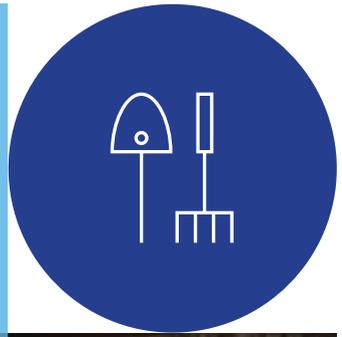


Agricultural & Farm Development - The Planning Issues



Planning Leaflet 9





Agricultural & Farm Development - The Planning Issues

This leaflet explains the main features of the planning system that farmers and those involved in agricultural development are likely to encounter. It is not intended as a definitive legal interpretation of planning law. For more information you should consult your local planning authority (city or county council).

Smaller agricultural and forestry developments usually do not require planning permission. However, larger developments do require planning permission. In addition, any development which requires an Environmental Impact Assessment (EIA), needs planning permission. Please refer to Planning Leaflet 11 - "Environmental Assessments and Planning in Ireland" for more information regarding EIA.

1. Do I need planning permission?

Planning permission is generally required for developing any land or property unless there is a specific exemption in planning law. This type of development is known as exempted development. The term development includes carrying out any work (i.e. building, demolition or alteration) on, in, over or under land or buildings and includes making material (i.e. significant) change of use of a structure or land.

2. What is exempted development?

Exempted development is development for which planning permission is not required under planning law. Much agricultural development, especially uses of land for agricultural purposes, is exempt. Some agricultural buildings and structures are exempt from planning permission, provided they meet certain conditions. The main exemptions for developing buildings are set out in Question 3 below.

You can obtain a declaration of exempted development from your planning authority which confirms that a development does not require planning permission. This is called a Section 5 Declaration.

3. What are the main planning permission exemptions for agricultural buildings?

Development of the following types of agricultural buildings and structures, is generally exempt from planning permission, subject to compliance with specific conditions:

Type 1: A roofed structure housing cattle, sheep, goats, donkeys, horses, deer or rabbits, provided that its floor area does not exceed 200 square metres and that the total floor area of all Type 1 structures within the farmyard complex (or within 100 metres of the complex) does not exceed 300 square metres floor space.

Type 2: A roofed structure housing pigs, mink or poultry provided that its floor area does not exceed 75 square metres and that the total floor area of all Type 2 structures within the farmyard complex (or within 100 metres of the complex) does not exceed 100 square metres. In addition, boundary fencing of a mink holding must be escape-proof.

Type 3: Roofless cubicles, open loose yards, self-feed silo or silage areas, feeding aprons, assembly yards, milking parlours and silage making/storage structures, provided that the floor area of any new structures does not exceed 200 square metres and that the total floor area of all Type 3 structures within the farmyard complex (or within 100 metres of the complex) does not exceed 300 square metres.

Type 4: A store, barn, shed, glasshouse etc., not exceeding 300 square metres in floor area and not used for housing animals or storing effluent, provided that the total floor area of all Type 4 structures within the farmyard complex (or within 100 metres of the complex) does not exceed 900 square metres.

Type 5: An unroofed fenced area for exercising or training horses or ponies with an all-weather surface, provided the structure is not more than two metres high. The structure must not be used for staging public events and the entrance should not be directly off a public road.

Type 6: A roofed structure for housing greyhounds, provided that the floor space does not exceed 50 square metres and that the total floor area of all Type 6 structures within the same complex (or within 100 metres of the complex) does not exceed 75 square metres.

Type 7: A roofless hard-surfaced yard or enclosed area (in connection with keeping greyhounds), provided that the total floor area does not exceed 100 square metres and that the total floor area of all Type 7

structures within the same complex (or within 100 metres of the complex) does not exceed 150 square metres.

These exemption types are also subject to the following conditions:

- they may only be built in areas outside the jurisdiction of any city council and be used for agricultural purposes only (all 7 types);
- the distance between any structure and a public road must be at least 10 metres (all 7 types);
- the distance from houses or other residential buildings, schools, hospitals, churches or public assembly buildings must be at least 100 metres, unless the owners and occupiers give their written consent to lesser distances (all types except for type 5);



- the height above ground level cannot exceed eight metres within 100 metres of a public road (all types except types 5 and 7);
- no unpainted metal sheeting shall be used for roofing or on the external finish (except for types 5, 6 and 7);
- structures of types 1, 2, 3, 6 and 7 must have adequate slurry/effluent storage facilities for their size, use and location, and those for types 1, 2 and 3 must additionally be in line with Department of Agriculture, Food and the Marine requirements, and all slurry/effluent storage facilities must be adequate to avoid water pollution; *and*
- they must be used for agricultural purposes only (types 1 to 5) or for the breeding and keeping of greyhounds, as appropriate (types 6 and 7).

