



An
Bord
Pleanála

Inspector's Report ABP-321961-25

Question

Whether (1) the use the existing farmyard in the south-eastern part of this farm holding to prepare Christmas trees and wreaths for annual seasonal sale on the farm and for their transport and sale elsewhere constitutes a change of use from agriculture and/or forestry to any other use; and (2) works in the 'south-eastern yard' to the existing farmyard and farm buildings are or are not also works which have changed the use of these yard areas and buildings, including (I) The enlargement of a yard by circa 200% to an area of circa 5000 square metres; (ii) The construction of new extension bays to the two respective side elevations of an existing shed building (Structure No. 1), to enlarge its footprint to circa 860 square metres, positioned in the southeastern corner thereof; (iii) The construction of a new rectangular shaped shed (Structure no. 2), with a footprint of circa 300 square metres along the

northern boundary thereof; (iv) The construction of a new machinery shed building (Structure no. 3), in the south-western thereof with an undefined footprint; and (v) The placement of circa 6 steel shipping containers for storage purposes is or is not development and is or is not exempted development

Location

Mountview Christmas Tree Farm,
Tullylusk, Rathdrum, Co. Wicklow

Declaration

Planning Authority

Wicklow County Council

Planning Authority Reg. Ref.

EX 01/2025

Applicant for Declaration

Conor Browne.

Planning Authority Decision

Is not exempted development

Referral

Referred by

Conor Browne.

Owner/ Occupier

Conor Browne.

Observer(s)

None.

Date of Site Inspection

21st May 2025.

Inspector

Susan McHugh

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1.0 Site Location and Description

- 1.1. The subject site is located in the townland of Tullylusk, a rural area approx. 3km to the east of the village of Rathdrum, Co. Wicklow.
- 1.2. The overall site is located in the rural area characterised by agricultural fields and one-off rural houses. The landholding comprises a number of existing fields located on the southern side of the L1152 Local Road and is identified on Google Maps as Mountain View Christmas Tree Farm.
- 1.3. The site is bounded to the east by Tullylusk Road which also provides access to the adjoining Playing pitches used by Avonmore Rovers football club.
- 1.4. The site is bounded to the west by local road L5153 which leads to the village of Conary to the south. Both vehicular entrances serving the site are from the L5153. Each include splayed entrances with piers and gates and advertising related to the Christmas Tree Farm.
- 1.5. Public access is provided at the northwestern corner, and private access is from the southwestern corner of the site with internal access roads facilitating access between the two. The vehicular entrance from the southwestern corner is via a shared entrance which also serves a private dwelling.
- 1.6. The overall site is in agricultural use with Christmas tree and foliage planting. The part of the overall site to which the referral relates is located in the southeastern section of the site and comprises a number of storage shed buildings, steel containers, large shed and farmyard area. The large triple bay double height shed is used for foliage packing and wreath making with farm office at first floor. There were also 3 no. mobiles / caravans and Portaloo on site which appeared unoccupied on the day of my site visit.
- 1.7. Boundary treatment on site consists of existing hedgerow along the front boundary and wooden fencing and hedgerow defining the other boundaries of the site. Levels on site are relatively flat and the public road at this location is approximately 4m wide.

2.0 The Question

2.1. The question referred by the referrer to the planning authority pursuant to Section 5(1) of the Planning and Development Act, 2000, as amended (“the Act”) and subsequently referred by the referrer to the Board, for review, pursuant to Section 5(3)(a) of the Act is, as follows;

2.2. ‘Whether or not:

1. The use of the existing farmyard in the south-eastern part of this farm holding to prepare Christmas trees and wreaths for annual seasonal sale on the farm and for their transport and sale elsewhere constitutes a change of use from agriculture and/or forestry to any other use, and
2. Works in the ‘south-eastern yard’ to the existing farmyard and farm buildings are or are not also works which have changed the use of these yard areas and buildings, including:
 - (i) The enlargement of a yard by circa 200% to an area of circa 5,000 square metres:
 - (ii) The construction of new extension bays to the respective side elevations of an existing shed building (Structure no. 1), to enlarge its footprint to circa 860 square metres positioned in the southeastern corner thereof:
 - (iii) The construction of a new rectangular shaped shed (Structure no. 2) with a footprint of circa 300 square metres along the northern boundary thereof.
 - (iv) The construction of a new machinery shed building (Structure no. 3), in the south-western thereof with an undefined footprint; and
 - (v) The placement of circa 6 steel shipping containers for storage purposes.

Constitutes exempted development within the meaning of the Planning and Development Acts, 2000 (as amended).’

3.0 Planning Authority Declaration

3.1. Declaration

3.1.1. By order dated 29th January 2025 the Planning Authority decided having regard to:

- a) The details submitted with the Section 5 Declaration.
- b) Website details for the operators of Conor Browne Wreaths, and associated Facebook details for Mountain View Christmas Tree Farm
- c) An Bord Pleanála Referral Declaration Reference RL.3321 and RL.3061
- d) Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended)
- e) Article 2, 5, of the Planning and Development Regulations 2001 (as amended)

3.1.2. Main Reason with respect to Section 5 Declaration:

- i. The operations on the farm holding have expanded to include the making of wreaths, and storing/sale of goods, and the bringing of materials onto the site for sale and distribution.
- ii. The expanded uses are not ancillary to or associated with agricultural operations on the landholding,
- iii. It is considered that the expanded operations are different in character to agricultural use i.e. the making of an article i.e. wreaths, the bringing in and storage of goods for sale and distribution, the use of the farmyard for storage of Christmas Trees/Foliage from outside the farm and distribution.
- iv. The change in use would give rise to material planning considerations i.e. increase in traffic movements, increase in employees, increase in noise and wastes.
- v. The change of use is considered material, and would therefore be development, and there is no exemption for such a change of use in the Planning and Development Act 2000 (as amended) or related Regulations.
- vi. Question No. 2 is not considered a valid question, as it is considered that works and use cannot be separated as they are intrinsically linked.

3.1.3. The report concludes that ‘the use of the existing farmyard and associated structures in the south-eastern part of this farm holding to prepare Christmas trees and wreaths for annual seasonal sale on the farm and for their transport and sale elsewhere constitutes a change of use from agriculture and/or forestry to any other use’ at Mountain View Christmas Tree Farm, Tullylusk, Rathdrum, Co. Wicklow is development, and it not exempted development within the meaning of the Planning and Development Acts 2000 (as amended).

