

**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 25-25
Referrer: Barbour Regan
Subject Matter Declaration under Section 5 of the Planning and Development Act 2000 (as amended) as to whether the already constructed agricultural shed together with horse stables is exempt from Planning Permission.
Location Cloone, Kinlough, Co. Leitrim
Date Received: 17th June 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 an already constructed agricultural shed, together with horse stables, is development or is not development and whether it is or is not exempted development. The subject site is located in the townland of Cloone, Kinlough, Co. Leitrim in the open countryside circa 2 km south of Kinlough and to the north side of the L-6094 public road. There are a number of existing dwelling houses in this rural and elevated area. The development, the subject of this Section 5 request, provides for the already constructed agricultural hayshed of 119 square metres together with attached horse stables of 89 square metres with a combined total floor area of 208 square metres of unstated ridge height. This structure is set back and down from the minor public road and not visible from same in a relatively flat well screened area (see screenshot and photos below) that rises gently to the rear.





Subject Structure

1.1 Arroo Mountain SAC (Site Code 001403) is located approximately 860m southeast of the subject site. The site is located within the designated visually sensitive A3 Area of Outstanding Natural Beauty but does not impact on same.

2. REFERRAL SUBMISSIONS

2.1 The subject application was received by the Planning Authority on the 17/06/2025 from Barbour Regan.

2.2 The already constructed agricultural hayshed of 119 square metres together with attached horse stables of 89 square metres stands with a total floor area of 208 square metres of unstated but moderate ridge height.

3. PLANNING HISTORY

Adjacent Site

P. 23/60173 (Granted) Retention for (1) an existing balcony structure and balustrade to the rear the existing domestic dwelling, (2) alterations to the rear elevation of the existing domestic dwelling; (3) To alter existing site boundaries and all ancillary works.

P. 06/723 (Granted) Planning permission was granted to retain alterations to house granted under P01-2018 (Conditions 3 of this decision was appealed and granted by An Bord Pleanala under reference PL12-219355).

Enforcement

Warning Letter issued under reference G1207 & P01/01018 on the 22nd December 2005 but no further enforcement action taken.

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 (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.
(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 9 of Schedule 2, Part 3 of Exempted Development allows for the following exemption subject to conditions and limitations as set out in column 2;

Agricultural Structures

Works consisting of the provision of any store, barn, shed, glass-house or other structure, not being of a type specified in class 6, 7 or 8 of this Part of this Schedule, and having a gross floor space not exceeding 300 square metres.

Conditions and limitations as set out in column 2;

- 1. No such structure shall be used for any purpose other than the purpose of agriculture or forestry, but excluding the housing of animals or the storing of effluent.*
- 2. The gross floor space of such structures together with any other such structures situated within the same farmyard complex or complex of such structures or within 100 metres of that complex shall not exceed 900 square metres gross floor space in aggregate.*
- 3. No such structure shall be situated within 10 metres of any public road.*
- 4. No such structure within 100 metres of any public road shall exceed 8 metres in height.*
- 5. No such structure shall be situated 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.

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

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 existing works and structures already 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).
- 5.3 The existing development presents with an already constructed agricultural shed storage structure together with horse stables with a combined total floor area of 208 square metres with an unstated ridge level. Both Class 6 and Class 9 of Schedule 2, Part 3 of Exempted Development applies to this application. Having regard to the existing floor area and ridge height of this existing shed, the Planning Authority considers that the proposal would fall well under the threshold of 300 square metres relating to Class 9. Having regard to the existing floor area and ridge height of the horse stables, the Planning Authority considers that the proposal would fall well under the allowable threshold of 200 square metres relating to Class 6. With both of these classes 6 & 9, the combined floor area does not exceed 300 square metres gross floor space in aggregate and therefore it is considered that this structure remains in accordance with the Conditions and Limitations of column 2 as identified in the Planning and Development Regulations, 2001 (as amended) as below;

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.*
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
5. *No such structure within 100 metres of any public road shall exceed 8 metres in height.*
YES
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
7. *No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.*
YES

Class 9

Agricultural Structures

Works consisting of the provision of any store, barn, shed, glass-house or other structure, not being of a type specified in class 6, 7 or 8 of this Part of this Schedule, and having a gross floor space not exceeding 300 square metres.

Conditions and Limitations

1. *No such structure shall be used for any purpose other than the purpose of agriculture or forestry, but excluding the housing of animals or the storing of effluent.*
YES
2. *The gross floor space of such structures together with any other such structures situated within the same farmyard complex or complex of such structures or within 100 metres of that complex shall not exceed 900 square metres gross floor space in aggregate.*
YES
3. *No such structure shall be situated within 10 metres of any public road.*
YES
4. *No such structure within 100 metres of any public road shall exceed 8 metres in height.*
YES
5. *No such structure shall be situated 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 (letter of consent from the nearby homeowner included)

6. *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 (SAC Site Code: 001403), which is located approximately 860m 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.

7. CONCLUSION

Having examined the proposal and reviewed all of the documents relating to this development, along with the relevant legislation, I conclude that already constructed agricultural shed together with horse stables is development and is exempted development. Therefore, I recommend that the referrer be advised that already constructed agricultural shed together with horse stables 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 an already constructed agricultural shed together with horse stables is Development or is not Development and whether it is or is not Exempted Development at Cloone, Kinlough, Co. Leitrim constitutes development which is exempted development.

AND WHEREAS the said question was referred to Leitrim County Council by the Barbour Regan on the 17th June 2025

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

- (a) Section 2(1), 3(1) and 4(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) Class 6 of Schedule 2, Part 3 of Exempted Development *Agricultural Structures* of the Planning and Development Regulations 2001 (as amended)
- (e) Class 9 of Schedule 2, Part 3 of Exempted Development *Agricultural Structures* of the Planning and Development Regulations 2001 (as amended)

AND WHEREAS Leitrim County Council has concluded that –

The already constructed agricultural shed together with horse stables is Development and is Exempted Development at Cloone, Kinlough, Co. Leitrim on the basis that it does satisfy all the conditions and limitations associated with Class 6 and Class 9 of Schedule 2 - Part 3, Exempted Development – Rural.

- (a) *the construction of an agricultural shed with a floor area of 119 square metres and horse stables of floor area 89 square metres at Cloone, Kinlough, 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 subject development (horse stables) comes within the scope of Class 6 of Part 3, Schedule 2 of the Planning and Development Regulations 2001, as amended;*
- (c) *the subject development (agricultural shed) comes within the scope of Class 9 of Part 3, Schedule 2 of the Planning and Development Regulations 2001, as amended;*
- (d) *Accordingly, the Conditions and Limitations of Class 6 and Class 9 of the Planning and Development Regulations 2001, as amended, are being met and as such, the existing structure would comply with all of the available exemptions that the development could otherwise avail in this instance.*

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 already constructed agricultural shed together with horse stables at Cloone, Kinlough, Co. Leitrim constitutes development which **is exempted development**.



Joe Duffy
Assistant Planner
Date: 07th July 2025



Liam Flynn
Senior Executive Planner
Date: 07/07/2025



Appropriate Assessment Screening and Determination

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

(a) File Reference No:	ED25-25 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	860m	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.

- 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:

- 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 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: 07/07/2025



Environmental Impact Assessment (EIA) Pre-Screening

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

File Reference No:	ED25-25 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:		

Is the nature of the proposed development exceptional in the context of the existing environment?

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: 07/07/2025