The exemptions do not apply if the development may interfere with sites, features etc. listed for preservation in the development plan or draft plan. In addition, as with all categories of exempted development, exempted status does not apply in the following situations:

- where the development is contrary to a planning condition attached to a planning permission relating to the site;
- where the development involves creating a new access or significantly widening an existing access onto a public road that is more than four metres wide or where it would create a traffic hazard;
- where the development would interfere with the character of a landscape, view or prospect designated of special amenity value in the development plan;
- where the development would impact on archaeological sites or National Monuments;
- developments in any areas where a special amenity order relates;
- where an appropriate assessment is required because the development would likely have a significant effect on the integrity of a European site [Special Areas of Conservation (SACs) and Special Protection Areas (SPAs)];
- where the development would be likely to have an adverse impact on a Natural Heritage Area (NHA). For example An Bord Pleanála has in the past determined that fencing in such areas is not exempted development;
- where the development would obstruct a public right of way;
- where the development includes or comprises fencing or enclosure of land open to or used by the public during the previous 10 years; *or*
- where the development is subject to environmental impact assessment.

4. Are there other agricultural activities that may be exempted development?

Certain other types of activities are considered exempted development.

These include:

- initial afforestation;
- works, in areas other than where a special amenity area order relates, consisting of:

- field drainage for agriculture, other than drainage and/or reclamation of wetlands;
- land reclamation works (other than reclamation of wetlands) consisting of re-contouring of land, including infilling of soil (but not waste material) within a farm holding; *and*
- works consisting of the removal for the purposes of agriculture of field boundaries including stone walls, clay banks or wire and post fences;
- development consisting of the thinning, felling or replanting of trees, forests or woodlands or works ancillary to that development, but not including the replacement of broadleaf high forest by conifer species;
- development consisting of the construction, maintenance or improvement of a road that serves a forest or woodland or ancillary works;
- development consisting of the carrying out of any of the works referred to in the Land Reclamation Act, 1949. This excludes fencing or enclosing land which has been open to or used by the public within ten years preceding the date on which the works commenced, or land reclamation or reclamation of estuarine marsh land and of callows referred to in the 1949 Act above; *and*
- development consisting of the carrying out of drainage and/or reclamation of wetlands, subject to the conditions that (i) the affected area must not exceed 0.1 hectares and (ii) where similar development has been carried out within a farm holding the total area of such development proposed in conjunction with any previous development shall not exceed 0.1 hectare.

In addition, two other legislative and regulatory requirements apply to agricultural and forestry activities.

The first operates in parallel to the planning process and relates to licences issued by the Forest Service, Department of Agriculture, Food and the Marine (DAFM) for:

- tree felling;
- afforestation, a licence is required for all afforestation projects where the area involved is greater than 0.10 hectares (approximately 0.25 acres); *and*
- forest road construction – a licence is required to construct a forest road. Where a forest road construction project includes the provision of access to a public road, the DAFM is the authority for forest road entrances from a public road based on Section 8 of the Planning and Development (Amendment) Act, 2018 which commenced in 2020, referred to as the single consent system. This replaced the previous system where forest roads were within the DAFM licence system and entrances to public roads were within the local authority planning system.

∴ *More information on this process can be found at: www.gov.ie/en/campaigns/a9d3c-forestry-in-ireland/*

The second process that operates in parallel to the planning process is the consent process from the EIA Section, Nitrates, Biodiversity and Engineering Division,



Department of Agriculture, Food and the Marine (DAFM) regarding:

- restructuring by removal of field boundaries,
- re-contouring (within farm-holding),
- commencing to use uncultivated land or semi-natural areas for intensive agriculture, or
- draining lands (other than wetlands) used for agriculture.

You can obtain further details about this by contacting the DAFM.