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Senior Executive Planner dated 27th January 2025 reflects the declaration issued by the planning authority and can be summarised as follows;

- The planning officer outlines the planning history, previous Section 5 referral and planning enforcement status.
- Reference to two other Section 5 referrals decided by the Board RL.3321 and RL.3061 considered relevant to the case.
- Identifies relevant legislation namely under the Planning and Development Act 2000 (as amended) including definitions for agriculture, structure, use, works and development, and Section 4 in respect of exempted development.
- Identifies relevant articles under the Planning and Development Regulations 2001 (as amended). These include Article 5 which provides definitions for light industrial building, industrial process, industrial undertaker, repository and wholesale warehouse. Article 6 and Article 9 are referenced, as well as Schedule 2: Part 3 under Class 9.
- A summary of the agent’s submission is outlined, which includes a schedule of existing buildings within the farmyard and their uses.
- PA consider that the second question in the referral cannot be answered by the segregation of the works from the use as intimated in the submitted details. Fundamentally the structure and use are intrinsically linked and cannot be separated, and therefore such a question cannot be answered.

- PA notes reference will only deal with Question 1 as amended i.e. whether the use of the existing farmyard and associated structures in the southeastern part of the farm holding to prepare Christmas trees and wreaths for annual seasonal sale on the farm and for their transport and sale elsewhere constitutes a change of use from agriculture and/or forestry to any other use.
- Details submitted indicate that Mountain View Christmas Tree Farm grows both Christmas trees for sale as well as foliage as part of the ongoing agriculture operations. From a review of Conor Browne Wreaths website, and Facebook the following additional operations appear to be on going.
 - Products for sale include, pinecones, wreath rings and wire products, ribbon and pull bows, candles, wreathmaking machines, artificial flowers, hand tools and gloves, wreaths, fresh products, oasis product.
 - Christmas Tree and foliage for sale which is not sourced on site but is sourced from leased lands across Wicklow and Wexford from which seasonal foliage is harvested and transported to the farm.
 - The making of wreaths.
 - Public visits to the farm to purchase trees.
- Operations on site have expanded to include the making of wreaths and storing/sale of goods for use by Florists etc. and the brining of materials onto site for sale and distribution, and as such are not ancillary to or associated with agricultural operations on the landholding and would not come within the definition of agriculture.
- Operations are of a character and scale that would have differing impacts to the use of the farmyard for agriculture related to the lands associated with the farmyard.
- The use of the site for the sale of Christmas trees, the installation of fencing, floodlighting and storage to facilitate same and the use of the site for advertising of the trading activity would constitute a material change of use.
- The character of the use would be different to agricultural use as it includes operations which involve

- The making of an article i.e. production of wreaths
- The storage of foliage and Christmas trees from outside the farm for sale
- The storage of various items, unrelated to agriculture for sale
- The operation of business for the sale of goods
- Retail sales to the public onsite.
- Such a change would give rise to material planning considerations i.e. increase in traffic movements, increase in employees, increase in noise and wastes. Therefore, the change of use is considered material, and would therefore be development, and as there is no exemption for such a change of use in the Planning and Development Act 2000(as amended) or related Regulations.
- Recommends an amendment to Question 1 to include 'and associated structures' and the omission of Question 2.

3.2.2. Other Technical Reports

None.

4.0 Planning History

4.1. *Referral Site Previous Section 5*

EX 09/10: Section 5 lodged for the construction of a 200sqm agricultural shed. Further information request issued, and no response received.

4.2. *Enforcement History*

UD 5793: Warning Letter issued, and Advisory Letter issued 9/12/2024 in relation to the operations on site.

4.3. *Entrance to the NW*

PA Reg.Ref. 09/741: Permission **refused** 03/12/2009 for agricultural entrance for 2 no. reasons to Liam O'Toole.

1. No evidence has been submitted to show that this development is necessary to service a farm holding and to allow this development would set an

undesirable precedent for similar types of development on this substandard road.

2. The proposed development would endanger public safety by reason of serious traffic hazard because the proposed development, taken in conjunction with existing agricultural and residential entrances in the area, would result in an excessive number of entrances and unnecessary traffic movements on this narrow secondary local road.

PA Reg.Ref. 08/608: Application for permission for 3 no. agricultural entrance **withdrawn** by Liam O'Toole 06/06/2009.

PA Reg.Ref. 08/1681: Application for permission for 3 no. agricultural entrance **withdrawn** by Liam O'Toole 25/11/2008.

4.4. *Entrance to the SW*

PA Reg.Ref. 08/1453: Permission **granted** 23/01/2009 for a dwelling with garage and services to Michelle Hayes.

4.5. *Adjoining site to the N*

PA Reg.Ref. 24/6793 ABP PL27.246793: Permission **granted** 21/09/2016 for construction of an entrance and all associated site works to provide access to existing field to John Colohan.

4.6. **Other Relevant Referrals**

- 4.6.1. The following referrals decided by the Board are considered relevant to this case:

RL3321: 'Whether the following works at a farm in County Wicklow are or are not development / exempted development

(a) construction and use of the milking parlour building for the production of cheese and yogurt,

(b) construction and use of the portacabin as an office,

(c) construction and use of store 1,

(d) construction and use of store 2,

(e) construction and use of the bin store, and

(f) construction and use of the canteen

The referral related to a landholding in Wicklow, which comprised an established artisan goat farm. A milk parlour had been constructed for the production of cheese and yogurt, together with various other buildings within the site. A key issue was whether the structures and their use were ancillary to the primary agricultural use of the land.

The referral was made by the owner/operator consequent to the Planning Authority's decision that the works were development and not exempted development.

The Board decided 8/04/2015 as follows:

- the milking parlour building and its use for cheese / yogurt production was not development (within exempted development scope of Schedule 3 Part III Class 9 of PDR, 1977)
- the use of the farm complex for cheese/yogurt production was ancillary to & associated with the agricultural operations and therefore not development
- the construction and use of the other 5 structures were development and not exempted development - all within 100 m of a dwelling and therefore non-compliant with Conditions and Limitations of Schedule 2 Part 3 Class 9 of PDR, 2001.

RL3061: 'Whether the use of land for training in horse riding and equestrian activities is or is not development or is or is not exempted development'

The appeal site was in a rural location and accessed by a narrow winding road. The reference was made by the owner/operator. The site contained an original farmhouse and outbuildings in addition to a horse training area with stables and outbuildings. The latter accommodated c.26 no. horses.

