ridgeline oriented in an east west direction at slightly higher elevation (c. 150m AOD) than the surrounding drumlin farmland. The distinctive rolling nature of the summit gives way to sloping sides fretted by numerous streams draining the uplands. Soils tend to be poorly drained. The land cover comprises pasture with a field pattern strongly defined by dense mature hedgerows. Minor roads cross the landscape and settlement is generally sparse with individual dwellings located along long winding lanes, fringed with tall rambling hedges. Where landform and land cover allow, extensive views over the surrounding lowlands or towards mountains are afforded. Occasional tracts of plantation coniferous forest occur within this landscape’.

The subject land contains two farmyards each having an adjacent dwelling. The proposed internal roadway connects the farmyards and extends to a total length of 418 metres. The surrounding land use is characterised by agricultural in the form of farm holdings and associated agricultural structures, with sporadic one-off rural housing.

The applicant advises that the farm road is required to divert farm traffic away from the main dwelling and make it easier for livestock moving between farmyards. The applicant advises that the proposed internal farm road will be 3 metres in width and will be constructed to Department of Agriculture, Food and the Marine specification namely Document S.199 march 2024 ‘minimum specification for farm roadways and underpasses’. The surface of the roadway will be of compacted gravel.

The nearest Natura 2000 site is Lough Oughter and Associated Loughs Special Area of Conservation (SAC Site Code: 000007) which is located approximately 8.5km northeast of the subject site.

The nearest nationally designated site is Lough Naback proposed Natural Heritage Area (pNHA Site Code: 001449) which is located approximately 5km southeast of the subject site.

The subject site is not located within any landscapes designated for amenity value in the Leitrim County Development Plan 2023-2029.



Fig. 1 – Image of portion of proposed internal farm road

Planning History

P. 14584 – Application by Michael and Beatrice Reilly for planning permission to erect dwelling, entrance, boundary walls and piers, bored well, septic tank and percolation area. Permission was granted on 27/07/1999 subject to 8 no. conditions.

Relevant Legislation

Planning and Development Act 2000, as amended

Section 2 Interpretation

Section 2(1) of the Planning and Development Act, 2000 (as amended) provides an interpretation of 'works' as including 'any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal...'

Section 3 Development

Section 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.

Section 4 Exempted Development

Section 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;

S.4 (2) (a) The Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act where he or she is of the opinion that—

(i) by reason of the size, nature or limited effect on its surroundings, of development belonging to that class, the carrying out of such development would not offend against principles of proper planning and sustainable development, or

(ii) the development is authorised, or is required to be authorised, by or under any enactment (whether the authorisation takes the form of the grant of a licence, consent, approval or any other type of authorisation) where the enactment concerned requires there to be consultation (howsoever described) with members of the public in relation to the proposed development prior to the granting of the authorisation (howsoever described).

(b) Regulations under paragraph (a) may be subject to conditions and be of general application or apply to such area or place as may be specified in the regulations.

(c) Regulations under this subsection may, in particular and without prejudice to the generality of paragraph (a), provide, in the case of structures or other land used for a purpose of any specified class, for the use thereof for any other purpose being exempted development for the purposes of this Act.

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

(ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width

(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.

Schedule 2, Part 1, Class 13 of the Exempted Development –General allows for the following exemption:

Description of Development:

The repair or improvement of any private street, road or way, being works carried out on land within the boundary of the street, road or way, and the construction of any private footpath or paving.

Conditions and Limitations:

The width of any such private footpath or paving shall not exceed 3 metres.

Assessment

The applicant has advised that the proposed private farm road is 418 metres in length and 3 metres in width. The works do not comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width, nor does the development endanger public safety by reason of traffic hazard or obstruction or road users. The applicant has demonstrated that the proposed development satisfies the condition to satisfy exempted development at Class 13 of Schedule 2 Part 1 of the *Exempted Development – General* i.e., the repair or improvement of any private street, road or way, being works carried out on land within the boundary of the street, road or way, and the construction of any private footpath or paving. The width of any such private footpath or paving shall not exceed 3 metres.

The Planning Authority is aware that a similar case and a previous determination has been determined by An Bord Pleanála that has been reviewed and considered for this assessment - Bord Pleanála Case reference RL12.307371 and Leitrim County Council Case Reference: ED-19-25. The previous case considered similar issues relating to improving existing private roads and the construction of additional roads. 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).

Referral Question

Having all of the documents relating to this referral, it is considered that referral question is based simply on whether the construction of an internal farm road to Department of Agriculture specifications at an existing agricultural holding at Beagh More, Carrigallen, Co. Leitrim H12 AD05 is or is not development and whether it is or is not exempted development.

Is or is not development

In relation to whether the proposed works are development, regard is had to Section 3(1) of the Planning and Development Act 2000, as amended, which defines ‘development’ as comprising of two possible components: “the carrying out of any works on, in, over or under land”, or “the making of any material change in the use of any structures or other land”.

Section 2(1) of the Act provides an interpretation of 'works' as “the carrying out of any works on, in over, or under land” including “any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal...”.

