

An
Bord
Pleanála

Board Order
ABP-321707-25

Planning and Development Acts 2000 to 2022

Planning Authority: Donegal County Council

Planning Register Reference Number: S5 24/95

WHEREAS a question has arisen as to whether the construction of two dry store farm sheds which will consist of steel frames with roof and side walls to be of box profile cladded to match existing farm sheds, at Moyle Moss, Newtowncunningham, County Donegal, is or is not development and is or is not exempted development:

AND WHEREAS Seamús Gibson requested a declaration on this question from Donegal County Council and the Council issued a declaration on the 17th day of December 2024 stating that the matter is development and is not exempted development:

AND WHEREAS Seamús Gibson referred this declaration for review to An Bord Pleanála on the 15th day of January 2025:

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to –



- (a) Sections 2(1), 3(1), 4 and 177U(9) of the Planning and Development Act, 2000, as amended,
- (b) Article 6(3) and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (c) Class 9 of Part 3 of Schedule 2 of the Planning and Development Regulations, 2001, as amended,
- (d) the location of the development along the National Primary Route N13 where the maximum speed limit applies and a continuous white line is present,
- (e) the proximity of the development to the Lough Swilly Special Area of Conservation (Site Code 002287) and Lough Swilly Special Protection Area (Site Code 004075),
- (f) the submission of the parties to the referral, and
- (g) the report and recommendation of the Planning Inspector.

AND WHEREAS An Bord Pleanála has concluded that -

- (a) The construction of the two agricultural sheds constitutes development, being works which come within the scope of section 3(1) of the Planning and Development Act 2000, as amended.

- (b) Significant effects on Lough Swilly Special Area of Conservation (Site Code 002287) and Lough Swilly Special Protection Area (Site Code 004075) European Sites, in view of the sites' conservation objectives, arising from the development alone or in combination with other plans and projects cannot be ruled out in the with scientific certainty (in the absence of mitigation measures). Accordingly, the development must be subject to an Appropriate Assessment and therefore cannot be considered exempted development under Section 4(4) of the Planning and Development Act 2000, as amended.
- (c) The development comes within the scope of Class 9 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended and complies with the conditions and limitations set out in this class.
- (d) The development would endanger public safety by reason of traffic hazard and therefore comes within the restriction on exemption in Article 9(1)(a)(iii) of the Planning and Development Regulations 2001, as amended.
- (e) The development would require an Appropriate Assessment. Therefore, the development comes within the restriction on exemption in Article 9(1)(a)(viiB) of the Planning and Development Regulations 2001, as amended.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5(3)(a) of the 2000 Act, hereby decides that the construction of two dry store farm sheds which will consist of steel frames with roof and side walls to be of box profile cladded to match existing farm sheds, at Moyle Moss, Newtowncunningham, County Donegal, is development and is not exempted development.



Patricia Calleary

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this 14th **day of** May **2025.**