The referral was made by the owner/operator consequent to the Planning Authority's declaration that the development was not exempted development.

The Board decided 17/4/2013 that the said use was development and not exempted development, as follows:

The use of land for training in horse riding and equestrian activities was a material change in the use of the land which would have detrimental effects including

increased generation of traffic and would not come within the scope of section (4)(1)(a) of PDA, 2000 and was not exempted under article 6 of PDR, 2001.

RL 2596: 'Whether a substantial fenced off floodlit commercial activity selling Christmas trees is or is not exempted development'

The appeal site was in an urban area at the entrance to Leopardstown Racecourse, Co. Dublin.

The Board decided that the development was exempted development, as follows:

The Board concluded that the sale of Christmas trees at Leopardstown racecourse comprises casual trading within the meaning of the Casual Trading Act 1995.

Floodlighting and fencing were ancillary to the casual trading activity and the combined activities were therefore exempted development by virtue of s4(1)(K) of the 2000 Act.

5.0 Policy Context

5.1. Wicklow County Development Plan 2022-2028

- 5.1.1. The Wicklow County Development Plan (CDP), 2022-2028 is the operative plan for the purposes of this referral determination.
- 5.1.2. The Referral site is located within a rural area (Level 10: open countryside) of the county. The policy notes that the rural area in Wicklow is an active and vibrant area that plays host to a range of activities including, for example, rural housing, rural recreational activities, agricultural, horticulture, forestry, aquaculture, fishing, rural tourism, rural enterprises, quarrying and extraction, landfill, renewable energy etc.
- 5.1.3. Section 9.4 (Economic Development Hierarchy) of the current Plan acknowledges that the key areas within Wicklow's rural economy that present these opportunities fall within the agriculture, food and forestry sectors and to a lesser extent within the maritime / fishing and extractive industry.
- 5.1.4. The Strategic Objective contained within Section 9.6 (Objectives for Wicklow's Rural Economy) is 'To preserve the amenity, character and scenic value of rural areas, and to generally require employment-generating development to locate on zoned /

designated land within existing settlements. Notwithstanding this, it is the objective of the Council to enhance the competitiveness of rural areas by supporting innovation in rural economic development and enterprise through the diversification of the rural economy into new sectors and services including those addressing climate change and sustainability and through the development of appropriate rural based enterprises, which are not detrimental to the character, amenity, scenic value, heritage value and environmental quality of a rural area.

5.1.5. In terms of Natural Heritage & Biodiversity, Section 17.4 of the current Plan contains the following relevant objectives:

- **CPO 17.1** To protect, sustainably manage and enhance the natural heritage, biodiversity, geological heritage, landscape and environment of County Wicklow in recognition of its importance for nature conservation and biodiversity and as a non-renewable resource.
- **CPO 17.2** Ensure the protection of ecosystems and ecosystem services by integrating full consideration of these into all decision making.
- **CPO 17.5** Projects giving rise to adverse effects on the integrity of European sites (cumulatively, directly or indirectly) arising from their size or scale, land take, proximity, resource requirements, emissions (disposal to land, water or air), transportation requirements, duration of construction, operation, decommissioning or from any other effects shall not be permitted on the basis of this plan.

5.1.6. As per Chapter 17 of the CDP (Map No. 17.09A), the site is identified as being located within the 'The South East Mountain Lowlands' **Area of High Amenity**. The South East Mountain Lowlands comprises transitional undulating lands bordering the Area of Outstanding Natural Beauty and surrounding the distinctive features of the Vale of Avoca, lands surrounding the village of Avoca and the Aughrim River Valley. The area includes a number of designated views and prospects and significant cultural heritage in the form of the Avoca Mines County Geological Site and Avondale House.

5.2. Natural Heritage Designations

Non relevant.

5.3. Environmental Impact Assessment

The development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendices of this report). Having regard to the characteristics and location of the development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

6.0 The Referral

6.1. Referrer's Case

- 6.1.1. A submission was made by the referrer (seeking a review by the Board of the planning authority declaration) dated 25th February 2025. The original letter which accompanied the Section 5 Referral to the PA was attached. The Referrer's case and can be summarised as follows:

- *WCC Assessment*
 - Has strayed away from the requirements of a Section 5 assessment.
 - WCC visited the site, received details from the referrer as to the extent of the current agricultural operations, and it is unclear how referring to old websites and social media posts informs matters set out in the Section 5 Referral to the PA.
 - Instead of seeking further information under Section 5(2)(b) and (c) WCC has used the Section 5 assessment as an opportunity to make assumptions about the referrers current agricultural operations which are not based on facts.
 - Referrer sells Christmas trees and wreaths from his farmlands and agricultural business has progressed significantly. Mountain View Christmas Tree Farm (MVCTF) is a farm, it is taxed as a farm and is subject to all standard farming laws, regulations and safety requirements.

- *Referral cases relied on by WWC*
 - **RL3321:** ABP agreed that ‘the use of the farm complex for the production of cheese and yoghurt is ancillary to and associated with agricultural operations on the landholding and is not development and is exempted development. Question why PA relied on this case.
 - Referrer accepts that retention planning permission will be required to retain some structures and the full area of other structures.
 - **RL3061:** Case does not involve matters which are at the centre of the current Section 5’s assessment.
 - Submit the current case does not comprise the creation of a significant leisure and recreational facility for the public which is floodlit so as to hold public events.
 - Submit current case involving involves the harvesting of Christmas trees and foliage and the processing of these including into wreaths is not comparable to using the lands as a horse-riding facility or school which changed the facility into a de facto leisure centre.
 - Submit that PA is arguing that the agricultural structures erected or extended within the current farmyard are the same as a horse riding / equestrian centre which is open to the public as a leisure facility with associated structures and the use is in the PA’s opinion commercial.
 - Christmas trees and foliage wreaths are bulky agricultural produce and require agricultural sheds and storage structures to contain them.
 - Compares subject site to a large tillage farmer who would have large sheds for storing hay or straw and grain and all associated machinery (tractor, trailer, combine harvester, etc). which would far exceed those in his farmyard.
 - Do not accept that by erecting agricultural sheds and using them for agricultural use has caused the farmyard to become a commercial development like a horse-riding arena designed to serve paying members of the public.

