



An  
Coimisiún  
Pleanála

## Inspector's Report ABP-321664-25

### Question

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?

### Location

Wallslough Equestrian Facility,  
Wallslough Village, Wallslough, Co.  
Kilkenny

### Declaration

Planning Authority

Kilkenny County Council

Planning Authority Reg. Ref.

DEC 849

Applicant for Declaration

Aidan Kelly.

Planning Authority Decision

Is exempted development

**Referral**

**Referred by**

Aidan Kelly.

**Owner/ Occupier**

James Hughes.

**Observer(s)**

Mark Hennessy.

**Date of Site Inspection**

1<sup>st</sup> December 2025

**Inspector**

Jennifer McQuaid

# Contents

1.0 Site Location and Description .....	5
2.0 The Question .....	5
3.0 Planning Authority Declaration .....	6
3.1. Declaration.....	6
3.2. Planning Authority Reports .....	6
4.0 Planning History.....	6
5.0 Policy Context.....	7
5.1. Development Plan.....	7
5.2. Natural Heritage Designations .....	7
6.0 The Referral.....	8
6.1. Referrer’s Case.....	8
6.2. Planning Authority Response.....	8
6.3. Owner/ occupier’s response.....	9
6.4. Further Responses (observations).....	9
7.0 Statutory Provisions.....	9
7.1. Planning and Development Act, 2000 (as amended).....	9
7.2. Planning and Development Regulations, 2001 (as amended) .....	10
7.4. Other .....	15
8.0 Assessment.....	15
8.1. Is or is not development.....	15
8.2. Is or is not exempted development.....	16
8.3. Restrictions on exempted development.....	18
9.0 Recommendation.....	20

**Appendix 1: Form 1 - EIA Pre-Screening..... 23**

## 1.0 Site Location and Description

- 1.1. This application should be read in conjunction with previous referrals on the adjacent ancillary site: planning reference ABP-319805-24 which asked the question whether the construction of circa 40no. self-contained units/apartments within the equestrian shed (granted under permission P97/396) exempt from planning permission noting the works are well underway? And planning reference ABP-320262-24 which asked the question whether construction of wastewater/sewage tanks within the grounds of the equestrian shed (granted under permission P97/396) allowed without planning permission noting these are now complete, is or is not development and is or is not exempted development. Both referrals were deemed as development and exempted development.
- 1.2. The subject site is located in the rural area of Kilkenny County and approximately 5km south of the centre of Kilkenny City. The nearest Village is Bennettsbridge, located approximately 3km southeast of the proposed site. The site is accessed via a local road LS 6700 off the R700.
- 1.3. The existing equestrian centre building on site and associated outbuildings is currently being used for temporary emergency accommodation. There are a number of holiday homes at the entrance to the site known as Wallslough Village. And there is an operating furniture store on site.

## 2.0 The Question

- 2.1. The question before the Coimisiún relates to one question:

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?

- 2.2. A neighbour of the landowner has requested a determination from the Coimisiún.

## 3.0 Planning Authority Declaration

### 3.1. Declaration

The Planning Authority declared 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 different entity's land, which has not sought any derogation or exemption, when used for commercial purposes, is exempt development by the virtue of S.I 306 of 2022 – European Union (Planning and Development) (Displaced persons from Ukraine Temporary Protection) Regulations 2022.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

- Planning Report dated 21<sup>st</sup> April 2024 outlines the relevant legislation, the planning history, impact on Natura 2000 sites, EIA screening and assessment declaring the works are development and fall within the exemption criteria of Article 3(7) Infrastructure and other works ancillary to development referred to in paragraphs 1 to 6 of SI 306/2022.

#### 3.2.2. Other Technical Reports

- None

## 4.0 Planning History

**ABP-319805-24 (PA Reference: DEC 792):** which asked the question whether the construction of circa 40no. self-contained units/apartments within the equestrian shed (granted under permission P97/396) exempt from planning permission noting the works are well underway? On the 11<sup>th</sup> November 2024, An Coimisiún Pleanála decided the proposal is development and is exempted development.

**ABP-320262-24 (PA Reference: DEC 808):** which asked the question whether construction of wastewater/sewage tanks within the grounds of the equestrian shed (granted under permission P97/396) allowed without planning permission noting these are now complete. On 10<sup>th</sup> January 2025 An Coimisiún Pleanála decided that

as assessed in Section 5 referral, An Coimisiún Pleanála reference 319805-24, is development and is exempted development.

**PA Reference: DEC 791:** is the construction of c. 40 no. self-contained units/apartments within the equestrian shed (granted under permission P97/396) exempt from planning permission noting that works are underway? Declaration: Is exempted development.

**ABP-307584-20 (Kilkenny Reference 19954):** Permission granted for change of use of the existing equestrian events & conference centre to light industrial unit for dry foods processing & packaging.

**PA Reference 031467:** Permission & Retention granted for the existing equestrian facility for use as public events centre, extension, outdoor display area, car parking, flood lighting, signage, entrance and hay barn and the sand arena.

