



Leitrim County Council Planning Report

Reference No:	ED26-14
Applicant:	Alastair Pollock
Location:	Aghaleague, Newtowngore, Co. Leitrim
Application Type:	Declaration under Section 5 of the Planning and Development Act 2000, as amended.
Proposal:	Whether the construction of a stand alone underground mass concrete holding tank to hold dairy washings and soiled water from the dairy, milking parlour and collecting yard is or is not development and whether it is or is not exempted development.
Due Date:	31/03/2026

Introduction

This subject request for a declaration under Section 5 of the Planning and Development Act 2000, as amended, was received by the Planning Authority on the 4th of March 2026. The declaration requested from the Planning Authority is whether the construction of a stand alone underground mass concrete holding tank to hold dairy washings and soiled water from the dairy, milking parlour and collecting yard is or is not development and whether it is or is not exempted development. In the submitted documentation, it is outlined that the proposed development is to ensure compliance with amendments to the Nitrate Regulations, as set down in S.I. No. 588 of 2025. The requirement for the storage of such materials is to increase from 0.21m³/cow/week to 0.3m³/cow/week effective from the 1st of October, 2028. Currently this material is stored in underground concrete tanks used for longer term storage of cattle slurry. The dimensions of the proposed underground tank are 23m x 3.5m x 2.4m providing a storage area of 192.3 m³. The structure will be unroofed and covered in mass concrete slabs in accordance with Department of Agriculture farm building specifications, S.I.123 of October 2022. It is indicated in the submitted cover letter that the applicant intends applying for funding under the TAMS scheme, the current tranche of which closes for funding tomorrow, March 6th 2026.

A Site Location Map accompanies the submitted application. The farmyard within which the development is proposed is located 1.4 km due west of Newtowngore, 200 metres south of Garadice Lake. The farmyard is 120 metres due south of local road L-14971 with another access to the south from the L-1497. The farmyard is extensive in scale.

The site is located in an Area of High Visual Amenity, B10 Lough Garadice and Environs, County Development Plan 2023-2029. Garadice Lough Wood is a proposed Natural Heritage Area (Site Code 001413) located 1.3 km away on the opposite side of the lake. There is a recorded monument, ref. LE026-026 (Architectural fragment) located at the southern end of the farmyard and adjoining dwelling. The Zone of Notification is 70 metres approximately from the proposed development.

Relevant Planning History

The submitted application has not provided any details of the previous planning history associated with the farmyard. An inspection of the planning register revealed the following of a series of planning applications having been lodged with respect to the subject farmyard.

- P.05/640** Application by Hubert Pollock to erect slatted cattle shed adjoining existing slatted cattle shed and erect new silage silo with associated works. Permission granted on 28th February 2006.
- P.18/121** Application by Hubert Pollock to construct (a) new dry bedded cattle shed facilitated by a effluent storage tank and, (b) a new soiled water storage tank, together with all ancillary site works and services. Permission was granted on 9th November 2018.

There were no issues raised in the assigned planner's report (P.18/121 refers) with respect to elements of the farmyard raising issues of unauthorised development. I am presuming therefore that all elements shown on the submitted Site Layout Plan with the most recent planning application have the benefit of planning permission, were exempted development or constructed prior to the 1st October 1964.

Planning 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...*'. An "*alteration*" includes '*(a) plastering or painting or the removal of plaster or stucco, or (b) the replacement of a door, window or roof... that materially alters the external appearance of a structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures.*'.

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.

Section 4 Exempted Development

Section 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.*

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 of the Regulations states that development to which article 6 relates shall not be exempted development for the purposes of the Act—

if the carrying out of such development would—

- (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,*
- (viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,*

Subject to the development of the proposed agricultural structure adhering to the conditions and limitations set out with respect to Class 6 and not breaching any of the 4 criteria extracted with respect to Article 9 above, the development would be considered to be exempted development.

Class 6A of Schedule 2, Part 3 of Exempted Development 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:

Works consisting of the provision of a structure for the storage of slurry, effluent or soiled water collected from agricultural buildings, agricultural farmyards and any ancillary provision to aid in the handling of the slurry, effluent or soiled water

Conditions and limitations

- 1. No such structure shall be used for any purpose other than the purpose of agriculture.*
- 2. The maximum storage capacity of any such storage facility shall not exceed 1000 cubic metres.*
- 3. The aggregate capacity of tanks, situated within the same farmyard complex, shall not exceed 1,500 cubic metres.*
- 4. The structure having regard to its size, use and location shall be constructed in accordance with Department of Agriculture, Food and the Marine and Department of Housing, Local Government and Heritage requirements and shall have regard to the need to avoid water pollution. The structure shall not be an earth lined Slurry/Effluent Store.*
- 5. No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road.*
- 6. No such structure within 100 metres of any public road shall exceed 8 metres in height.*
- 7. 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.*
- 8. No such structure shall be constructed within a flood zone identified in statutory land use plans as Flood Zone A or Flood Zone B or where the probability of flooding is moderate to high or erosion control zone.*

