



Leitrim County Council Planning Report

Reference No:	ED 26-24
Applicant:	Keith & Sinead Flanagan
Location:	Killahurk, Carrigallen, Co. Leitrim, H12 E098
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 a wall, circa 140 feet long in addition to a 13 feet wide gate not more than 1 metre high, to replace a wooden fence between the front of the garden and the main road and for it to be moved 1.5 metres nearer to the edge of the road boundary would constitute development, and, if so, whether such development is or is not exempted development.
Date of Site Inspection:	13 April 2026
Due Date:	28/04/2026

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 the construction of a wall and a gate not more than 1 metre high, to replace a wooden fence between the front of the garden and the main road and for it to be moved 1.5 metres nearer to the edge of the road boundary constitutes development and, if so, whether such development is or is not exempted development at Killahurk, Carrigallen, Co. Leitrim, H12 E098.

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 01st of April 2026.

Site Location and Context

The subject site is located along a Local Primary Road L-1565-O on the outskirts of the village of Carrigallen. There are a number of dwellings along this particular stretch of the road.

The proposed works are to the front of the property, between the front of the garden and the Local Primary Road.

Photographs overleaf show the existing dwelling.

Fig. 2 The subject site



The nearest Natura 2000 site is Lough Oughter and Associated Loughs SAC (SAC Site Code: 000007) which is located approximately 6.24 km northeast of the subject site. The nearest proposed Natural Heritage Area is Glasshouse Lake (pNHA Site Code: 000983) which is circa 5km southwest of the proposed site.

Planning History

P.19/138 – In September 2019, Ms. Mary Quigley, was granted planning permission to (a) retain changes made to previously permitted dwelling under P.02/00515 relating to the removal of conservatory, changes to windows and doors and an increase in the roof pitch; b) retain site boundaries, c) retain domestic garage base and d) permission to complete the garage at Killahurk, Carrigallen, Co. Leitrim.

P.02/515 – In October 2002, Ms Mary O' Neill was granted planning permission to erect dwelling, garage, entrance, boundary walls and piers, with sewerage treatment system, subject to conditions, at Killahurk, Carrigallen, Co. Leitrim.

The following conditions are important to note:

8 (a) The existing road boundary fence shall be removed over the entire site frontage. New boundary fencing shall be erected along a line which shall be agreed with the District Engineer, Leitrim County Council.

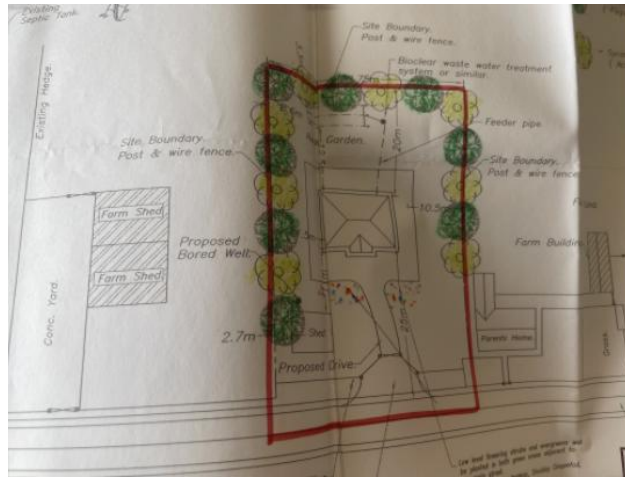
8 (b) The area between the near edge of the public road carriageway and the line of the new fencing shall be excavated, filled, drained, graded and surfaced with durable, dust-free materials to the satisfaction of Leitrim County Council.

Reason: To provide car parking across the frontage of the site and to allow for possible future road improvements.

10. The new roadside boundary shall not exceed 0.8 metres in height and shall consist of a boundary, which shall be agreed with the Planning Authority before development commences. The new boundary shall incorporate tree and shrub plantings, of species indigenous to hedgerow systems in the area.

Reason: To ensure that the new road boundary fence does not obstruct sight distance in the vicinity of the new entrance onto the public road and in the interests of visual amenity.

Figure 1: P.02/515 - Site Layout Plan



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.

Section 4 Exempted Development

Section 4 (1) The following shall be exempted developments for the purposes of this Act:

(h) 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.

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.

(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,

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;

Class 5 The construction, erection or alteration within or bounding the curtilage of a house, of a gate, gateway, railing or wooden fence or a wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete.

Conditions and Limitation:

- 1. The height of any such structure shall not exceed 2 metres or, in the case of a wall or fence within or bounding any garden or other space in front of a house, 1.2 metres.*
- 2. Every wall other than a dry or natural stone wall bounding any garden or other space shall be capped and the face of any wall of concrete or concrete block (other than blocks with decorative finish) which will be visible from any road, or path or public area, including public open space, shall be rendered or plastered.*
- 3. No such structure shall be a metal palisade or other security fence.*

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 a wall and a gate not more than 1 metre high, to replace a wooden fence between the front of the garden and the main road and for it to be moved 1.5 metres nearer to the edge of the road boundary constitutes development and, if so, whether such development is or is not exempted development.