**PA Reference 97396:** Permission granted to demolish existing sheds and construct 8 holiday homes, a pine furniture workshop, a hay barn & equestrian facility.

**PA Reference 91257:** Retention permission granted for stables and re-site farm and dwelling house entrance.

## 5.0 Policy Context

### 5.1. Development Plan

Kilkenny City and County Development Plan 2021 – 2027, Volume 1 but there are no provisions for relevant to this referral.

### 5.2. Natural Heritage Designations

The nearest Natura 2000 site is located approximately 1km east of the subject site is:

- River Nore SPA (site code: 004233)
- River Barrow and River Nore SAC (site code: 002162)

## 6.0 The Referral

### 6.1. Referrer's Case

A referral has been received from a local resident Mark Hennessy seeking a declaration 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. The issues raised are:

- As of December 2024, no contract has been awarded by the Minister or relevant State Authority for the 299 persons in the equestrian shed, nearly 24 months have passed since the commencement of this procurement process.
- The well was developed on lands owned by James Hughes under Folio KK7973 s, a separate legal entity from Wallslough Village which accommodates the equestrian shed under Folio KK18995. The owner of Folio KK7973 did not enter into, nor was eligible for, a procurement contract to accommodate displaced persons under SI No. 306 of 2022.
- Kilkenny County Council decision is flawed for the following reasons:
  - The Council incorrectly cited SI3076/2022 as the relevant legal basis, a statutory instrument which does not exist.
  - Our submission makes no reference to this non-existent instrument, further highlighting the errors in Kilkenny County Council's assessment.
  - The Council's Section V assessment fails to appropriately consider the terms and conditions of SI No. 306 of 2022, specifically the requirement that the development must be by or on behalf of a State Authority.

### 6.2. Planning Authority Response

No response was received.

### 6.3. Owner/ occupier's response

No response was received.

### 6.4. Further Responses (observations)

Observation received from Mark Hennessy (local resident)

- Kilkenny County Council's decision under DEC849 does not align with the derogation terms in SI 306/2022 and is incorrect.
- No Appropriate Assessment or Environmental Impact Assessment Screening carried out.
- The well is not within the same folio as that of the accommodation unit.
- No apparent Letter of Intent or Contract from the Minister authorising the use of the agricultural field under Folio KK7973, owned by James Hughes, to accommodate displaced persons from Ukraine under SI 306 of 2022.

## 7.0 Statutory Provisions

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

#### 7.1.1. Section 2(1) – Interpretation

Development has the meaning assigned to it by Section 3 and “develop” shall be construed accordingly.

Exempted development has the meaning specified in section 4.

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,

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, tiles or other material to or from the surfaces of the interior or exterior of a structure.

### 7.1.2. Section 3(1) – Development

In this Act, except where the context otherwise requires, “development” means –

- (a) The carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land.

### 7.1.3. Section 4 – Exempted Development

Section 4 (1) Outlines exempted developments for the purposes of this Act.

Section 4 (2) (a) The Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act.

### 7.1.4. Section 181 – Works by State

Sections 181(1) (a) The Minister may, by regulations, provide that, except for this section and sections 181A to 181C, the provisions of this Act shall not apply to any specified class or classes of development by or on behalf of a State authority where the development is, in the opinion of the Minister, in connection with or for the purposes of public safety or order, the administration of justice or national security or defence and, for so long as the regulations are in force, the provisions of this Act shall not apply to the specified class or classes of development.

Section 181A Approval of certain state development requiring environmental impact assessment.

Section 181B Section 181A, Criteria for decision, certain exemptions, etc.

Section 181C Procedures in advance of seeking approval under section 181B.

## 7.2. Planning and Development Regulations, 2001 (as amended)

### 7.2.1. 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.

### 7.2.2. Article 9 (1) –

Development to which article 6 relates shall not be exempted development of the purposes of the Act and the restrictions and limitation are outlined in this Article.

#### 7.2.3. Class 20F –

Temporary use by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth to accommodate or support displaced persons or persons seeking international protection of any structure or part of a structure used as a school, college, university, training centre, social centre, community centre, non-residential club, art gallery, museum, library, reading room, sports club or stadium, gymnasium, hotel, convention centre, conference centre, shop, office, Defence Forces barracks, light industrial building, airport operational building, wholesale warehouse or repository, local authority administrative office, play centre, medical and other health and social care accommodation, event and exhibition space or any structure or part of structure normally used for public worship or religious instruction.

#### Restriction/Criteria

1. The temporary use shall only be for the purposes of accommodating displaced persons or for the purposes of accommodating persons seeking international protection.
2. Subject to paragraph 4 of this class, the use for the purposes of accommodating displaced persons shall be discontinued when the temporary protection introduced by the Council Implementing Decision (EU) 2022/382 of 4<sup>th</sup> March 2022 comes to an end in accordance with Article 6 of the Council Directive 2001/55/EC of 20 July 2001.
3. The use for the purposes of accommodating persons seeking international protection shall be discontinued not later than 31 December 2028.
4. Where the obligation to provide temporary protection is discontinued in accordance with paragraph 2 of this class, on a date that is earlier than 31 December 2028, the temporary protection use of any structure which has been used for the accommodation of displaced persons shall continue for the purposes of accommodating persons seeking international protection in accordance with paragraph 3 of this class.

