



COMHAIRLE CONTAE CHILL Mhantáin
Wicklow County Council

Pleanáil, Forbairt Eacnamaíochta agus Tuaithe
Planning, Economic and Rural Development

Áras An Chontae / County Buildings
Cill Mhantáin / Wicklow
Guthán / Tel: (0404) 20148
Faics / Fax: (0404) 69462
Rphost / Email: plandev@wicklowcoco.ie
Suíomh / Website: www.wicklow.ie

 August 2024


Northway Mushrooms
Co-Operative Society Ltd
M:TEK Building
Armagh Road
Co. Monaghan

RE: Declaration in accordance with Section 5 of the Planning & Development Acts 2000 (As Amended) - EX72/2024 - Greenfield Mushrooms Ltd

I enclose herewith Declaration in accordance with Article 5 (2) (A) of the Planning & Development Act 2000.

Where a Declaration is used under this Section any person issued with a Declaration under subsection (2) (a) may, on payment to An Bord Pleanála of such fee as may be prescribed, refer a declaration for review by the Board within four weeks of the date of the issuing of the declaration by the Local Authority.

Is mise, le meas,


ADMINISTRATIVE OFFICER
PLANNING ECONOMIC & RURAL DEVELOPMENT





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DECLARATION IN ACCORDANCE WITH ARTICLE 5 (2) (A) OF THE PLANNING & DEVELOPMENT
ACT 2000 AS AMENDED

Applicant: Greenfield Mushrooms Ltd

CHIEF EXECUTIVE ORDER NO. CE/PERD/2024/1096

Section 5 Declaration as to whether “roof mounted Solar PV 50 KWs” at Farm, Lathaleere Industrial Estate, Baltinglass, Co. Wicklow constitutes exempted development within the meaning of the Planning and Development Act, 2000(as amended).

Having regard to:

- The details submitted with the Section 5 Declaration,
- Planning History EX 44/ 2023, UD 4322C , PRR06/4560, PRR02/7117, PRR97/6575
- Sections 2 , 3, and 4 of the Planning and Development Act 2000 (as amended)
- Article 6 , Article 9 and Schedule 2 : Part 1 : Class 56 of the Planning and Development Regulations 2001 (as amended).

Main Reasons with respect to Section 5 Declaration:

- The works would come within the meaning of development having regard to the definition of works under Section 2 , and the provisions of Section 3 of the Planning and Development Act 2000(as amended).
- The installation of solar panels would come within the description set out under Class 56 :Part 1:Schedule 2 of the Planning and Development Regulations 2001 (as amended).
- Insufficient information has been submitted to show that the works would be compliant with the Limitations set out under Class 56, and therefore in the absence of such information the development would not be exempted development.
- The structures outlined in orange on the submitted aerial map, on which the solar panels are to be erected are, save for the Mushroom Packing Structure permitted by reference to PRR 02/7117, unauthorised, and therefore the provisions of Article 9 (1) (a) (viii) provides that development to which article 6 relates shall not be exempted development for the purposes of the Act if the carrying out of such development would—
(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,
Therefore the exemption under Class 56 (e) would not apply to those unauthorised structures.

The Planning Authority considers that “roof mounted Solar PV 50 KWs” at Farm, Lathaleere Industrial Estate, Baltinglass, Co. Wicklow is development and is NOT exempted development

Signed: 
ADMINISTRATIVE OFFICER
PLANNING ECONOMIC & RURAL DEVELOPMENT

Dated  August 2024



WICKLOW COUNTY COUNCIL

PLANNING & DEVELOPMENT ACTS 2000 (As Amended)
SECTION 5

CHIEF EXECUTIVE ORDER NO. CE/PERD/2024/1096

Reference Number: EX72/2024

Name of Applicant: Greenfield Mushrooms Ltd

Nature of Application: Section 5 Declaration request as to whether or not: -
"roof mounted Solar PV 50 KWs" is or is not development
and is or is not exempted development.