The proposed construction of a road is considered ‘works’ in this regard and therefore development.

Is or is not exempted development

The applicant has demonstrated that the proposed development satisfies the condition to satisfy exempted development at Class 13 of Schedule 2 Part 1 of the *Exempted Development – General* i.e., the repair or improvement of any private street, road or way, being works carried out on land within the boundary of the street, road or way, and the construction of any private footpath or paving. The width of any such private footpath or paving shall not exceed 3 metres. The development therefore is considered to be development that is exempted development.

Appropriate Assessment

The proposal has been assessed having regard to the requirements of the EU Habitats Directive. The proposed development has been screened for Appropriate Assessment (AA), and it has been determined that an AA is not required. See Appropriate Assessment (AA) screening report attached.

Environmental Impact Assessment

Having regard to the nature and scale of the proposed development, its location in a serviced built-up area, the absence of any connectivity to any sensitive location and the likely emissions therefrom and the fact that the

development proposed is not of a development type or class set out in Part 1 and is sub-threshold of applicable development type/class set out in Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended, it is concluded that there is no real likelihood of significant effects on the environment arising from the proposed development having regard to the criteria set out in Schedule 7 to the Planning and Development Regulations 2001, as amended. It is therefore concluded that EIA is not required.

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 an internal farm road to Department of Agriculture specifications at an existing agricultural holding at Beagh More, Carrigallen, Co. Leitrim is 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 Michael Reilly on the 7th of April 2025;

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

- (a) Sections 2(1), 3(1) and 4(1) of the Planning and Development Act, 2000, as amended,
- (b) Articles 6(1) and 9(1) of the Planning and Development Regulations 2001, as amended,
- (c) Schedule 2, Part 1, Class 13 of the Planning and Development Regulations 2001 (as amended) and
- (d) the documentation submitted as part of the referral;

AND WHEREAS Leitrim County Council has concluded that:

- (a) the construction of an internal farm road to Department of Agriculture specifications at an existing agricultural holding at Beagh More, Carrigallen, 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 construction of an internal farm road not exceeding 3 metres in width is exempted development as per Schedule 2, Part 1, Class 13 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 proposed construction of an internal farm road to Department of Agriculture specifications at an existing agricultural holding at Beagh More, Carrigallen, Co. Leitrim is development and is exempted development subject to the width of the road not exceeding 3 metres.



Deirdre Lardner
Executive Planner
Date: 25/04/2025



Liam Flynn
Senior Executive Planner
Date: 25/04/2025



Appropriate Assessment Screening and Determination

STEP 1. Description of the project/proposal and local site characteristics:


(a) File Reference No:	ED25-13Error! Reference source not found.Error! Reference source not found.
(b) Brief description of the project or plan:	As per planning report
(c) Brief description of site characteristics:	As per planning report
(d) Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW	No
(e) Response to consultation:	N/A

STEP 2. Identification of relevant Natura 2000 sites using Source-Pathway-Receptor model and compilation of information on Qualifying Interests and conservation objectives.

European Site (code)	List of Qualifying Interest/Special Conservation Interest	Distance from proposed development (km)	Connections (Source- Pathway- Receptor)	Considered further in screening Y/N
Lough Oughter and Associated Loughs SAC (000007)	https://www.npws.ie/protected-sites/sac/000007	8.5km	None	No

STEP 3. Assessment of Likely Significant Effects

(a) Identify all potential direct and indirect impacts that may have an effect on the conservation objectives of a European site, taking into account the size and scale of the project under the following headings:	
Impacts:	Possible Significance of Impacts: (duration/magnitude etc.)
Construction phase e.g. <ul style="list-style-type: none"> Vegetation clearance Demolition Surface water runoff from soil excavation/infill/landscaping (including borrow pits) Dust, noise, vibration Lighting disturbance Impact on groundwater/dewatering Storage of excavated/construction materials Access to site Pests 	No significant potential impacts.
Operational phase e.g. <ul style="list-style-type: none"> Direct emission to air and water Surface water runoff containing contaminant or sediment Lighting disturbance Noise/vibration Changes to water/groundwater due to drainage or abstraction 	No significant potential impacts.

