



Leitrim County Council Planning Report

Reference No:	ED 25-41
Applicant:	Kevin Byrne
Location:	Clooncose, Annaghmore, Co. Leitrim, N41 XN90
Application Type:	Declaration under Section 5 of the Planning and Development Act 2000, as amended
Proposal:	Declaration under Section 5 of the Planning and Development Act 2000, as amended, as to whether the construction of an extension to the rear of a house, measuring 40m², constitutes development and, if so, whether such development is or is not exempted development.
Date of Site Inspection:	30/09/2025
Due Date:	23/10/2025

Introduction

This is a request for a Declaration under Part 1, Section 5 of the Planning and Development Act 2000, as amended, as to whether a development is or is not exempted development. This referral case concerns the question as to whether the construction of an extension to the rear of a house, measuring 40m², constitutes development and, if so, whether such development is or is not exempted development at Clooncose, Annaghmore, Co. Leitrim N41 XN90.

The subject application was received by the Planning Authority on 26th of September 2025.

Site Location and Context

The subject site is located in the townland of Clooncose, close to the Longford border. The site in question is accessed off a narrow public road the L-15763-0 (which is a cul de sac) via a private laneway. There are agricultural sheds located to the rear of the dwelling. The area is rural in character with a number of agricultural buildings and rural dwellings noted in the vicinity of the site.

The works are proposed to the rear of the dwelling. Photographs below show the elevations of the existing dwelling. It is noted that clearance around the dwelling has taken place in the last couple of months.

The dwelling is not currently inhabited.



Fig. 1 The front elevation of the dwelling.



Fig. 2 This is the rear elevation onto which the applicant is proposing the 40m² extension.



Fig. 3 The Left Elevation (northwest elevation)



Fig. 4. The Right Elevation (southeast elevation)

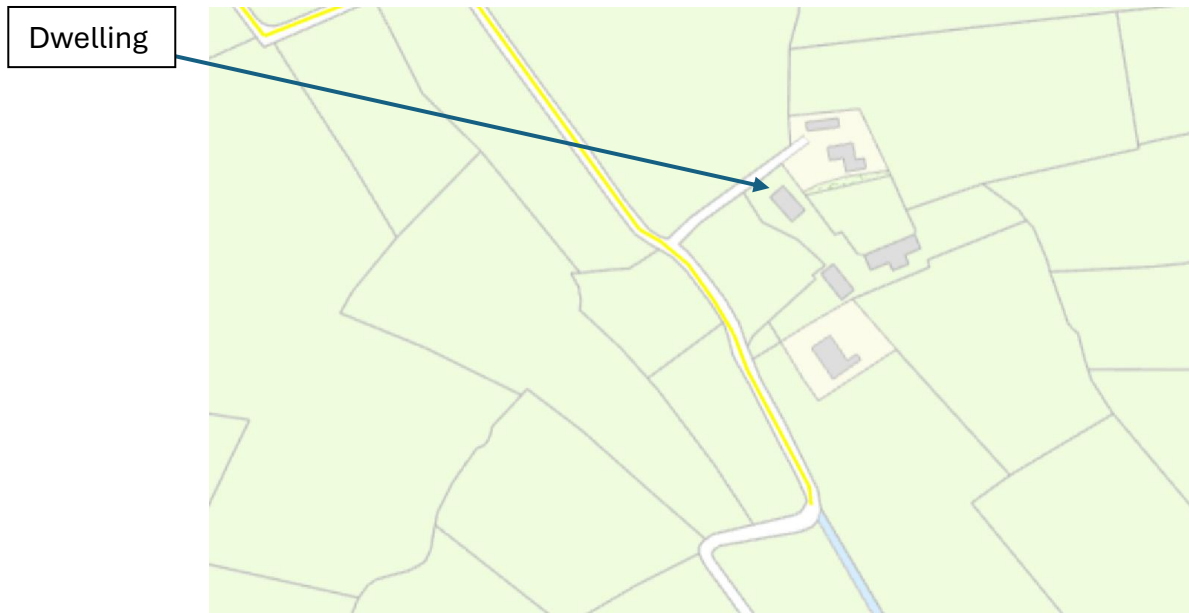


Fig. 6 Location of the property relative to the public road (in yellow)

The nearest Natura 2000 site is Clooneen Bog Special Area of Conservation (SAC Site Code: 002348) which is located approximately 14km south of the subject site.