5. Are there exemptions for the installation of renewable technologies?

Yes. Rooftop solar installations covering the entire roof of an agricultural structure or roof of any ancillary buildings within the farm are exempt from requiring planning permission, subject to conditions and limitations.

Furthermore, if the farm is located within a designated Solar Safeguarding Zone (SSZ) there is a rooftop limit of 300 square metres.

SSZs are areas where rooftop limitations on solar panel installations apply, to avoid the creation of reflections, known as '*glint and glare*' that can affect the operation of airports, aerodromes and other sites with helipads like hospitals. There are 43 designated SSZs, these are outlined on maps, and by reference to townlands (in county councils) and local electoral divisions (in city councils). The SSZs maps are available for viewing in greater detail on myplan.ie.

Free standing or wall mounted solar panel installations for agricultural holdings are exempted from the requirement to obtain planning permission subject to a 75 square metre area limit (taken together with any other such existing installations).

If the development is located within a designated SSZ the planning authority for the area must be notified in writing, of the location and scale of the development, within four weeks after the commencement of development. If the planning authority considers that there is a risk of ‘*glint and glare*’ they can seek to have the offending panels removed or covered until the issue is resolved to the satisfaction of the planning authority.

There are also exemptions for other renewable technologies including combined heat and power systems and wind turbines.

6. What about Environmental Impact Assessment (EIA)?

The agricultural and forestry developments listed below must always undergo EIA as part of the planning process. An application for planning permission, including an Environmental Impact Assessment Report (EIAR), must be submitted in these cases. An EIA *may* be required for projects “*where the listed thresholds are not exceeded and/ or if the planning authority considers that there are likely to be significant effects on the environment*”. These are referred to as sub-threshold projects.

For clarity, an EIAR is required for:

- development consisting of the carrying out of drainage and/or where wetlands are being reclaimed, where more than two hectares of wetlands would be affected;
- replacing broadleaf high forest by conifer species, where the area involved would be greater than 10 hectares;
- deforestation for the purpose of conversion to another type of land use, where the area to be deforested would be greater than 10 hectares of natural woodlands or 70 hectares of conifer forest;
- installations for intensive poultry rearing which would have more than 40,000 places for poultry;
- installations for intensive pig rearing which would have more than 2,000 places for production pigs, more than 400 places for sows in a breeding unit or more than 200 places for sows in an integrated unit;
- seawater fish breeding installations with an output which would exceed 100 tonnes per annum;
- all fish breeding installations consisting of cage rearing in lakes;
- all fish breeding installations upstream of drinking water intakes;
- other freshwater fish breeding installations which would exceed 1 million smolts and with less than one cubic metre per second per one million smolts low flow diluting water; *and*
- reclaiming land from the sea, where the reclaimed area would be greater than 10 hectares.

7. Where can I get further information on EIA?

Planning Leaflet 11 - “Environmental Assessments and Planning in Ireland”, explains the EIA process and describes what an Environmental Impact Assessment Report

is. Your local planning authority will explain which development proposals require an EIA. You are strongly advised to contact your planning authority for pre-application consultations if you feel your proposal may need an Environmental Impact Assessment Report (EIA).

8. How much will a planning application cost?

Planning application fees vary depending on the nature and size of the proposed development. Full details are in the explanatory notes which accompany the planning application form. If you do not pay the correct fee with your application, the

application will be invalidated and will be returned to you. Fees are subject to revision. Details of fees are available from your local planning authority.

9. What documents do I need to submit with a planning application?

Planning Leaflet 4 - "A Guide to Making a Planning Application", explains the documents you need to submit with all planning applications. The documents needed for typical agricultural developments include:



- schedules of proposed and existing buildings with floor areas, numbers of animals currently housed and to be housed;
- schedules of proposed and existing effluent storage and spreading methods, capacities, arrangements for ensuring effluent is not diluted with clean water and for ensuring effluent does not cause pollution;
- where appropriate, signed agreement(s) with other landowners for spreading effluent on their lands; *and*
- calculations for slurry, soiled water and effluent capacities and requirements.

You may contact the planning authority before making an application for advice on aspects of the location, design and finishes of agricultural structures.

This is particularly relevant in areas of high amenity and/or environmental sensitivity. These can be checked in the development plan which is available at the office of the planning authority, on its website or at www.myplan.ie. All planning authorities offer pre-application consultation services, the details are available from their offices or their websites.

