

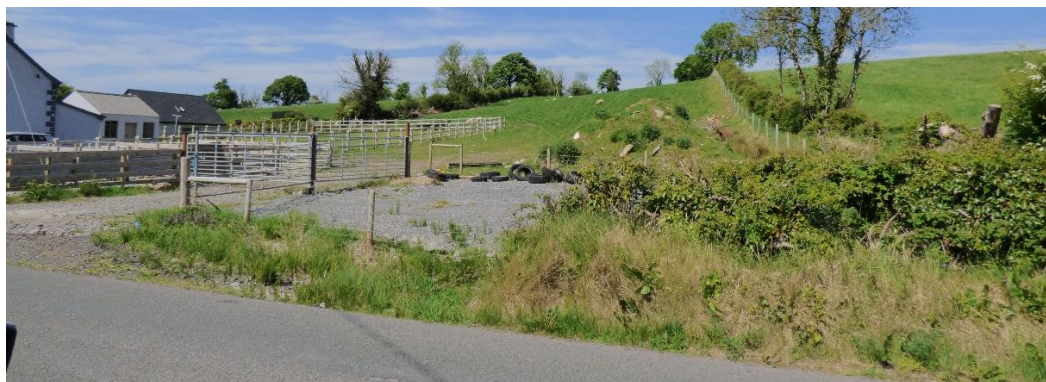
**Declaration under Section 5 of
Planning & Development Act, 2000 (as amended)**



To: Mary Quinn- Director of Services
From: Joe Duffy – Assistant Planner
Reference No.: ED 25-17
Referrer: Niall O Donnell
Subject Matter Declaration under Section 5 of the Planning and Development Act 2000 (as amended) as to whether the construction of an agricultural shed together with ancillary site works and services is exempt from Planning Permission.
Location Killanima, Dromahair, Co. Leitrim
Date Received: 25th April 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 the construction of an agricultural shed together with ancillary site works and services is development or is not development and whether it is or is not exempted development. The subject site is located in the townland of Killanima, Dromahair, Co. Leitrim in the open countryside 1 km south of Dromahair and to the north side of the R287. There are a number of existing dwelling houses in this area. The proposed development, the subject of this Section 5 request, provides for the construction of an agricultural shed together with ancillary site works and services with a total floor area of 177 square metres with a pitched roof with a ridge height of 6.4 metres. This new structure is to be located adjacent to a number of existing dwelling houses and fronts onto the R287. The subject site is set back from the public road in a flat area (see screenshot and photos below) that rises gently to the rear.



Subject Site with existing adjacent dwelling house

1.1 Lough Gill SAC (Site Code 0001976) is located approximately 400 metres northeast of the subject site. The site is not located within a designated visually sensitive area.

2. REFERRAL SUBMISSIONS

2.1 The subject application was received by the Planning Authority on the 25th April 2025 from Niall O Donnell.

2.2 The proposed works seek the construction of a new standalone agricultural structure with a total floor area of 177 metres (11.8m x 15m) with a pitched roof of ridge height of 6.4 metres.

3. PLANNING HISTORY

None

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.*

5. ASSESSMENT

- 5.1** The proposed works 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 proposed development provides for the construction of a new agricultural shed together with ancillary site works and services with a total floor area of 177 square metres with a pitched roof of ridge level of 6.4 metres. Class 9 of Schedule 2, Part 3 of Exempted Development applies to this application. Having regard to the proposed floor area and ridge height of the intended shed, the Planning Authority considers that the proposal would fall well under this threshold and also under the threshold of 300 square metres. It is also noted from the site location map drawing submitted that the blue landholding excludes the nearest dwelling to the west. From a land registry search, this is owned by a different named person to that with this Section 5 declaration application. In terms of distance from this nearest 3rd party house, the Planning Authority observes that the proposed structure is located at a stated distance of 25.1 metres from this 3rd party owned house with the applicant's own dwelling being located further to the west again. Notwithstanding, the application details includes a letter of consent from the owner of this 3rd party dwelling house. With the inclusion of this letter of consent, it is considered that this allows this proposal to remain in accordance with the Conditions and Limitations of column 2 as identified in the Planning and Development Regulations, 2001 (as amended) as set out below.

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

Given the nature of the project, it is considered that the proposed development would not detrimentally affect any Natura 2000 sites. Accordingly, an Appropriate Assessment is not considered 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 construction of an agricultural shed together with ancillary site works and services is development and is exempted development. Therefore, I recommend that the referrer be advised that the construction of an agricultural shed together with ancillary site works and services 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 construction of an agricultural shed together with ancillary site works and services is Development or is not Development and whether it is or is not Exempted Development at Killananima, Dromahair, Co. Leitrim constitutes development which is exempted development.

AND WHEREAS the said question was referred to Leitrim County Council by the Niall O Donnell on the 25th April 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 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 construction of an agricultural shed together with ancillary site works and services is Development and is Exempted Development at Killananima, Dromahair, Co. Leitrim on the basis that it does satisfy all the conditions and limitations associated with Class 9 of Schedule 2 - Part 3, Exempted Development – Rural.

- (a) *the construction of an agricultural shed with a floor area of 177 square metres at Killananima, Dromahair, 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 development comes within the scope of Class 9 of Part 3, Schedule 2 of the Planning and Development Regulations 2001, as amended;*
- (c) *having regard to the inclusion of a letter of consent from the owner of a dwelling house situated within 100 metres of the proposed structure which is not the house of the person providing the structure. Accordingly, the Conditions and Limitations of Class 9 of the Planning and Development Regulations 2001, as amended, are being met and as such, the proposed structure*

would comply with all of the available exemptions that the proposed 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 construction of an agricultural shed together with ancillary site works and services at Killanima, Dromahair, Co. Leitrim constitutes development which **is exempted development.**



Joe Duffy
Assistant Planner
Date: 15th May 2025



Liam Flynn
Senior Executive Planner
Date: 15/05/2025