

**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 25-40
Referrer: Monika Kirsch
Subject Matter: Determination under Section 5 of the Planning and Development Act 2000 (as amended) as to whether the following is or is not Development and whether it is or is not Exempted Development:

To repair and refurbish the existing dwelling with the following:

1. *Replace cement render with lime render and white limewash,*
2. *Dig up cement floors, insulate same and install Under Floor Heating (UFH),*
3. *Remove chimney stacks to roof level, replace existing slate roof with slate effect metal roofing and add insulation place roof,*
4. *Reopen former back door opening and replace current window with new back door,*
5. *Re-wire and re-plump,*
6. *Provide new heating system (Geothermal heat pump).*

Location: Aghanlish, Kinlough, F91 HW10, Co. Leitrim
Date Received: 14th August 2025

1. INTRODUCTION

This is a request for a Declaration under Part 1, Section 5 of the Planning and Development Act 2000 (as amended). This referral case concerns the question as to whether or not the repair and refurbishment of an existing dwelling house is development and whether or not it is Exempted Development. This Section 5 application was submitted under the name of Monika Kirsch received on the 14th August 2025. A site location map, floor plans drawings and product brochure relating to the roof have also been submitted with this Section 5 application. The subject site is located in a rural area approximately 3-kilometre south-west of Kinlough and set back and not readily visible approximately 300 metres to the east side of the R280 regional road which serves this wider area. The property does have an Eircode. The existing single storey dwelling appears to be in a reasonable condition and currently unoccupied with the roof and walls still intact and which appears to be structurally sound. The nearest residential property other than the subject site, lies approximately 250 metres distance away.





- 1.1** The subject site is located in the open countryside and lies within the visually sensitive 'Area of Outstanding Natural Beauty' and along the V25 Protected View as identified in the Leitrim County Development Plan 2023-2029 and approximately 350 metres east of the R280 Regional Road.

2. REFERRAL SUBMISSIONS

- 2.1** The subject application was received by the Planning Authority on the 14th August 2025 from Monika Kirsch.
- 2.2** The request seeks a determination as to whether (*see above description 1-6 items*) the repair and refurbishment of the existing dwelling is or is not Development and whether it is or is not Exempted Development.

3. PLANNING HISTORY

P. 2103 (Granted) Permission to erect additions to your house and install water and sewerage facilities at Aghanlish, Kinlough, Co. Leitrim.

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 the repair and refurbishment of the existing rural dwelling house. No additional floor area is proposed with this refurbishment and repair development proposal. The external materials of the replacement roof are stated by way of a sample product brochure. With the exception of item 3, and having regard to the items listed above, the Planning Authority considers that each of these items are considered to be maintenance and/or improvement and which affect only the interior of the structure, the rear elevation and which do not materially affect the external appearance of the existing dwelling. As such, these are considered to be fully in accordance with section 4 (1) (h) of the Planning and Development Act 2000 (as amended) which are exempt. With regard to item 3, the removal of the chimney stacks to roof level and the provision of revised material such as modern corrugated metal, slates or tiles will not detract to a materially degree to the external appearance of this isolated dwelling and is therefore acceptable as proposed in this instance and will accord with section 4 (1) (h) of the Planning and Development Act 2000 (as amended).

5.4 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 SAC (Site Code: 001403), which is located approximately 1.5km southeast of the subject site. Given the nature of the project, 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.

6. CONCLUSION

Having examined the proposal and reviewed all of the documents relating to this development, along with the relevant legislation, I conclude that the repair and refurbishment of the existing dwelling comprising of the following: 1. Replace cement render with lime render and white limewash; 2. Dig up cement floors, insulate same and install Under Floor Heating (UFH); 3. Remove chimney stacks to roof level, replace existing slate roof with slate effect metal roofing and add insulation place roof; 4. Reopen former back door opening and replace current window with new back door; 5. Re-wire and re-plump; and 6. Provide new heating system (Geothermal heat pump) is development and is exempted development. Therefore, I recommend that the referrer be advised that the repair and refurbishment 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 repair and refurbishment of the existing dwelling comprising of the following: 1. Replace cement render with lime render and white limewash; 2. Dig up cement floors, insulate same and install Under Floor Heating (UFH); 3. Remove chimney stacks to roof level, replace existing slate roof with slate effect metal roofing and add insulation place roof; 4. Reopen former back door opening and replace current window with new back door; 5. Re-wire and re-plump; and 6. Provide new heating system (Geothermal heat pump) 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 Monika Kirsch on the 14th August 2025

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

- (a) Section 2(1) and 3(1) of the Planning and Development Act, 2000 (as amended)
- (b) Article 6 (1) of the Planning and Development Regulations 2001 (as amended)
- (c) Article 9 (1)(a) of the Planning and Development Regulations 2001 (as amended)
- (d) Section 4(1) (h) of the Planning and Development Act, 2000 (as amended)

AND WHEREAS Leitrim County Council has concluded that –

The repair and refurbishment of the existing dwelling at Aghanlish, Kinlough, F91 HW10, Co. Leitrim **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 repair and refurbishment of the existing dwelling at Aghanlish, Kinlough, F91 HW10, Co. Leitrim comprising of the following: 1. Replace cement render with lime render and white limewash; 2. Dig up cement floors, insulate same and install Under Floor Heating (UFH); 3. Remove chimney stacks to roof level, replace existing slate roof

with slate effect metal roofing and add insulation place roof; 4. Reopen former back door opening and replace current window with new back door; 5. Re-wire and re-plump; and 6. Provide new heating system (Geothermal heat pump) constitutes development which is **exempted development**.



Joe Duffy
Assistant Planner
Date: 02nd September 2025



Liam Flynn
Senior Executive Planner
Date: 02/09/2025



Appropriate Assessment Screening and Determination

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

(a) File Reference No:	ED25-40 Error! 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
Arroo Mountain SAC (001403)	https://www.npws.ie/protected-sites/sac/001403	1.4km	None	No
Please Select				

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.
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(c) Are 'mitigation' measures necessary to reach a conclusion that likely significant effects can be ruled out at screening? Yes No

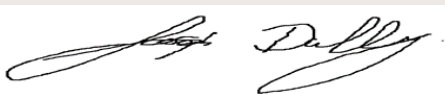
Step 4. Screening Determination Statement

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 subject 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.	<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

Signature of Recommending Planner:		Date: 02/09/2025
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Environmental Impact Assessment (EIA) Pre-Screening

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

File Reference No:	ED25-40 Error! 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 checked="" 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 type="checkbox"/> Yes, the project is of a type listed but is <i>sub-threshold</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 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>		

Will the development result in the production of any significant waste, or result in significant emissions or pollutants?

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?

Location:

Is the proposed development located on, in, adjoining or does it have the potential to impact on an ecologically sensitive site or location?

Does the proposed development have the potential to affect other significant environmental sensitivities in the area?

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.

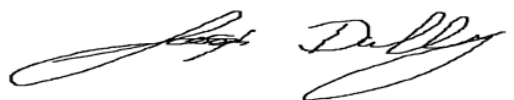
An **EIAR is required.**

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: 02/09/2025