Location of Subject Site: Farm, Lathaleere Industrial Estate, Baltinglass, Co. Wicklow

Report from Edel Bermingham, SEP

With respect to the query under section 5 of the Planning & Development Act 2000 as to whether " roof mounted Solar PV 50 KWs" at Farm, Lathaleere Industrial Estate, Baltinglass, Co. Wicklow is or is not exempted development within the meaning of the Planning & Development Act 2000 (as amended).

Having regard to:

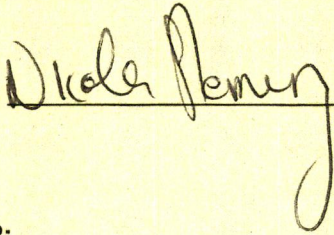
- a) The details submitted with the Section 5 Declaration,
- b) Planning History EX 44/ 2023, UD 4322C , PRR06/4560, PRR02/7117, PRR97/6575
- c) Sections 2 , 3, and 4 of the Planning and Development Act 2000 (as amended)
- d) Article 6 , Article 9 and Schedule 2 : Part 1 : Class 56 of the Planning and Development Regulations 2001 (as amended).

Main Reason with respect to Section 5 Declaration:

1. The works would come within the meaning of development having regard to the definition of works under Section 2 , and the provisions of Section 3 of the Planning and Development Act 2000(as amended).
2. The installation of solar panels would come within the description set out under Class 56 :Part 1:Schedule 2 of the Planning and Development Regulations 2001 (as amended).
3. Insufficient information has been submitted to show that the works would be compliant with the Limitations set out under Class 56, and therefore in the absence of such information the development would not be exempted development.
4. The structures outlined in orange on the submitted aerial map, on which the solar panels are to be erected are, save for the Mushroom Packing Structure permitted by reference to PRR 02/7117, unauthorised, and therefore the provisions of Article 9 (1) (a) (viii) provides that development to which article 6 relates shall not be exempted development for the purposes of the Act if the carrying out of such development would—
(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,
Therefore the exemption under Class 56 (e) would not apply to those unauthorised structures.

Recommendation:

The Planning Authority considers that "roof mounted Solar PV 50 KWs" at Farm, Lathaleere Industrial Estate, Baltinglass, Co. Wicklow is development and is NOT exempted development as recommended in the report by the SEP.

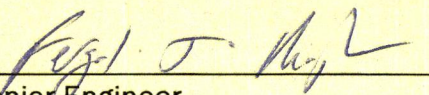
Signed 

Dated 21st day of August 2024

ORDER:

I HEREBY DECLARE:

That "roof mounted Solar PV 50 KWs" at Farm, Lathaleere Industrial Estate, Baltinglass, Co. Wicklow is development and is NOT exempted development within the meaning of the Planning & Development Act 2000 (as amended).

Signed: 
Senior Engineer
Planning, Economic & Rural Development

Dated 23rd day of August 2024

Section 5 Application : EX 72/2024

Date : 27th August 2024

Applicant : Greenfield Mushrooms Ltd.

Address : Lathaleere Industrial Estate, Baltinglass, Co.Wicklow

Exemption Whether or not :

Roof Mounted Solar PV 50KW's at Farm, Lathaleere Industrial Estate, Baltinglass, Co. Wicklow

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

Planning History :

EX 44/ 2023 Roof Mounted solar PV 50KW's – Further Information issued on the 25th July 2023, and no response was received.

UD 4322C -

1. Non-compliance with C1 (design of permitted mixed use two storey building) and 2 development contributions of PRR 02/7117 - Substantially compliant – case closed
2. Construction without the benefit of planning permission of four sheds for ancillary storage and plant room purposes, along the eastern and southern respective boundaries of the site - Action not taken in respect of structures without permission as considered statute barred.

06/4560 Permission granted for 7 no mushroom tunnels.

02/ 7117 Permission granted for 21sqm building to contain mushroom packing , refrigeration and storage areas, canteen, office and toilets.

PRR 97/ 6575 Permission granted for 8 no. mushroom tunnels and pack house comprising canteen and toilet facilities.

(4) Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

Planning and Development Regulations 2001(as amended).