- *Nature of Activities*
 - Submit that the processing of Christmas trees and foliage and the making of wreaths are agricultural activities.
 - The composition of Conor Browne wreath is 99% foliage with 1% decorations, ribbons etc. while Christmas trees and foliage are 100% tree.
 - As with other agricultural activities some packing arises.
 - Submit farms are businesses and farms of all types have to process crops into a format which can be sold.
 - Referrer owns and/or controls other farmlands which also grow Christmas trees and are transported to Mountain View Christmas Tree Farm (MVCTF) which also supply the foliage needed for preparing wreaths
 - Comparison made to other Irish farmers who own land which are not contiguous to one another, but which are all served by a central farmyard, and queries why a crop of Christmas trees and other foliage used for wreath making be treated differently.
 - PA refers to goods being stored and sold and to materials being brought onto the site for sale and distribution. Submit the goods are agricultural wreaths and the materials are trees and foliage.
 - Submit the tiny quantum of items such as ribbons attached to the wreaths has caused the PA to consider traditional Christmas wreaths to be the same as importing and exporting some non-agricultural produce when this is not the case.
- *Expanded Uses*
 - PA reference to 'expanded uses' which are not 'ancillary to or associated with agricultural operations' is not explained.
 - MVCTF grows trees and foliage as raw agricultural produce. This agricultural produce then acts as the raw materials to be prepared into Christmas trees, packed foliage, and wreaths for sale.

- All farmers sell their produce, either from the farm itself or transport it to markets.
- Note PA reference to ‘the bringing of materials onto site for sale and distribution’. Referrer questions the benefits of a centralised versus a decentralised operation.
- Contend that traditional and historic practices of growing and selling Christmas trees, wreaths and foliage is an agricultural activity and exempted development.
- Christmas trees, packed, foliage and wreaths are agricultural produce. Their harvesting and processing are ancillary to the farm as they are the farm’s products.
- Submit that PA is suggesting processed Christmas trees and foliage are not agricultural produce, which is not accepted.
- *Expanded Operations*
 - Unclear on PA’s meaning of expanded operations. Referrer is using farmlands to grow agricultural produce in the form of trees and foliage and converting part of this into wreaths.
 - No definition provided in the Act or the planning regulations as to how intensively a farm can be farmed.
 - All farms have farmyards which are the intensive area of each farm business.
 - Referrer carries out some limited agricultural processing work to create wreaths and packages these and Christmas trees, packed foliage and wreaths for sale.
 - Submit that this involves less processing than converting milk into yoghurt or cheese.
 - Referrer has a seasonal crop and prepares for one intensive season at every crop, while also storing agricultural produce before sale.

- Dispute PA assertion that that anything involving business is non farming, which is incorrect. The IFA will confirm that all farms are businesses.
- The use of the Referrers farm is as a farm, with a farmer who has diversified his crops into Christmas focused agricultural produce, all farmers distribute their produce for sale.
- *Change of Use*
 - Disputes that there has been a change of use, and that the farm is operating as a farm, and the farmyard as a farmyard.
 - Accept that farms cause traffic.
 - Contrasts development and agricultural traffic generated with other types of farming (tillage and strawberry) which are both seasonal, and dairy farms which have milk collected every day. Submit number of trucks collecting milk each year from one dairy farm would far exceed the number of vehicles collecting trees and wreaths from Referrers farm during its limited season.
 - Submit that many farms employ staff cause noise and create some waste.
 - Contend that the farm generates minimal waste, has had no noise complaints as the work involved in preparing Christmas trees, packed foliage, and wreaths is significantly below that of a tractor or a combine harvester.
 - PA's basis for arguing that a farm can be defined as not being a farm merely by creating some agricultural noise, waste and employment farm workers is not accepted.
- *Material Change of Use*
 - Disputes that there has been a material change of use. Referrers development is agricultural 'development'.
- *Article 4 of the Act*

- Submit that PA's grounds for claiming a material change of use has taken place, would be at odds with functioning agricultural sector including that part of the sector which grows Christmas trees and foliage.
- *Section 2(1) of the Planning and Development Act*
 - Disagree with PA that 'works' and 'use' cannot be separated, submit that they are individually defined under the Act and refer to Section 2(1) 'Interpretation' of the Planning and Development Act (as amended).
 - Accept that Referrer has undertaken works within the farmyard and to the sheds/storage structures which exceed the thresholds set out for exempted development agricultural structures under the regulations. Referrer will be applying for retention for the works.
 - Do not accept that the farmyard use has been altered in a material manner arising from these works such that it is no longer agricultural.
 - Submit that the Section 5 Declaration issued is incorrect.
 - The use of the farm complex for the processing of Christmas trees, packing foliage, and preparing wreaths is ancillary to and associated with agricultural operations on the landholding and is not development.
 - The use of the farm complex for the processing of Christmas trees, packing foliage, and preparing wreaths constitutes 'exempt development' having regard to Section 4(1)(a) and/or Section 4(1)(i) of the Planning and Development Act.
 - No requirement to obtain planning permission arises as regards 'use'.
- *Precedent Section 5 Determinations*
 - Referrer can find no Section 5 Declarations from any PA or ABP which has determined that these types of farming and/or agricultural and tree growing activities have caused a farm owner to require planning permission arising from an unauthorised development.
 - Submit RL3321 supports Referrers case and RL3061 is not relevant.

6.2. Planning Authority Response

- The planning authority did not respond to the referrer's submission.

6.3. Further Responses

- None.

7.0 Statutory Provisions

7.1. Planning and Development Act, 2000 (as amended)

7.1.1. Section 2(1) of the Act states the following:

- “*agriculture*” includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins of fur, or for the purpose of its use in the farming of land), the training of horses and the rearing of bloodstock, the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and “*agricultural*” shall be construed accordingly.
- “*structure*” means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and –
 - (a) Where the context so admits, includes the land on, in or under which the structure is situate, and
 - (b) In relation to a protected structure or proposed protected structure, includes –
 - (i) The interior of the structure
 - (ii) The land lying within the curtilage of the structure
 - (iii) Any other structures lying within that curtilage and their interiors, and
 - (iv) All fixtures and features which form part of the interior or exterior of any structure or structures referred to in subparagraph (i) or (iii)

- “*use*”, in relation to land, does not include the use of the land by the carrying out of any works thereon;
- “*works*” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, ties or other material to or from the surfaces of the interior or exterior of a structure.

7.1.2. **Section 3(1)** of the Act states that:

- “*development*” means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land’.

7.1.3. **Section 3(2)** of the Act sets out the following instances where the use of land shall be taken as having materially changed.