Is or is not development.

In consideration of the proposed construction of a wall and construction of a gate, once the proposals are lower than 1.2 meters in height, it would meet the criteria set out in Class 5 and Class 9 of Schedule 2 Part 1 of *Exempted Development – General* of the Planning and Development Regulations 2001, as amended.

However, Article 9(1)(i) of the Planning and Development Regulations 2001 identifies restrictions on an exemption if it contravenes a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act. Condition 8 of granted planning permission P.02/515 states that the new boundary fencing shall be erected along a line which shall be agreed with the District Engineer. The reason provided for this condition was to provide car parking across the frontage of the site and to allow for possible future road improvements. Condition 10 of P.02/515, states the height of the roadside boundary should not be more than 0.8 metres in height. The reason provided for this condition was to ensure that the new road boundary fence does not obstruct sight distance in the vicinity of the new entrance onto the public road.

The Assistant Engineer from the Roads Department of Leitrim County Council undertook a site inspection on the 21st of April 2026 and noted that the existing fence is set back 4 metres from the edge of the road. The

Assistant Engineer advised that the boundary must be kept 3 metres back from the edge of the road and for the wall not to be built more than 1 metre high. The reason provided for these restrictions are to retain sightlines, to provide for car parking and to allow for possible future road improvements. This shall be specified in any declaration issued.

Having regard to Condition 10 of the grant of permission under P.02/515, the height of the proposed roadside boundary should not be more than 0.8m in height and this shall also be specified in any declaration issued.

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 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 a wall and a gate not more than 1 metre high, to replace a wooden fence between the front of the garden and the main road and for it to be moved 1.5 metres nearer to the edge of the road boundary at Killahurk, Carrigallen, Co. Leitrim, H12 E098, 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 Keith & Sinead Flanagan on the 1st of April 2026:

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

- (a) Sections 2(1), 3(1) and 4(1)(h) 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 5 of the Planning and Development Regulations 2001 (as amended).
- (d) Site inspection undertaken by the Assistant Engineer on the 21 April 2026 and report from same, and
- (e) The documentation submitted as part of the referral;

AND WHEREAS Leitrim County Council has concluded that:

- (a) The construction of a wall and a gate not more than 0.8m high, to replace a wooden fence between the front of the garden and the public road at a position 3m from the road edge at Killahurk, Carrigallen, Co. Leitrim, H12 E098, is exempted development having regard to the provisions available within Class 5 of Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended), conditions 8 and 10 of the grant of permission under P.02/515 and the submitted report from the Assistant Engineer following its inspection of the subject site on the 21st April 2026.

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 proposed construction of a wall and a gate not more than 0.8m high, to replace a wooden fence between the front of the garden and the public road at a position 3m from the road edge at Killahurk, Carrigallen, Co. Leitrim, H12 E098, is development that is exempted development.



Claire Lynch
Executive Planner
Date: 22/04/2026



Liam Flynn
Senior Executive Planner
Date: 23/04/2026



Appropriate Assessment Screening and Determination

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

(a) File Reference No:	ED 26-24
(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

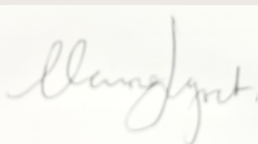
STEP 2. Identification of relevant Natura 2000 sites using Source-Pathway-Receptor model and compilation of information on Qualifying Interests and conservation objectives.

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
Lough Oughter and Associated Loughs SAC (000007)	https://www.npws.ie/protected-sites/sac/000007	6.24 km	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	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 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:													
	<table border="1"> <thead> <tr> <th></th> <th>Tick as Appropriate:</th> <th>Recommendation:</th> </tr> </thead> <tbody> <tr> <td>(i) It is clear that there is no likelihood of significant effects on a European site.</td> <td>☒</td> <td>The proposal can be screened out: Appropriate assessment not required.</td> </tr> <tr> <td>(ii) It is uncertain whether the proposal will have a significant effect on a European site.</td> <td>☐</td> <td> ☐ Request further information to complete screening ☐ Request NIS ☐ Refuse planning permission </td> </tr> <tr> <td>(iii) Significant effects are likely.</td> <td>☐</td> <td> ☐ Request NIS ☐ Refuse planning permission </td> </tr> </tbody> </table>		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
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Signature of Recommending Planner:													
Date:	22/04/2026												



Environmental Impact Assessment (EIA) Pre-Screening

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

File Reference No:	ED 26-24
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> :	Proceed to Part C

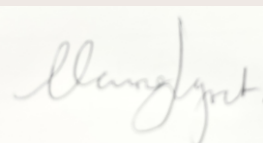
Part C – If yes, has Schedule 7A information/screening report been submitted?

☐ 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</i>		No

<i>production of any significant waste, or result in significant emissions or pollutants?</i>		
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: 22/04/2026