<ul style="list-style-type: none"> • Presence of people, vehicles and activities • Physical presence of structures (e.g. collision risks) • Potential for accidents or incidents 													
In-combination/Other	No significant potential impacts.												
(b) Describe any likely changes to the European site:													
<ul style="list-style-type: none"> • Examples of the type of changes to give consideration to include: • Reduction or fragmentation of habitat area • Disturbance to QI species • Habitat or species fragmentation • Reduction or fragmentation in species density • Changes in key indicators of conservation status value (water or air quality etc.) • Changes to areas of sensitivity or threats to QI • Interference with the key relationships that define the structure or ecological function of the site 	No significant potential impacts.												
(c) Are 'mitigation' measures necessary to reach a conclusion that likely significant effects can be ruled out at screening? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No													
Step 4. Screening Determination Statement													
The assessment of significance of effects: Describe how the proposed development (alone or in-combination) is/is not likely to have significant effects on European site(s) in view of its conservation objectives.													
Having regard to the information on file, the nature and scale of the proposed development, its distance from European sites, the lack of direct connections with regard to the Source-Pathway-Receptor model, it is concluded that the proposed development, either alone or in-combination with other developments, is not likely to have any significant effects on any European site in view of its conservation objectives.													
Conclusion:													
	<table border="1"> <thead> <tr> <th></th> <th>Tick as Appropriate:</th> <th>Recommendation:</th> </tr> </thead> <tbody> <tr> <td>(i) It is clear that there is no likelihood of significant effects on a European site.</td> <td><input checked="" type="checkbox"/></td> <td>The proposal can be screened out: Appropriate assessment not required.</td> </tr> <tr> <td>(ii) It is uncertain whether the proposal will have a significant effect on a European site.</td> <td><input type="checkbox"/></td> <td> <input type="checkbox"/> Request further information to complete screening <input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission </td> </tr> <tr> <td>(iii) Significant effects are likely.</td> <td><input type="checkbox"/></td> <td> <input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission </td> </tr> </tbody> </table>		Tick as Appropriate:	Recommendation:	(i) It is clear that there is no likelihood of significant effects on a European site.	<input checked="" type="checkbox"/>	The proposal can be screened out: Appropriate assessment not required.	(ii) It is uncertain whether the proposal will have a significant effect on a European site.	<input type="checkbox"/>	<input type="checkbox"/> Request further information to complete screening <input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission	(iii) Significant effects are likely.	<input type="checkbox"/>	<input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
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Signature of Recommending Planner: 	Date: 25/04/2025												



Environmental Impact Assessment (EIA) Pre-Screening

Establishing if the proposal is a 'sub-threshold development'

File Reference No:	ED25-13Error! Reference source not found.Error! Reference source not found.
Development Summary:	As per Planning Report
Was a Screening Determination carried out under Section 176A-C?:	<input type="checkbox"/> Yes – No further action required <input checked="" type="checkbox"/> No – Proceed to Part A

Part A - Schedule 5 Part 1 - Does the development comprise a project listed in Schedule 5, Part 1, of the Planning and Development Regulations 2001 (as amended)? (Tick as appropriate)

<input type="checkbox"/> Yes – specify class:	EIA is mandatory No screening required
<input checked="" type="checkbox"/> No	Proceed to Part B

Part B - Schedule 5 Part 2 - Does the development comprise a project listed in Schedule 5, Part 2, of the Planning and Development Regulations 2001 (as amended) and does it meet/exceed the thresholds? (Tick as appropriate)

<input type="checkbox"/> No, the development is not a project listed in Schedule 5, Part 2	No screening required
<input type="checkbox"/> Yes, the project is listed in Schedule 5, Part 2 and meets/exceeds the threshold, specify class (including threshold):	EIA is mandatory No screening required
<input checked="" type="checkbox"/> Yes, the project is of a type listed but is <i>sub-threshold</i> : [Schedule 5 Part 2 10 (dd) <i>All private roads which would exceed 2000 metres in length</i>]	Proceed to Part C


Part C – If yes, has Schedule 7A information/screening report been submitted?

<input type="checkbox"/> Yes, Schedule 7A information/screening report has been submitted by the applicant	Screening Determination required
<input checked="" type="checkbox"/> No, Schedule 7A information/screening report has not been submitted by the applicant	Preliminary Examination required

EIA Preliminary Examination:

The Planning Authority shall carry out a preliminary examination of, at the least, the nature, size or location of the development.

	Comment:	Yes/No/Uncertain:
Nature of the development: <i>Is the nature of the proposed development exceptional in the context of the existing environment?</i>	Existing established farm enterprise	No

<p><i>Will the development result in the production of any significant waste, or result in significant emissions or pollutants?</i></p>		No
<p>Size of the development: Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there cumulative considerations having regard to other existing and/or permitted projects?</p>		No
<p>Location: <i>Is the proposed development located on, in, adjoining or does it have the potential to impact on an ecologically sensitive site or location?</i></p> <p><i>Does the proposed development have the potential to affect other significant environmental sensitivities in the area?</i></p>		No
<p align="center">Preliminary Examination Conclusion:</p>		
<p>Based on a preliminary examination of the nature, size or location of the development. (Tick as appropriate)</p>		
<p align="center"><input checked="" type="checkbox"/></p> <p>There is no real likelihood of significant effects on the environment.</p> <p>EIA is not required.</p>	<p align="center"><input type="checkbox"/></p> <p>There is real likelihood of significant effects on the environment.</p> <p>An EIAR is required.</p>	<p align="center"><input type="checkbox"/></p> <p>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</p> <p>Request the applicant to submit the Information specified in Schedule 7A for the purposes of a screening determination.</p> <p>Proceed to Screening Determination.</p>
<p>Signature of Recommending Planner:</p>		<p>Date: 25/04/2025</p>