- a) Where any structure or other land or any tree or other object on land becomes used for the exhibition of advertisements, or
- b) Where land becomes used for any of the following purposes-
 - (i) the placing or keeping of any vans, tents or other objects, whether or not moveable and whether or not collapsible, for the purpose of caravanning or camping or habitation or the sale of goods,
 - (ii) the storage of caravans or tents, or
 - (iii) the deposit of vehicles whether or not usable for the purpose for which they were constructed or last used, old metal, mining or industrial waste, builders' waste, rubbish or debris,

7.1.4. **Section 4(1)** of the 2000 Act states that certain developments shall be “exempted development” for the purposes of the Act including.

(a) development consisting of the use of any land for the purposes of agriculture and development consisting of the use for that purpose of any building occupied together with land so used;

- (i) development consisting of the thinning, felling and replanting of trees, forests and woodlands, the construction, maintenance and improvement of non-public roads serving forests and woodlands and works ancillary to the

development, not including the replacement of broadleaf high forest by conifer species.

7.2. Planning and Development Regulations, 2001

7.3. Article 2 of the Regulations states that:

In these Regulations, any reference to a sub-article, paragraph or sub-paragraph which is not otherwise identified is a reference to the sub-article, paragraph or sub-paragraph of the provision in which the reference occurs.

7.4. Article 5(1) of the Regulations states that:

- '*industrial process*' means any process which is carried on in the course of trade or business, other than agriculture, and which is-
 - (a) for or incidental to the making of any article or part of an article, or for or incidental to the altering, repairing, ornamenting, finishing, cleaning, washing, packing, canning, adapting for sale, breaking up or demolition of any article, including the getting, dressing or treatment of minerals.
and for the purposes of this paragraph, "article" includes-
 - (i) a vehicle, aircraft, ship or vessel, or
 - (ii) a sound recording, film, broadcast, cable programme, publication and computer program or other original database;
- '*business premises*' means (a) any structure or other land (not being an excluded premises) which is normally used for the carrying on of any professional, commercial or industrial undertaking or any structure (not being an excluded premises) which is normally used for the provision therein of services to persons,

7.4.1. Article 6(1) of the Regulations states:

'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.'

<i>Exempted Development – Rural</i>	
Column 1 Description of Development	Column 2 Conditions and Limitations
<p><i>Agricultural Structures</i></p> <p>CLASS 6</p> <p>Works consisting of the provision of a roofed structure for the housing of cattle, sheep, goats, donkeys, horses, deer or rabbits, having a gross floor space not exceeding 200 square metres (whether or not by extension of an existing structure), and any ancillary provision for effluent storage.</p>	<ol style="list-style-type: none"> 1. No such structure shall be used for any purpose other than the purpose of agriculture. 2. The gross floor space of such structure together with any other such structures situated within the same farmyard complex or within 100 metres of that complex shall not exceed 300 square metres gross floor space in aggregate. 3. Effluent storage facilities adequate to serve the structure having regard to its size, use and location shall be constructed in line with Department of Agriculture, Food and Rural Development and Department of the Environment and Local Government requirements and shall have regard to the need to avoid water pollution. 4. No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road. 5. No such structure within 100 metres of any public road shall exceed 8 metres in height. 6. 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. 7. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.

<p>CLASS 7</p> <p>Works consisting of the provision of a roofed structure for the housing of pigs, mink or poultry, having a gross floor space not exceeding 75 square metres (whether or not by extension of an existing structure), and any ancillary provision for effluent storage.</p>	<ol style="list-style-type: none"> 1. No such structure shall be used for any purpose other than the purpose of agriculture. 2. The gross floor space of such structure together with any other such structures situated within the same farmyard complex or within 100 metres of that complex shall not exceed 100 square metres gross floor space in aggregate. 3. Effluent storage facilities adequate to serve the structure having regard to its size, use and location shall be constructed in line with Department of Agriculture, Food and Rural Development and Department of the Environment and Local Government requirements and shall have regard to the need to avoid water pollution. 4. No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road. 5. No such structure within 100 metres of any public road shall exceed 8 metres in height. 6. 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. 7. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure. 8. Boundary fencing on any mink holding must be escape-proof for mink.
<p>CLASS 8</p> <p>Works consisting of the provision of roofless cubicles, open loose yards, self-feed silo or silage areas, feeding aprons, assembly yards,</p>	<ol style="list-style-type: none"> 1. No such structure shall be used for any purpose other than the purpose of agriculture.

<p>milking parlours or structures for the making or storage of silage or any other structures of a similar character or description, having an aggregate gross floor space not exceeding 200 square metres, and any ancillary provision for effluent storage.</p>	<ol style="list-style-type: none"> 2. The gross floor space of such structures together with any other such structures situated within the same farmyard complex or within 100 metres of that complex shall not exceed 300 square metres gross floor space in aggregate. 3. Effluent storage facilities adequate to serve the structure having regard to its size, use and location shall be constructed in line with Department of Agriculture, Food and Rural Development and the Department of the Environment and Local Government requirements and shall have regard to the need to avoid water pollution. 4. No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road. 5. No such structure within 100 metres of any public road shall exceed 8 metres in height. 6. 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. 7. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.
<p>CLASS 9</p>	<ol style="list-style-type: none"> 1. No such structure shall be used for any purpose other than the purpose of

<p>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.</p>	<p>agriculture or forestry but excluding the housing of animals or the storing of effluent.</p> <ol style="list-style-type: none"> 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.
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7.4.2. Article 9(1)(a) of the Regulations states:

‘Development to which article 6 relates shall not be exempted development for the purpose of the Act-

(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,

(ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road, the surfaced carriageway of which exceeds 4metres in width.

(iii) endanger public safety by reason of traffic hazard or obstruction of road users,’

7.4.3. Article 10(1) of the Regulations states:

‘Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not—

- (a) involve the carrying out of any works other than works which are exempted development,
- (b) contravene a condition attached to a permission under the Act,
- (c) be inconsistent with any use specified or included in such a permission, or
- (d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned.