Article 5

"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,

(b) a hotel, hostel (other than a hostel where care is provided) or public house, or

(c) any structure or other land used for the purposes of, or in connection with, the functions of a State authority;

(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,

(b) a hotel, hostel (other than a hostel where care is provided) or public house, or

(c) any structure or other land used for the purposes of, or in connection with, the functions of a State authority;

"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;

"industrial undertaker" means a person by whom an industrial process is carried on and

"industrial undertaking" shall be construed accordingly;

Article 6

(1) Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

Article 9

(1) Development to which article 6 relates shall not be exempted development for the purposes of the Act— (a) if the carrying out of such development would—

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

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

Schedule 2 : Part 1

Class 56 (e)

(e) The placing or erection on a roof of a business premises or light industrial building, or within the curtilage of a business premises or light industrial building, or on a roof of any ancillary buildings within the curtilage of a business premises or light industrial building of a solar photo-voltaic and/or solar thermal collector installation.

1 Where such development is located within a solar safeguarding zone, the total aperture area of any solar photo-voltaic and/or solar thermal collector panels, taken together with any other such panels previously placed on a roof, shall not exceed 300 square metres

2 Where such development is located within a solar safeguarding zone, the planning authority for the area shall be notified in writing no later than 4 weeks after the commencement of such development and such notification shall include details regarding the location and scale of the development

3 The distance between the plane of the roof and the solar photo-voltaic or solar thermal collector panels shall not exceed

a for a business premises, 1.2 metres in the case of a flat roof or 15cm in any other case

b for a light industrial building, 2 metres in the case of a flat roof or 50cm in any other case

4 The solar photo-voltaic or solar thermal collector panels shall be a minimum of 2 metres in the case of a flat roof or 50cm in any other case from the edge of the roof on which it is mounted

5 Development shall not be exempted development where the highest part of the solar photo-voltaic or solar thermal collector installation exceeds the highest part of any roof that is not a flat roof (excluding any chimney)

6 Any ancillary equipment associated with solar photo-voltaic or solar thermal collector panels shall not be placed or erected on a wall or any roof that is not a flat roof

7 The height of any ancillary equipment associated with solar photo-voltaic or solar thermal collector panels on a flat roof shall not exceed 1.6 metres above roof level

8 Any ancillary equipment associated with solar photo-voltaic or solar thermal collector panels on a flat roof shall be a minimum of 2 metres from the edge of the roof on which it is mounted

9 Any free-standing solar photo-voltaic or solar thermal collector installation shall not be placed or erected forward of the front wall of the business premises or light industrial building

10. The total aperture area of any free-standing solar photo-voltaic and solar thermal collector panels taken together with any other such existing free-standing panels shall not exceed 75 square metres.

11. The height of any free-standing solar photo-voltaic or solar thermal collector installation shall not exceed 2.5 metres at its highest point above ground level.

12. The placing or erection of a solar photo-voltaic or solar thermal collector installation on any wall shall not be exempted development.

13. The placing or erection of any free-standing solar photo-voltaic or solar thermal collector installation within an Architectural Conservation Area shall only be exempted development if those works would not materially affect the character of the area.

14. No sign, advertisement or object not required for the functioning or safety of the solar photo-voltaic or solar thermal collector installation shall be attached to or exhibited on such installation.

15. Development under this Class shall only be exempted development where the solar photo-voltaic or solar thermal collector installation is primarily used for the provision of electricity or heating for use within the curtilage of the business premises or light industrial building, and shall not be considered a change of use for the purposes of the Act.

16. Development under this Class which causes hazardous glint and/or glare shall not be exempted development and any solar photo-voltaic or solar thermal collector panels which are causing hazardous glint and/or glare shall either be removed or be covered until such time as a mitigation plan to address the hazardous glint and/or glare is agreed and implemented to the satisfaction of the Planning Authority.

Assessment :

The declaration queries whether the installation of roof top 50kW solar panels on structures at Lathaleere , Baltinglass is or is not exempted development.