The nearest nationally designated site is Lough Errew a proposed Natural Heritage Area (pNHA Site Code: 001807) which is located approximately 7km west of the subject site.

Planning History

Part of the site was the subject of a planning application for a four bay bedded shed, covered manure pit, lay concrete aprons & associated works – P.23/73 refers. No decision was made on this application as it was declared withdrawn as a response to the Further Information request that issued was not responded to within the 6 month time period.

The site was the subject of a previous Section 5 ED – 25-31 refers. The works that the applicant was proposing under that Section 5 related to an extension to the rear of the dwelling, however it was determined under that application that what the applicant was calling the rear of the dwelling was in fact the front of the dwelling and so the works as proposed was not exempted development.

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.

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.

Class 1 of Schedule 2 Part 1 of Exempted Development – General allows for the following exemption subject to conditions and limitations as set out in column 2;

Description of Development:

Development within the curtilage of a house

CLASS 1 The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the house or by the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house.

Conditions and Limitations:

1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.

(b) Subject to paragraph (a), where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres.

(c) Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres.

2. (a) Where the house has been extended previously, the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres.

(b) Subject to paragraph (a), where the house is terraced or semi-detached and has been extended previously, the floor area of any extension above ground level taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 12 square metres.

(c) Subject to paragraph (a), where the house is detached and has been extended previously, the floor area of any extension above ground level, taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 20 square metres.

3. Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.

4. (a) Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house.

(b) Where the rear wall of the house includes a gable, the height of the walls of any such extension shall not exceed the height of the side walls of the house.

(c) The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.

5. The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.

6. (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.

(b) Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.

(c) Where the house is detached and the floor area of the extension above ground level exceeds 12 square metres, any window proposed at above ground level shall not be less than 11 metres from the boundary it faces.

7. The roof of any extension shall not be used as a balcony or roof garden.

Assessment

Referral Question

Having carried out a site inspection and reviewed all of the documents relating to this referral, I consider the question to be based simply on whether the construction of an extension to the rear of a house, measuring 40m², constitutes development and, if so, whether such development is or is not exempted development.

Is or is not development.

In relation to whether the proposed works constitute development, regard is had to Section 3(1) of the Planning and Development Act 2000, as amended, which states that 'development', except where the context otherwise requires, "means the carrying out of any works on, in, over or under land....",

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

Therefore, the proposal to carry out the works as identified in the referral question above is development within the meaning of the Act.

Is or is not exempted development.

In order to ascertain whether or not the development works proposed constitute development which could be considered exempted development, the Planning Authority must consider whether the development will meet the conditions and limitations set out in Class 1 of Schedule 2 Part 1 of *Exempted Development – General* as set out above.

Based on a site inspection and an examination of the documentation submitted, the proposed extension satisfies the conditions and limitations set out in Class 1(a).

Works to the existing cottage (not forming part of the referral question)

I note that, based on the floorplans and elevations submitted the applicant is proposing works, in the form of additional windows and a door, to the existing cottage, which have not formed part of the referral question under this Section 5 application. This matter will be dealt with as a separate advice note. It would appear that the applicant is proposing to alter the left elevation which is currently served by 1 number window and is

proposing 1 large window, a smaller window and a door. Also proposed is one additional window on the right elevation and another on the rear elevation.

In my opinion the extent of the proposed external works to the existing cottage changes, would be considered to materially affect the external appearance of the cottage (particularly those to the left elevation) so as to render the appearance inconsistent with the character of the structure

In light of the extent of the works proposed to the existing cottage, and in particular that to the left elevation, the combined changes to the existing cottage could not be considered to fall within the remit of Section 4(1)(h) of the Planning and Development Act 2000 (as amended) as the works materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure. Section 4(1)(h) of the Planning and Development Act states that the following shall be exempted development:

‘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’.

Having regard to the above, Section 4(1)(h) of the Planning and Development Act 2000 (as amended) cannot be relied on in this instance and the works to the existing house could not be considered to be exempted development and the applicant should be so advised by way of an advice note.