8.0 Assessment

8.1. Introduction

- 8.1.1. It should be stated at the outset that the purpose of this referral is not to determine the acceptability or otherwise of the development in respect of the proper planning and sustainable development of the area, but rather whether or not the matter in question constitutes development, and if so, falls within the scope of exempted development within the meaning of the relevant legislation.
- 8.1.2. The Board is advised that the Section 5 Referral is assessed in the context of the current Wicklow County Development Plan 2022-2028.
- 8.1.3. The Section 5 Referral was lodged 3rd January 2025 with the PA by the First Party.
- 8.1.4. The main parties to this referral are therefore as follows;
 - Conor Browne (Landowner)

- Wicklow County Council

- 8.1.5. The PA issued its determination on the Section 5 referral on the 29th January 2025. The question to be determined is in two parts. The first question relates to the 'use' of the existing farmyard and the second question refers to the carrying out of 'works'.
- 8.1.6. The PA determined that the second question is not a valid question, as it considered that the uses and activities on site to be intrinsically linked and cannot be separated. The PA, therefore, made an amendment to Question 1 to include 'and associated structures' and omitted Question 2.
- 8.1.7. The PA rephrased the question to 'whether the use of the existing farmyard and associated structures in the southeastern part of the farm holding to prepare Christmas trees and wreaths for annual seasonal sale on the farm and for their transport and sale elsewhere constitutes a change of use from agriculture and/or forestry to any other use.'
- 8.1.8. I concur with the PA in their interpretation and consider that the question asked by the referrer in relation to two separate questions should be amalgamated and rephrased.
- 8.1.9. The question asked by the referrer to be determined by the Board therefore can be rephrased to:
- 'whether the use of the existing farmyard and associated structures in the southeastern part of the farm holding to prepare Christmas trees and wreaths for annual seasonal sale on the farm and for their transport and sale elsewhere constitutes a change of use from agriculture and/or forestry to any other use.'
- 8.1.10. The referrer has sought a declaration from An Bord Pleanála in respect of whether certain works and uses constitutes a change of use is or is not development or is or is not exempted development. Matters raised in correspondence to this referral such as inter alia, unauthorised development, and future planning applications etc, do not in my view concern the specific question that is before the Board.

8.2. **Is or is not development**

- 8.2.1. The initial matter to consider is the nature of 'works' and 'use' of the premises and the 'works' which facilitate the use based on the information and submissions on the

file. The referrer accepts that a number of structures on site which include the large shed (Structure No.2) do not benefit from planning permission and that the referrer intends to apply for planning permission in the future.

8.2.2. ‘Works’ is defined under Section 2(1) of the Planning and Development Act, 2000 (as amended) “...includes any or operation of construction, excavation, demolition, extension, alteration, repair or renewal

8.2.3. ‘Development’ is defined under Section 3(1) of the Planning and Development Act, 2000 (as amended) ‘means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land’.

8.2.4. With regard to the issue of a material change of use, Section 3(2) sets out the following instances where the use of land shall be taken as having materially changed:

a) where any structure or other land or any tree or other object on land becomes used for the exhibition of advertisements, or

b) where land becomes used for any of the following purposes—

(i) the placing or keeping of any vans, tents or other objects, whether or not moveable and whether or not collapsible, for the purpose of caravanning or camping or habitation or the sale of goods,

(ii) the storage of caravans or tents, or

(iii) the deposit of vehicles whether or not usable for the purpose for which they were constructed or last used, old metal, mining or industrial waste, builders' waste, rubbish or debris,

8.2.5. With regard to these instances, the use of the site for the preparation and sale of Christmas trees and Christmas wreaths, storage to facilitate same and the use of the site for their transport and sale elsewhere would constitute a material change of use.

8.2.6. The Referrers case is that they disagree with the PA in that ‘works’ and ‘use’ cannot be separated and submit that each are individually defined under the Act and refer to Section 2(1) ‘Interpretation’ of the Planning and Development Act (as amended).

8.2.7. The subject site comprises

i. A yard with an area of circa 5,000 square metres:

- ii. An existing shed building (Structure no. 1), with a footprint of circa 860 square metres positioned in the southeastern corner thereof:
- iii. A new rectangular shaped shed (Structure no. 2) with a footprint of circa 300 square metres along the northern boundary thereof.
- iv. A new machinery shed building (Structure no. 3), in the south-western thereof with an undefined footprint; and
- v. 6 steel shipping containers for storage purposes.

8.2.8. The activity in question (ie. the sale of Christmas trees and wreaths at the subject site) involves both permanent and temporary structures, but not any permanent land use (other than growing Christmas Trees and foliage).

8.2.9. The Referrer does not however accept that the farmyard use has been altered in a material manner such that it is no longer agricultural.

8.2.10. The Referrers case is that the use of the farm complex for the processing of Christmas trees, packing foliage, and preparing wreaths is ancillary to and associated with agricultural operations on the landholding and is not development.

8.2.11. From my site inspection, it is clear that the overall farm is planted with Christmas trees and or foliage and that 'bulk quantities' of wreath making materials are being stored on the site subject of the referral. It is also clear that there are a number of existing caravans on site, which on the day of my site inspection were not occupied. I am also satisfied that on the day of my site inspection the use of the sheds and yard area surrounding the sheds result in non-agricultural and/or forestry uses which were not in use given the seasonal nature of the principal activity.

8.2.12. While it is unclear when the structures were constructed, and the use commenced, it is clear that the farm holding is being used to prepare Christmas trees and wreaths for annual seasonal sale on the farm and for their transport and sale elsewhere.

8.2.13. A comparison between aerial photographs from 2001-2013 and Google Maps 2025 illustrates the change in land use from agricultural use to forestry and significant expansion of agricultural type sheds, storage areas and yard area which appears to have an entrance and exist route.

8.2.14. From my assessment and for clarification, I consider that:

- (a) Christmas trees and foliage are being grown on site.
- (b) The use of the overall site is currently for forestry/horticultural planting use.
- (c) The storage sheds contain articles associated with an industrial scale process.
- (d) The main shed is in use as a business premises for the distribution of Christmas trees and making of Christmas wreaths.
- (e) The referrer is the industrial undertaker.

8.2.15. Section 3 of the Planning and Development Act, 2000, requires that in order for a change of use to constitute development, it must be a material change of use. There is no statutory definition of 'material change of use'; however, it is linked to the degree of a change and the associated impacts which are determined on the individual merits of a case.

8.2.16. I note the test proffered by Barron, J in *The County of Galway v Lackagh Rock Ltd* [1984 21 MCA] in the determining of whether or not a material change of use has occurred. In this case, Barron, J considered that 'in determining whether or not a present use was materially different from a use being made on the appointed day one must look at matters which the planning authority would take into consideration if a planning application were made on both dates and if these matters were materially different than the present use must be equally materially different.