The submitted documents indicates the following structures identified in orange are for solar location-



The first question to be asked is whether the installation of solar panels would come within the definition of development. In this regard the installation / placement of solar panels on the roof of the existing structures would be works as they would be an act of construction, and would therefore be development having regard to the provisions of Section 3 of the Planning and Development Act 2000(as amended).

The relevant exemption for the installation of Solar Panels is set out under Class 56: Part 1 : Schedule 2 of the Planning and Development Regulations 2001 (as amended), in particular Part (e) i.e.

(e) The placing or erection on a roof of a business premises or light industrial building, or within the curtilage of a business premises or light industrial building, or on a roof of any ancillary buildings within the curtilage of a business premises or light industrial building of a solar photo-voltaic and/or solar thermal collector installation.

The works would come within the description.

There are a number of limitations for such solar panels under the exemption which are relevant :-

1 Where such development is located within a solar safeguarding zone, the total aperture area of any solar photo-voltaic and/or solar thermal collector panels, taken together with any other such panels previously placed on a roof, shall not exceed 300 square metres

Not applicable as not in a solar safeguarding zone.

2 Where such development is located within a solar safeguarding zone, the planning authority for the area shall be notified in writing no later than 4 weeks after the commencement of such development and such notification shall include details regarding the location and scale of the development

Not located in solar safeguarding zone

3 The distance between the plane of the roof and the solar photo-voltaic or solar thermal collector panels shall not exceed

- a for a business premises, 1.2 metres in the case of a flat roof or 15cm in any other case
- b for a light industrial building, 2 metres in the case of a flat roof or 50cm in any other case

To be confirmed.

4 The solar photo-voltaic or solar thermal collector panels shall be a minimum of 2 metres in the case of a flat roof or 50cm in any other case from the edge of the roof on which it is mounted

Confirmation required.

5 Development shall not be exempted development where the highest part of the solar photo-voltaic or solar thermal collector installation exceeds the highest part of any roof that is not a flat roof (excluding any chimney)

Confirmation required

6 Any ancillary equipment associated with solar photo-voltaic or solar thermal collector panels shall not be placed or erected on a wall or any roof that is not a flat roof

Not evident to be confirmed

7 The height of any ancillary equipment associated with solar photo-voltaic or solar thermal collector panels on a flat roof shall not exceed 1.6 metres above roof level

Not evident to be confirmed

8 Any ancillary equipment associated with solar photo-voltaic or solar thermal collector panels on a flat roof shall be a minimum of 2 metres from the edge of the roof on which it is mounted

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

The Planning Authority consider that

Roof Mounted Solar PV 50KWs **is Development and is Not Exempted Development.**

Main Considerations with respect to Section 5 Declaration :

- a) The details submitted with the Section 5 Declaration,
- b) Planning History EX 44/ 2023, UD 4322C , PRR06/4560, PRR02/71117, PRR97/6575
- c) Sections 2 , 3, and 4 of the Planning and Development Act 2000 (as amended)
- d) Article 6 , Article 9 and Schedule 2 : Part 1 : Class 56 of the Planning and Development Regulations 2001 (as amended).

Main Reasons with respect to Section 5 Declaration :