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, 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 extension to the rear of a house at Clooncoose, Annaghmore, Co. Leitrim N41 XN90, measuring 40m², constitutes development and whether it is or is not exempted development.

AND WHEREAS the said question was referred to Leitrim County Council by Kevin Byrne on the 26th of September 2025;

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

- (a) Sections 2(1) and 3(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 1 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 extension to the rear of a house, measuring 40m² is considered to be development and is exempted development as per Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001 (as amended) of the Planning and Development Act 2000 (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:

(b) the construction of an extension to the rear of a house at Clooncose, Annaghamore, Co. Leitrim N41 XN90, measuring 40m² is development and is exempted development.

Aoife Mulcahy
Executive Planner
Date: 01/10/2025

Liam Flynn
Senior Executive Planner
Date: 02/10/2025

Please include the following as an advisory note for the applicant:

It has been noted that works to the existing cottage have been indicated on the plans submitted (in the form of additional windows and a door on the side and rear elevations of the cottage) and that these works were not included in the Section 5 Declaration referral question, hence this advice note.

In light of the extent of the works proposed to the existing cottage, and in particular that to the left elevation, the combined external changes to the existing cottage could not be considered to fall within the remit of Section 4(1)(h) of the Planning and Development Act 2000 (as amended) as the works materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure. Section 4(1)(h) of the Planning and Development Act states that the following shall be exempted development: *'development consisting of the carrying out or 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'*.

Having regard to the above you are advised that Section 4(1)(h) of the Planning and Development Act 2000 (as amended) cannot be relied on in this instance and the above mentioned works to the existing cottage could not be considered to be exempted development.



Appropriate Assessment Screening and Determination

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

(a) File Reference No:	ED 25-41
(b) Brief description of the project or plan:	As per Section 5 report
(c) Brief description of site characteristics:	As per Section 5 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
Clooneen Bog SAC (002348)	https://www.npws.ie/protected-sites/sac/002348	14km	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. - 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. - 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 - Presence of people, vehicles and activities - Physical presence of structures (e.g. collision risks) - Potential for accidents or incidents	No significant potential impacts.

In-combination/Other	No significant potential impacts.	
(b) Describe any likely changes to the European site:		
• 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? ☐ Yes ☒ 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:		
	Tick as Appropriate:	Recommendation:
(i) It is clear that there is no likelihood of significant effects on a European site.	☒	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.	☐	☐ Request further information to complete screening ☐ Request NIS ☐ Refuse planning permission
(iii) Significant effects are likely.	☐	☐ Request NIS ☐ Refuse planning permission
Signature of Recommending Planner:		Date: 01/10/2025



Environmental Impact Assessment (EIA) Pre-Screening

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

File Reference No:	ED 25-41
Development Summary:	As per Section 5 Report
Was a Screening Determination carried out under Section 176A-C?:	☐ Yes – No further action required ☒ 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)

☐ Yes – specify class:	EIA is mandatory No screening required
☒ 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)

☐ No, the development is not a project listed in Schedule 5, Part 2	No screening required
☐ 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
☒ 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?

☐ Yes, Schedule 7A information/screening report has been submitted by the applicant	Screening Determination required
☒ 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>		No

<i>Will the development result in the production of any significant waste, or result in significant emissions or pollutants?</i>		No
Size of the development: Is the size of the proposed development exceptional in the context of the existing environment? Are there cumulative considerations having regard to other existing and/or permitted projects?		No
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> <i>Does the proposed development have the potential to affect other significant environmental sensitivities in the area?</i>		No
Preliminary Examination Conclusion:		
Based on a preliminary examination of the nature, size or location of the development. (Tick as appropriate)		
☒ There is no real likelihood of significant effects on the environment. EIA is not required.	☐ There is real likelihood of significant effects on the environment. An EIAR is required.	☐ There is significant and realistic doubt regarding the likelihood of significant effects on the environment. Request the applicant to submit the Information specified in Schedule 7A for the purposes of a screening determination. Proceed to Screening Determination.
Signature of Recommending Planner:		Date: 01/10/2025