8.2.17. In this case it is clear that a material change of use has occurred on site i.e., from use as an agricultural and/or forestry development to use for the preparation of Christmas trees and wreaths for annual seasonal sale on the farm and for their transport and sale elsewhere. In my opinion this use is determined under Class 4 of Schedule 2 Part 4 of the Planning and Development Regulations 2001 (as amended) - 'use as a light industrial building'.

8.2.18. Accordingly, I consider the change of use from 'agriculture' 'as a light industrial building' a material change of use and that this together with the associated works would constitute development as defined for the purposes of the Act.

8.2.19. Therefore, having regard to Sections 2(1) and 3(1) of the Planning and Development Act 2000 (as amended) it is considered that use of the existing farmyard and associated structures in the south-eastern part of this farm holding to prepare Christmas trees and wreaths for annual seasonal sale on the farm and for their

transport and sale elsewhere would constitute development and a material change of use under the above provisions of the Act.

8.3. Is or is not exempted development

8.3.1. The Referrer accepts that works undertaken within the farmyard and to the sheds/storage structures exceed the thresholds set out for exempted development agricultural structures under the regulations. The Referrer indicates that they will be applying for retention for the works.

8.3.2. The Referrers case is that the use of the farm complex for the processing of Christmas trees, packing foliage, and preparing wreaths constitutes 'exempt development' having regard to Section 4(1)(a) and/or Section 4(1)(i) of the Planning and Development Act.

Section 4(1)(l) Planning and Development Act, 2000 (as amended)

8.3.3. Section 4(1)(l) provides that development consisting of the carrying out of any the works referred to in the Land Reclamation Act, 1949 (not comprising the fencing or enclosure of land which has been open to the public or works consisting of the reclamation of estuarine marsh land and of callows), is exempted development.

(a) development consisting of the use of any land for the purposes of agriculture and development consisting of the use for that purpose of any building occupied together with land so used;

(i) development consisting of the thinning, felling and replanting of trees, forests and woodlands, the construction, maintenance and improvement of non-public roads serving forests and woodlands and works ancillary to the development, not including the replacement of broadleaf high forest by conifer species.

8.3.4. As outlined by the Referrer, there are a number of structures related to the activity which include both permanent (Shed buildings Structure 1, 2 and 3) and temporary (steel containers and caravans/mobile homes) The later which are temporary in nature could be easily removed.

8.3.5. Section 2 of the Act defines an "unauthorised use" as a use commenced on or after 1 October 1964, being a use which is a material change in use of any structure or

other land and being a development other than exempted development or development which has been granted permission, a permission that has not been revoked and which is carried out in compliance with that permission and conditions of that permission.

- 8.3.6. Section 4 provides for certain types of development being exempted development for the purposes of the Act. As there is no extant planning permission, the activity in question is therefore an unauthorised use unless a specific exemption applies. I am satisfied that no specific exemption applies in this case.
- 8.3.7. The appellant contends that the Council has erred in de exempting this development as the site is a farm and is in agricultural use.
- 8.3.8. The jurisdiction of the Board in this regard is set out in Section 5 of the Planning and Development Act, 2000. Section 5(1) of the Act states:
- 8.3.9. "If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter."
- 8.3.10. The Board, in considering the question under section 5, is required solely to determine whether the subject of the question is or is not development and/or is or is not exempted development within the meaning if the Act. I am satisfied on the basis of the above that the development is not exempted development.

Precedent Cases

- 8.3.11. The PA has relied on two referral cases RL3321 and RL3061 in reaching their determination on the current Section 5 referral. RL3321 relates to the use of the farm complex for the production of cheese and yoghurt is ancillary to and associated with agricultural operations on the landholding. RL3061 relates to the use of land for training in horse riding and equestrian activities.
- 8.3.12. The Referrers case queries why the PA have relied on these cases and argues that they are not comparable.

- 8.3.13. I note the RL2596 where the Board issued a Section 5 Declaration in relation to 'whether a substantial fenced off floodlit commercial activity selling Christmas trees is or is not exempted development' at the entrance to Leopardstown Racecourse, Co. Dublin. It was determined that the activity was exempted development. In that case however the PA had already issued a Casual Trading Licence, and the site was located in an urban area and this does not apply in this case.

Conclusion

- 8.3.14. I agree with PA that Christmas wreaths constitutes an industrial process; I don't accept the referrers case and comparison to other agricultural activities and produce. I am satisfied that the yard area, existing shed building (Structure no. 1), in the southeastern corner, rectangular shaped shed (Structure no. 2) along the northern boundary, new machinery shed building (Structure no. 3), in the south-western corner and steel shipping containers are used storage purposes associated with the overall business premises and is not exempted development.

8.4. Restrictions on exempted development

- 8.4.1. Article 9 of the Regulations provides restrictions on exempted development. These include, but are not limited to, contravention of a condition attached to a grant of permission, giving rise to traffic hazard, interference with landscapes designated for protection in a development plan, excavation, alteration or demolition of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan, fencing or enclosure of lands habitually open to the public for 10 years, obstruction of rights of way.
- 8.4.2. The referrers case is that the use of the existing farmyard and associated structures in the south-eastern part of this farm holding to prepare Christmas trees and wreaths for annual seasonal sale on the farm and for their transport and sale elsewhere are agricultural uses and do not constitute a material change of use.
- 8.4.3. I do not accept the referrers case in this regard as outlined in section 8.2 of my report above.

8.5. **Appropriate Assessment**

- 8.5.1. Having regard to the existing development on site, the nature of the development referenced in the questions above, the location of the referral site and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.6. **Conclusion**

- 8.6.1. In conclusion what has been determined under this referral is that the current use as farmyard and associated structures in the southeastern part of the farm holding to prepare Christmas trees and wreaths for annual seasonal sale on the farm and for their transport and sale elsewhere, which falls under Part 3 of the Second Schedule to the Planning and Development Regulations 2001, as amended, constitutes a change of use from the agricultural use, and in my opinion this constitutes a material change of use by reason of providing a different non-agricultural business, and this material change of use would not come within the scope of Article 2 and 5 of the Planning and Development Regulations 2001, as amended, as it does not constitute a change of use within any one class. In view of the foregoing, I am of the opinion that the works carried out constitute development, that is not exempted development, and no restrictions can be reasonably applied.

9.0 **Recommendation**

- 9.1. I recommend that the Board should decide this referral in accordance with the following draft order.