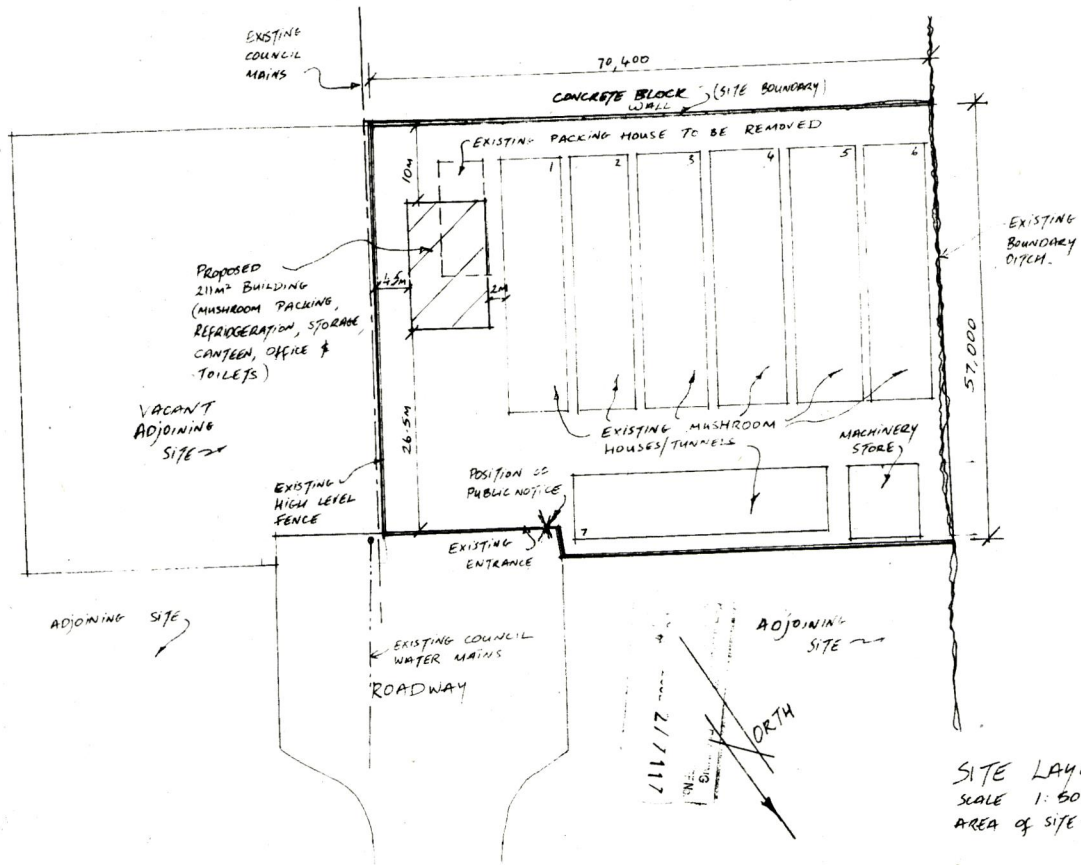
- A. The works would come within the meaning of development having regard to the definition of works under Section 2 , and the provisions of Section 3 of the Planning and Development Act 2000(as amended).
- B. The installation of solar panels would come within the description set out under Class 56 :Part 1:Schedule 2 of the Planning and Development Regulations 2001 (as amended).
- C. Insufficient information has been submitted to show that the works would be compliant with the Limitations set out under Class 56, and therefore in the absence of such information the development would not be exempted development.
- D. The structures outlined in orange on the submitted aerial map, on which the solar panels are to be erected are, save for the Mushroom Packing Structure permitted by reference to PRR 02/7117, unauthorised, and therefore the provisions of Article 9 (1) (a) (viii) provides that development to which article 6 relates shall not be exempted development for the purposes of the Act if the carrying out of such development would—

(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use, Therefore the exemption under Class 56 (e) would not apply to those unauthorised structures.

Seal Cunningham SP

27th August 2024.

*Issue declaration as recommended
Fogal T. M. L. SP
18/08/24*



SITE LAYOUT PLAN
 SCALE 1:500
 AREA OF SITE - 3917m²

MEMORANDUM

WICKLOW COUNTY COUNCIL

**TO: Edel Bermingham
SEP**

**FROM: Nicola Fleming
Staff Officer**

**RE:- Application for Certificate of Exemption under Section 5 of the
Planning and Development Acts 2000 (as amended).
EX72/2024**

I enclose herewith application for Section 5 Declaration received completed on 16/08/2024.

The due date on this declaration is 12/09/2024.



