An Coimisiún Pleanála

Commission Order

ACP-323649-25

Planning and Development Act 2000, as amended

Planning Authority: Kildare County Council

Planning Authority Reference Number: ED/1257

WHEREAS a question has arisen as to whether the installation of an industrial water tank at QK Cold Storage Limited, Maudlins Industrial Estate, Monread Road, Naas, County Kildare is or is not development or is or is not exempted development,

AND WHEREAS OK Cold Stores Limited requested a declaration on this question from Kildare County Council and the Council issued a declaration on the 20th day of August, 2025 stating that the matter is development and is not exempted development,

AND WHEREAS OK Cold Stores Limited referred this matter for review to An Coimisiún Pleanála on the 15th day of September, 2025,

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

(a) Sections 2(1), 3(1) and 4(1)(a) of the Planning and Development Act 2000, as amended,

(b) Article 6(1) and Article 9(1) of the Planning and Development Regulations 2001, as amended,

(c) Parts 1 and 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended,

(d) Class 21 of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended,

(e) the planning history of the site,

(f) the pattern of development in the area, and

(g) the report and recommendation of the Inspector,

AND WHEREAS An Coimisiún Pleanála has concluded that:

(a) The Planning and Development Act 2000 (as amended) defines 'development' as the carrying out of any works on, in over or under land or the making of any material change in use of any structures or other land. The water storage tank including the reinforced concrete slab on pile foundation does meet the threshold of 'works' as set out in Section 2 of the Planning and Development Act 2000 (as amended) and as such would constitute development.

(b) Class 21 of the Planning and Development Regulations 2001 (as amended) provides an exemption of certain types of development which are 'carried out by an industrial undertaker on land occupied and used by such undertaker for the carrying on, and for the purposes of, any industrial process'. The Commission considered that, given the absence of industrial process on this parcel of land, the water tank would not fit within the scope of Class 21 of the Planning and Development Regulations 2001 (as amended).

(c) Furthermore, the water tank does materially alter the external appearance of the site as the boundary planting which was previously in place along the eastern boundary of the land has been removed and replaced with a fence, and as such the water tank does not fit within the scope of Class 21 of the Planning and Development Regulations 2001 (as amended) and the water tower cannot avail of this exemption.

(d) Article 9 of the Planning and Development Regulations 2001 (as amended) sets out restrictions on exemptions. In this regard Article 9(1)(a)(vii) states 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 (inter alia) consist or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use. As outlined in the Inspectors Report, no planning permission has been granted for any development on the site and there is currently no industrial use on the site. Therefore, the water tower is an unauthorised use and there is no exemption which could apply to the water tower.

NOW THEREFORE An Coimisiún Pleanála, in exercise of the powers conferred on it by section 5(3)(a) of the Planning and Development Act 2000, as amended, hereby decides that the installation of an industrial water tank at QK Cold Storage Limited, Maudlins Industrial Estate, Monread Road, Naas, County Kildare is development and is not exempted development.

Emer Maughan
Planning Commissioner of An Coimisiún Pleanála duly authorised to authenticate the seal of the Commission.

Dated this 16th **day of** November **2026.**