WHEREAS a question has arisen as to 'whether the use of the existing farmyard and associated structures in the southeastern part of the farm holding to prepare Christmas trees and wreaths for annual seasonal sale on the farm and for their transport and sale elsewhere constitutes a change of use from agriculture and/or forestry to any other use' is or is not development or is or is not exempted development:

AND WHEREAS Conor Browne requested a declaration on this question from Wicklow County Council and the Council issued a declaration on the 29th day of January 2025 stating that the matter was development and was not exempted development:

AND WHEREAS Conor Browne referred this declaration for review to An Bord Pleanála on the 25th day of February 2025:

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

- (a) Section 2(1), (3)(1) and 4(1) (a) of the Planning and Development Act, 2000, as amended,
- (b) Article 2 and article 5 of the Planning and Development Regulations, 2001, as amended,
- (c) Part 3 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (d) The provisions of the Wicklow County Development Plan 2022-2028
- (e) The planning history of the site,
- (f) The pattern of development in the area:

AND WHEREAS An Bord Pleanála has concluded that:

- (a) the change of use from agricultural to the current use on site as farmyard and associated structures in the southeastern part of the farm holding to prepare Christmas trees and wreaths for annual seasonal sale on the farm and for their transport and sale elsewhere constitutes development;
- (b) the current use constitutes a change of use from agriculture and/or forestry to a use of the farmyard and associated structures in the southeastern part of the farm holding to prepare Christmas trees and

wreaths for annual seasonal sale on the farm and for their transport and sale elsewhere which is a material change of use by reason of providing a non-agricultural use.

- (c) the commercial use of the premises falls within the scope of 'industrial process' and 'business premises' as defined under article 5(1) 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 change of use from agriculture and/or forestry to a use of the farmyard and associated structures in the southeastern part of the farm holding to prepare Christmas trees and wreaths for annual seasonal sale on the farm and for their transport and sale elsewhere is development and is not exempted development.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Susan McHugh
Senior Planning Inspector

3rd June 2025

Form 1 - EIA Pre-Screening

Case Reference	ABP-321961-25
Proposed Development Summary	<p>Whether (1) the use the existing farmyard in the south-eastern part of this farm holding to prepare Christmas trees and wreaths for annual seasonal sale on the farm and for their transport and sale elsewhere constitutes a change of use from agriculture and/or forestry to any other use; and (2) works in the 'south-eastern yard' to the existing farmyard and farm buildings are or are not also works which have changed the use of these yard areas and buildings, including (i) The enlargement of a yard by circa 200% to an area of circa 5000 square metres; (ii) The construction of new extension bays to the two respective side elevations of an existing shed building (Structure No. 1), to enlarge its footprint to circa 860 square metres, positioned in the southeastern corner thereof; (iii) The construction of a new rectangular shaped shed (Structure no. 2), with a footprint of circa 300 square metres along the northern boundary thereof; (iv) The construction of a new machinery shed building (Structure no. 3), in the south-western thereof with an undefined footprint; and (v) The placement of circa 6 steel shipping containers for storage purposes is or is not development and is or is not exempted development</p>
Development Address	Mountview Christmas Tree Farm, Tullylusk, Rathdrum, Co. Wicklow.
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<div style="margin-bottom: 10px;"> <input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2. </div> <div> <input type="checkbox"/> No, No further action required. </div>

2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input checked="" type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	CLASS 1(a) of Part 2 (rural restructuring/hedgerow removal). CLASS 10(dd) of Part 2 relating of private roads in the form of driveways.
<input type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. No Screening required.	
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required	
<input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2)	CLASS1(a) of Part 2 (rural restructuring/hedgerow removal) - Length of field boundary to be removed is less than 4km. CLASS 10(dd) of Part 2 relating of private roads in the form of driveways - Private road would not exceed 2000metres in length.

4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?

Yes ☐

No ☒

Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____ **Date:** _____

Form 2 - EIA Preliminary Examination

Case Reference	ABP-321961-25
Proposed Development Summary	Whether (1) the use the existing farmyard in the south-eastern part of this farm holding to prepare Christmas trees and wreaths for annual seasonal sale on the farm and for their transport and sale elsewhere constitutes a change of use from agriculture and/or forestry to any other use; and (2) works in the 'south-eastern yard' to the existing farmyard and farm buildings are or are not also works which have changed the use of these yard areas and buildings, including (i) The enlargement of a yard by circa 200% to an area of circa 5000 square metres; (ii) The construction of new extension bays to the two respective side elevations of an existing shed building (Structure No. 1), to enlarge its footprint to circa 860 square metres, positioned in the southeastern corner thereof; (iii) The construction of a new rectangular shaped shed (Structure no. 2), with a footprint of circa 300 square metres along the northern boundary thereof; (iv) The construction of a new machinery shed building (Structure no. 3), in the south-western thereof with an undefined footprint; and (v) The placement of circa 6 steel shipping containers for storage purposes is or is not development and is or is not exempted development
Development Address	Mountview Christmas Tree Farm, Tullylusk, Rathdrum, Co. Wicklow.
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	The site is currently agricultural land. The proposed development subject of the referral has a stated floor area of and is not significant in size or scale in the context of agricultural buildings. The 3 no. existing mobile homes on site appear to be in seasonal use only. No excavation works or site drainage infrastructure form part of the referral. The use of natural resources in the form of Christmas trees and foliage and the production of waste, pollution and nuisance and the risk of accidents is not significant and would be typical of a project of this scale/nature
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and	There are no European designated sites in the vicinity. The proposed development does not have the potential to have likely significant effects on European Sites. This matter has been considered in

<p>approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>a Stage 1 Appropriate Assessments which have been undertaken in relation to this appeal case.</p>
<p>Types and characteristics of potential impacts</p> <p>(Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p>	<p>The construction impacts which would arise on foot of the development reflect typical agricultural developments of this nature, including increased construction traffic on local roads, with an associated increase in noise/emissions, disturbance (light, dust, noise) impacts to neighbouring residential properties and fauna species, generation of construction waste materials (soil, building materials, waste from staff facilities), surface water run-off and potential for fuel / oil leaks from construction equipment. Such impacts could reasonably be controlled / managed through an agreed Construction and Environmental Management Plan.</p> <p>The proposed development does not have the potential to result in cumulative effects (in combination with the neighbouring agricultural lands) with likely significant effects on the environment during the operational stage.</p>
<p style="text-align: center;">Conclusion</p>	
<p>Likelihood of Significant Effects</p>	<p>Conclusion in respect of EIA</p>
<p>There is no real likelihood of significant effects on the environment.</p>	<p>EIA is not required.</p>

Inspector: _____ Date: _____