

**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 25-24
Referrer: Mary Nolan
Subject Matter: Determination under Section 5 of the Planning and Development Act 2000 (as amended) as to the following;

The development provides for minor changes to both the front and rear elevations of the existing dwelling house from that which was granted as follows:

To the front elevation

- (1) ROOFLIGHT ON FORWARD SLOPE OF THE HOUSE,*
- (2) CHANGE FROM GARAGE DOOR TO DOOR & WINDOW*

To the rear elevation

- (3) DORMER INSTALLED ON REAR SLOPE OF THE HOUSE*
- (4) 2 NO. ROOFLIGHTS TO SERVE ATTIC STORAGE*
- (5) WINDOW ADDED WITHIN GRANTED EXTENSION AREA*
- (6) CHANGE FROM WINDOW TO DOOR*
- (7) WINDOWS ADDED TO LOWER GROUND FLOOR STORAGE*

whether the above is or is not Development and whether it is or is not Exempted Development.

Location Skreeney, Manorhamilton, Co. Leitrim, F91 P0K8
Date Received: 04th June 2025

1. INTRODUCTION

This is a request for a Determination under Part 1, Section 5 of the Planning and Development Act 2000, as amended, as to whether the above (1-7 items) is or is not Development and whether it is or is not Exempted Development. This referral case concerns the question as to whether the changes as outlined above to the existing dwelling is Development or is not Development and whether it is or is not Exempted Development.

This Section 5 application was submitted under the name of Mary Nolan. A map has been submitted with this application together with drawings for the house as currently exists and a copy of the history drawings for the dwelling as granted under P 13457. The subject site is located in a suburban area approximately 300 metres northeast of Manorhamilton commercial core and which is set back from the public road where a number of residential dwellings are already located either side of the subject dwelling. The subject property is a split-level dwelling with a central porch feature present on the front elevation. The development, the subject of this Section 5 request, presents an existing dwelling in good condition and appears occupied. The rear return of this subject dwelling house is not visible from the public road where items 3-7 are located. The nearest residential property other than the subject site lies adjacent on either side.



- 1.1 The subject site is located within the settlement envelope of Manorhamilton and zoned as 'Existing Residential'. The site is not located within any visually sensitive areas as designated in the Leitrim County Development Plan 2023-2029.

2. REFERRAL SUBMISSIONS

- 2.1 This section 5 application was received by the Planning Authority on the 04th June 2025 from Mary Nolan. The request seeks a determination as to whether (*see above description 1-7 items*) the minor changes as exists on the front and rear elevations on the existing dwelling is or is not Development and whether it is or is not Exempted Development. No additional floor area is provided with these changes from what was granted.

3. PLANNING HISTORY

P. 13457 (Granted) Retention for reroofing of existing porch and an extension to the house.

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) (h) *The following shall be exempted developments for the purposes of this Act*

development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures.

*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.

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.*

5. ASSESSMENT

5.1 It is considered that the proposed works constitute 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).

5.3 The development provides for minor changes to both the front and rear elevations from that which was granted under planning reference P. 13457. Having regard to the items listed in the description above 3-7, the Planning Authority considers that each of these items are minor and are located to the rear side and as such are not visible from the public road to the front and therefore fall within the exemptions of 4.1 (h) being located to the rear and are considered exempt. With regard to items 1 & 2, namely the change from garage door to a normal door with frosted glass and to the provision of 1 no. rooflight which serves an attic storage area, these are visible but also considered to be minor. Notwithstanding their front side location, it is considered that these do not materially affect the external appearance of this existing dwelling having regard to minor change (see photo above). Furthermore, the changes remain consistent with the character of this dwelling and are also consistent with the neighbouring dwelling house where a large rooflight is also already installed on the forward slope of the house. As such, these are considered to be in accordance with S.4 (1) (h) of the Planning and Development Act 2000 (as amended).

6. Screening for Appropriate Assessment (AA) under Natura 2000 Sites

Given the nature of the development, it is considered that the proposed development would not detrimentally affect any Natura 2000 sites. Accordingly an Appropriate Assessment is not required.

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 development as presented with minor changes to both the front and rear elevations from that which was granted is development and is exempted development. Therefore, I recommend that the referrer be advised that the minor changes to both the front and rear elevations of the existing dwelling 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 minor changes to both the front and rear elevations is exempted development

AND WHEREAS the said question was referred to Leitrim County Council by Mary Nolan on the 04th June 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)(h) of the Planning and Development Act, 2000 (as amended)

AND WHEREAS Leitrim County Council has concluded that –

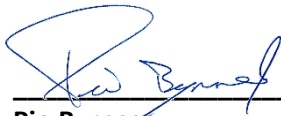
The minor changes to both the front and rear elevations of the existing dwelling at Skreeney, Manorhamilton, Co. Leitrim, F91 POK8 **is** development and **is exempted development**

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

The minor changes to both the front and rear elevations of the existing dwelling at Skreeney, Manorhamilton, Co. Leitrim, F91 POK8 constitutes development which is **exempted development**.



Joe Duffy
Assistant Planner
Date: 25th June 2025



Pio Byrnes
a/Senior Planner
Date: 26/6/2025