9. *No such structure shall be within 60 metres of a public or private water source.*
10. *No such structure shall be situated, at the closest point, less than 50 metres from a water course or water body in the case of new farmyards, and not less than 10m in the case of extensions/modifications to an existing facility.*
11. *All such tanks shall be constructed in accordance with the relevant specification published by the Department of Agriculture, Food and the Marine in force at the time of construction of the tank.*
12. *No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.*
13. *The use of this Class of exemption requires a declaration from the relevant Planning authority under section 5 of the Principal Act, declaring the exemption is applicable prior to commencement of construction.*
14. *Ancillary provision shall include as appropriate the installation of any signage, fencing or other safety infrastructure as recommended by the Health and Safety Authority regarding Slurry Safety.*

Assessment

The application has been submitted to satisfy condition and limitation no. 13 of Class 6A as outlined above. The development proposed to construct a structure which is clearly therefore development within the definition development and works provided in the Planning & Development Act 2000, as amended. The storage capacity has been calculated at 192.3 m³ which is a fraction of the provision outlined in condition and limitation no. 2 of 1,000 m³. Condition and Limitation 3 states that “*The aggregate capacity of tanks, situated within the same farmyard complex, shall not exceed 1,500 cubic metres*”. The submitted Site Layout Plan indicates that the existing capacity of storage facilities is as follows:

J	Slatted underground tank 1,126m ³
K	Slatted underground tank 90m ³
P	Slatted underground tank 134m ³
R	Slatted underground tank 193m ³

It is stated that the dairy washings and slurry from the collecting yard are currently directed to the slatted underground tank labelled ‘R’.

The cumulative storage capacity at present is 1,543 m³. I note that the storage outlined above is slightly less than the net storage (1,603 m³) indicated in the Nutrient Management Plan submitted with the previous planning application, ref. P18/121 refers. The addition of the proposed structure would increase the stated capacity to 1,735m³. The existing level of provision would therefore already exceed the stated aggregate capacity of 1,500 m³. The proposed development therefore is not exempted development.

The proposed development is more than 100 metres from the nearest dwelling.

Conclusion

Having examined carefully the submission and reviewed all of the documents relating to this development, I form the view that the proposed construction of a standalone underground mass concrete holding tank to hold dairy washings and soiled water from the dairy, milking parlour and collecting yard is development and is not exempted development.

Screening for Appropriate Assessment (AA) under Natura 2000 Sites

The nearest Natura 2000 site is Lough Oughter and Associated Loughs SAC (Site Code: 000007) which is located approximately 8.8 km from the subject site. However, as the substantive matter is not considered exempted development, no further consideration in this regard is considered necessary.

Recommendation

Having examined the planning history associated with the subject farmyard complex and to the structures both established and permitted through these grants of planning permissions, to the definitions and provisions of Planning & Development Act 2000, as amended and the Planning & Development Regulations 2001, as amended and to the documents submitted with this referral request, I consider that the combined existing storage capacity exceeds the stated threshold of 1,500 m³ specified as a condition and limitation in Class 6B and that the proposed development is not exempted development.

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 a standalone underground mass concrete holding tank to hold dairy washings and soiled water from the dairy, milking parlour and collecting yard** at Aghaleague, Newtowngore, Co. Leitrim, 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 Alastair Pollock. T/A Pollock Farming Limited on the 4th March 2026

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

- a) Sections 2(1), 3(1), 4(1)(h) and 4(2) of the Planning and Development Act, 2000, as amended,
- b) Article 6(1) and 9(1) of the Planning and Development Regulations, 2001, as amended,
- c) Class 6A of Part 3 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- d) the planning history and existing scale of development within the farmyard complex,
- e) the submissions on file,
- f) the report of the Senior Planner:

AND WHEREAS Leitrim County Council has concluded that

The construction of a stand alone underground mass concrete holding tank to hold dairy washings and soiled water from the dairy, milking parlour and collecting yard at Aghaleague, Newtowngore, Co. Leitrim

- i) would constitute development under Section 3(1) of the Planning and Development Act 2000, as amended, and
- ii) in order to satisfy the provisions of the exemption category afforded under Class 6A of Part 3 of Schedule 2 to the Planning and Development Regulations, 2001, as amended, the aggregate capacity of tanks, for the storage of slurry, effluent or soiled water collected from agricultural buildings and agricultural farmyards situated within the same farmyard complex, shall not exceed 1,500 cubic metres whereas the existing aggregate capacity of such tanks is already 1,543 cubic metres without the proposed additional underground mass concrete holding tank providing an additional cubic metres.

NOW THEREFORE Leitrim County Council, in exercise of the powers conferred on it by section 5 of the Planning and Development Act 2000, as amended, hereby decides that the construction of a standalone underground mass concrete holding tank to hold dairy washings and soiled water from the dairy, milking parlour and collecting yard at Aghaleague, Newtowngore, Co. Leitrim is development and is not exempted development.

Bernard Greene

Bernard Greene

Senior Planner

Date: 05/03/2026