**Staff Officer
Planning, Economic & Rural Development**



COMHAIRLE CONTAE CHILL Mhantáin
Wicklow County Council

Pleanáil, Forbairt Eacnamaíochta agus Tuaithe
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20th August 2024

Northway Mushrooms
Co-operative Society Ltd
M:TEK Building
Armagh Road
Co. Monaghan

RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). – EX72/2024 – Greenfield Mushrooms Ltd

A Chara

I wish to acknowledge receipt on 16/08/2024 details supplied by you in respect of the above Section 5 application. A decision is due in respect of this application by 12/09/2024

Mise, le meas

Nicola Fleming
Staff Officer
Planning, Economic & Rural Development



Wicklow County Council
County Buildings
Wicklow
0404-20100

09/08/2024 10.06 55

Receipt No L1/0/333019
***** REPRINT *****

NORTHWAY CO OP
M/TEK BUILDING
ARMAGH RD
CO MONAGHAN

EXEMPTION CERTIFICATES	80 00
GOODS	80 00
VAT Exempt/Non-vatable	

Total 80 00 EUR

Tendered
Credit Card 80 00
(GREENFIELD) MUSHROOMS LTD

Change 0 00

Issued By Cashier5MW
From Customer Service Hub
Vat reg No 0015233H



Wicklow County Council
County Buildings
Wicklow
Co Wicklow
Telephone 0404 20148
Fax 0404 69462

Office Use Only

Date Received _____

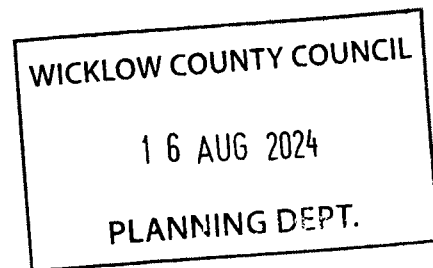
Fee Received _____

APPLICATION FORM FOR A
DECLARATION IN ACCORDANCE WITH SECTION 5 OF THE PLANNING &
DEVELOPMENT ACTS 2000 (AS AMENDED) AS TO WHAT IS OR IS NOT
DEVELOPMENT OR IS OR IS NOT EXEMPTED DEVELOPMENT

1. Applicant Details

- (a) Name of applicant: Greenfield Mushrooms Ltd.
Address of applicant: Lathaleere Industrial Estate,
Baltinglass co. Wicklow.

Note Phone number and email to be filled in on separate page.



2. Agents Details (Where Applicable)

- (b) Name of Agent (where applicable) _____
Address of Agent : Northway ~~##~~ Mushrooms
Co-operative Society Ltd, M-TEK Building
Armagh Rd, Co Monaghan.

Note Phone number and email to be filled in on separate page.



3. Declaration Details

i. Location of Development subject of Declaration _____
Lathaleere Industrial Estate,
Ballingless Co. Wicklow

ii. Are you the owner and/or occupier of these lands at the location under i. above ?
 Yes No.

iii. If 'No' to ii above, please supply the Name and Address of the Owner, and or occupier _____

N/A

iv. Section 5 of the Planning and Development Act provides that : If any question arises as to what, in any particular case, is or is not development and 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. You should therefore set out the query for which you seek the Section 5 Declaration Installation of roof
top 50kw solar panels.

Additional details may be submitted by way of separate submission.

v. Indication of the Sections of the Planning and Development Act or Planning Regulations you consider relevant to the Declaration _____

Planning and Development Act 2000 (Exempted
Development) (No. 3) Regulations 2022
(S.I. 493 of 2022).

Additional details may be submitted by way of separate submission.

vi. Does the Declaration relate to a Protected Structure or is it within the curtilage of a Protected Structure (or proposed protected structure) ? No

vii. List of Plans, Drawings submitted with this Declaration Application _____

Site Map incl. Highlighted Area of Development
installation (Roof top solar panels)

viii. Fee of € 80 Attached ? 333019 (Paid by card 9/8/24)

Signed : Brendan Byrne Dated : 31/7/2024

Additional Notes :

As a guide the minimum information requirements for the most common types of referrals under Section 5 are listed below :

A. Extension to dwelling - Class 1 Part 1 of Schedule 2

- Site Location Map
- Floor area of structure in question - whether proposed or existing.
- Floor area of all relevant structures e.g. previous extensions.
- Floor plans and elevations of relevant structures.
- Site Layout Plan showing distance to boundaries, rear garden area, adjoining dwellings/structures etc.

