



An
Coimisiún
Pleanála

Direction
ABP-321664-25

The submissions on this file and the Inspector's report were considered at a meeting held on 05/02/2026.

The Commission decided, as set out in the following Order, that

Commission Order as follows:-

WHEREAS a question has arisen as to whether the installation, commissioning and use of a well for a commercial building situated on one entity's land which is seeking a derogation under SI306/2022, while the well itself is located on a different entity's land, which has not sought any derogation or exemption, when used for commercial purposes, is or is not development and is or is not exempted development?

AND WHEREAS Aidan Kelly requested a declaration on this question from Kilkenny County Council and the Council issued a declaration on the 11th December 2024 stating that the matter was development and was exempted development:

AND WHEREAS referred this declaration for review to An Coimisiún Pleanála on the 15th January 2025:

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

- (a) Section 2(1) of the Planning and Development Act, 2000, as amended,
- (b) Section 3(1) of the Planning and Development Act, 2000,
- (c) Section 4(1)(a) of the Planning and Development Act, 2000, as amended,
- (d) Section 181(1)(a) of the Planning and Development Act, 2000, as amended,
- (e) article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (f) S.I. 306/2022 European Union (Planning and Development) (Displaced Persons from Ukraine Temporary Protection) Regulations 2022,

AND WHEREAS An Coimisiún Pleanála considered that the provision of a water well ancillary to the temporary accommodation for displaced persons falls within Article 3, Schedule of SI306/2022 European Union (Planning and development) (Displaced Persons from Ukraine Temporary Protection) Regulations 2022, Paragraph 7 Infrastructure and other works ancillary to development referred to in Paragraphs 1-6

AND WHEREAS An Coimisiún Pleanála considered that the development complies with Article 9 of the Planning and Development Act 2001 as amended

AND WHEREAS An Coimisiún Pleanála is satisfied that the need for environmental impact assessment can be excluded at preliminary examination and that a screening determination is not required.

AND WHEREAS An Coimisiún Pleanála is satisfied that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant impact individually or in combination with other plans or projects on a European Site.

AND WHEREAS An Coimisiún Pleanála has concluded that:

- (a) the installation, commissioning and use of a well for a commercial building situated on one entity's land which is seeking a derogation under SI306/2022, while the well itself is located on a different entity's land, which has not sought any derogation or exemption, when used for commercial purposes, constitutes development as defined under Section 3(1)(a) of the Planning and Development Act 2000 (as amended).
- (b) the installation, commissioning and use of a well for a commercial building situated on one entity's land which is seeking a derogation under SI306/2022, while the well itself is located on a different entity's land, which has not sought any derogation or exemption, when used for commercial purposes is exempted development as it comes within the scope of S.I. 306/2022 European Union (Planning and Development) (Displaced Persons from Ukraine Temporary Protection) Regulations 2022.

NOW THEREFORE An Coimisiún Pleanála, in exercise of the powers conferred on it by section 5 (1) of the 2000 Act, hereby decides that the installation, commissioning and use of a well for a commercial building situated on one entity's land which is seeking a derogation under SI306/2022, while the well itself is located on a difference entity's land, which has not sought any derogation or exemption, when used for commercial purposes is development and is exempted development.

Planning

Commissioner:



Emer Maughan

Date: 09/02/2026