10. What should the location map or plan in an agricultural planning application show?

In addition to the details indicated in Planning Leaflet 4 - “A Guide to Making a Planning Application”, the following information will normally be needed:



- the applicant’s farm and the farmyard development, watercourses, drains, houses, schools, churches or public assembly buildings in the vicinity;
- other land in the vicinity owned by the applicant or landowner marked or coloured separately; *and*
- any lands, both on and off the applicant’s farm, available for effluent spreading, together with any watercourses, drains, dwelling houses, schools, churches or public assembly buildings within 100 metres of such land.

11. What should the site or layout plan in an agricultural planning application show?

In addition to the detail indicated in Planning Leaflet 4 – “A Guide to Making a Planning Application”, the following information will normally be needed:

- details of existing farm buildings and structures, surfaced and unsurfaced yards, directions of falls, soiled yards, silage pits etc.;
- proposed farm building and structures;
- details of yard gates and walls;
- existing and proposed effluent storage tanks marked or coloured separately;
- effluent and soiled water drainage layouts, roof water and other clean water collection and disposal systems. All underground water channels, drains and pipes should be shown;
- any adjoining or nearby watercourses, wells, water supplies etc.;

- any existing and proposed septic tanks;
- location of roads and site boundaries and distances to these; *and*
- details of clean and soiled water drainage on the site layout plans.

12. Where can I get advice on effluent storage and disposal?

A key issue in agricultural developments is effective and safe storage of effluents. Effluent storage facilities should be designed in accordance with Statutory Instrument 65, the EU Good Agricultural Practice for Protected Waters (Amendment) Regulations, 2018.

More general advice on farm development is also available from your local Teagasc office and the Farm Advisory Service (FAS) of the Department of Agriculture, Food and the Marine.

13. Do I need any other licences or permits?

In addition to planning permission, you may need further authorisations before starting your agricultural development such as:

- **Integrated Pollution Control (IPC):** Certain intensive pig and poultry rearing activities (i.e. those above specified thresholds) require an integrated pollution control (IPC) licence from the Environmental Protection Agency (EPA). Details are available from the EPA’s Licensing Division, telephone 053 9160600 or email info@epa.ie.

- **Water Services Connection:** You will need permission from Irish Water if you are making a connection to a public or group water main or sewer. Further details can be found at: www.water.ie/connections/. If you are installing a septic tank in an unserviced area, you will need to submit trial hole and percolation test results with your planning application.
- **Discharge Licences:** Any discharges to watercourses must be licenced under a discharge licence issued by the local authority under the Local Government (Water Pollution) Act, 2007.
- **Building Regulations:** Generally, all new buildings and extensions must also comply with building regulations, which set out basic design and construction requirements. However, some agricultural structures are exempt. Detached single storey agricultural buildings under 300 square metres are generally exempt from the building regulations. A two-storey agricultural building is not exempt and may require a fire safety certificate and a commencement notice. Further information is available from your local authority.



14. There are power lines in the vicinity of the proposed development, do additional requirements apply?

You should contact your local ESB office if the proposed development is near electricity lines or where construction is happening within reach of your farm's electricity supply.

You must contact your local ESB Networks office, giving two months' notice of any construction activity within six metres of overhead lines. Underground service providers (e.g. gas, electricity, water, sewerage) should be consulted to avoid damage to pipes or ducting etc. before commencement of work. Information on avoidance of electrical hazards when digging and safe construction with electricity can be found at www.esbnetworks.ie. As with farm machinery, construction work can bring you into contact with live electricity and lead to severe injury or death. A booklet entitled "Farm Safely With Electricity" is available from www.esbnetworks.ie.

15. Where can I get further information?

Further information is available from your local planning authority. The law governing the planning system is set out in the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations 2001 (as amended). You can purchase these from the Government Publications Office by phoning the call centre on (046) 9423100 or at publications@opw.ie or you can download them from the Department of Housing, Local Government and Heritage's website www.gov.ie/housing. Legislation is also available to view and download from: www.irishstatutebook.ie.

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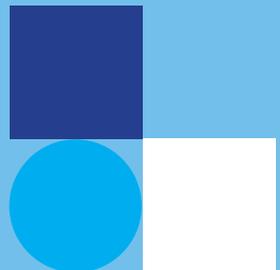
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