B. Land Reclamation -

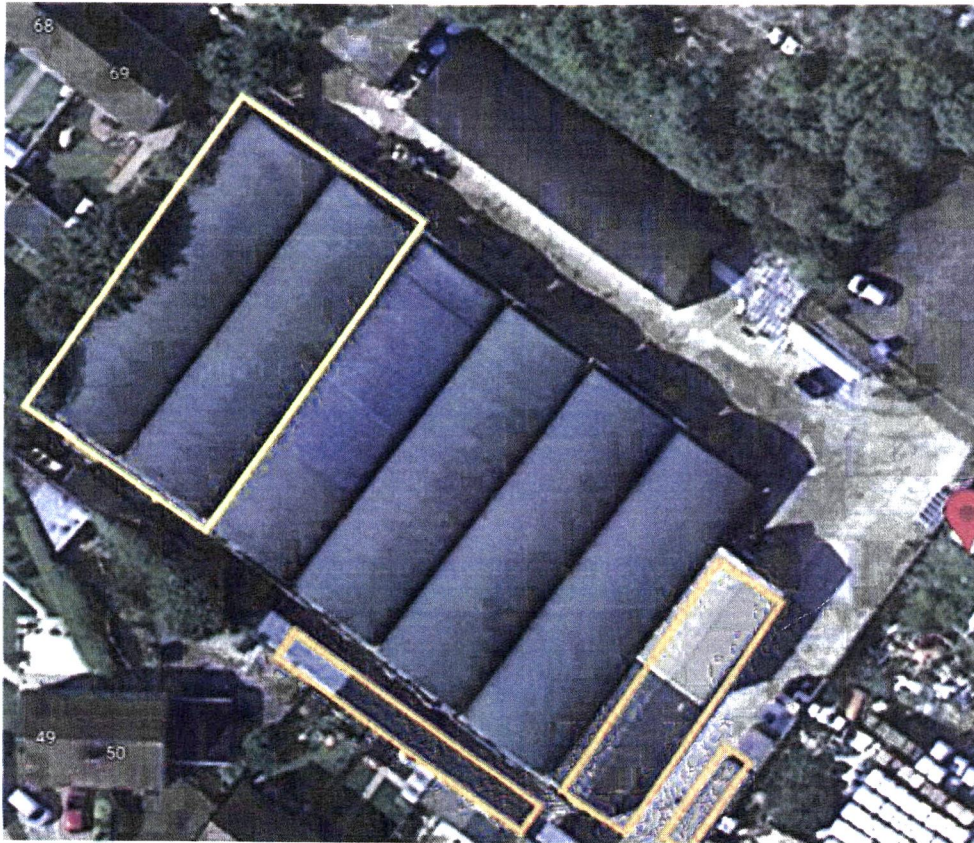
The provisions of Article 8 of the Planning and Development Regulations 2001 (as amended) now applies to land reclamation, other than works to wetlands which are still

governed by Schedule 2, Part 3, Class 11. Note in addition to confirmation of exemption status under the Planning and Development Act 2000(as amended) there is a certification process with respect to land reclamation works as set out under the European Communities (Environmental Impact Assessment) (Agriculture) Regulations 2011 S.I. 456 of 2011. You should therefore seek advice from the Department of Agriculture, Fisheries and Food.

Any Section 5 Declaration should include a location map delineating the location of and exact area of lands to be reclaimed, and an indication of the character of the land.

C. Farm Structures - Class 6 -Class 10 Part 3 of Schedule 2.

- Site layout plan showing location of structure and any adjoining farm structures and any dwellings within 100m of the farm structure.
- Gross floor area of the farm structure
- Floor plan and elevational details of Farm Structure and Full details of the gross floor area of the proposed structure.
- Details of gross floor area of structures of similar type within the same farmyard complex or within 100metres of that complex.



Orange is solar location, yellow is re-insulating and LED (tunnel 5&6)