5. The relevant local authority must be notified of locations where change of use is taking place prior the commencement of development.
6. “Displaced persons”, for the purpose of this class, means persons to whom temporary protection applies in accordance with Article 2 of Council Implementing Decision (EU) 2022/382 of 4 March 2022.
7. “International protection”, for the purpose of this class, has the meaning given to it in Section 2(1) of the International Protection Act 2015 (No. 66 of 2015).
8. “Temporary protection”, for the purpose of this class, has the meaning given to it in Article 2 of Council Directive 2001/55/EC of 20 July 2001.

Comments: Class 20F is inserted by article 2 of SI No. 605/2022 Planning and Development (Amendment) (No. 4) Regulations 2022.

Class 20F is substituted by Article 2 of SI No. 376/2023 Planning and Development (Exempted Development) (No. 4) Regulations 2023.

### **7.3. Statutory Instruments 2022 & 2023**

7.3.1. S.I. No. 376/2023 – Planning and Development (Exempted Development) (No. 4) Regulations 2023.

#### Citation and Construction

1. (1) These Regulations may be cited as the Planning and Development (Exempted Development) (No. 4) Regulations 2023.  
(2) These Regulations shall be included in the collective citation Planning and Development Regulations 2001 to 2023.

Amendment of Part 1 of Schedule 2 to Planning and Development Regulations 2001.

2. Part 1 of Schedule 2 to the Planning and Development Regulations 2001 (SI. No. 600 of 2001) (as amended by Regulation 2 of the Planning and Development (Exempted Development) (No. 4) Regulations 2022 (SI. No. 605 of 2022)) is amended by the substitution for the matter set out at Class 20F.

7.3.2. S.I. No. 605/2022 – Planning and Development (Exempted Development) (No. 4) Regulations 2022

#### Citation and Construction

1. (1) These Regulations may be cited as the Planning and Development (Exempted Development) (No. 4) Regulations 2022.
2. These Regulations shall be included in the collective citation Planning and Development Regulations 2001 to 2022.

Amendment of Part 1 of Schedule 2 to Planning and Development Regulations 2001

2. Part 1 of Schedule 2 to the Planning and Development Regulations 2001 (SI. No. 600 of 2001) is amended by inserting the Class 20F.

7.3.3. S.I. No. 306/2022 – European Union (Planning and Development) (Displaced Persons from Ukraine Temporary Protection) Regulations 2022.

These Regulations provide that the provisions of the Planning and Development Act 2000 (other than environmental considerations in Section 181A to 181C) will not apply to certain classes of development by or on behalf of a State Authority for the purposes of providing temporary protection and support to displaced persons from Ukraine.

1. These Regulations may be cited as the European Union (Planning and Development) (Displaced Persons from Ukraine Temporary Protection) Regulations, 2022.

2. In these Regulations –

“Act of 2000” means the Planning and Development Act 2000 (No. 30 of 2000).

“Council Directive” means Council Directive 2001/55/EC of 20<sup>th</sup> July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof.

“Council Implementing Decision” means Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC and having the effect of introducing temporary protection.

“development” has the same meaning as it has in the Act of 2000.

“Displaced persons” means persons to whom temporary protection applies in accordance with Article 2 of the Council Implementing Decision.

“Relevant period” means the period commencing on the making of these Regulations and ending when the temporary protection introduced by the Council Implementing Decision comes to an end in accordance with Article 6 of the Council Directive.

“State Authority” means –

- (a) A Minister of the Government, or
- (b) The Commissioners of Public Works in Ireland.

“Temporary protection” has the same meaning as it has in the Council Directive.

3. (1) The Act of 2000 (other than sections 181A to 181C) shall not apply to the classes of development specified in the Schedule carried out by, or on behalf of, a State authority during the relevant period for the purposes of providing temporary protection to displaced persons.

(2) A reference to “proposed development” in sections 181A to 181C of the Act of 2000 shall include a reference to development of a class specified in the Schedule to which section 181A(1) of the Act of 2000 would apply if it was development of a class specified in regulations made under section 181(1)(a) of the Act of 2000.

#### Schedule – Classes of Development

##### Article 3

- 1. Reception and integration facilities.
- 2. Residential accommodation, including ancillary recreational and sporting facilities.
- 3. Medical and other health and social care accommodation.
- 4. Education and childcare facilities, including ancillary recreational and sporting facilities.
- 5. Emergency management coordination facilities.

6. Structures or facilities ancillary to development referred to in paragraphs 1 to 5, including administration and storage facilities.
7. Infrastructure and other works ancillary to development referred to in paragraphs 1 to 6.

#### **7.4. Other**

- None

### **8.0 Assessment**

#### **8.1. Is or is not development.**

- 8.1.1. Section 3(1)(a) of the Act defines development as the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land and in effect it relates to both works and the material change in the use of land.
- 8.1.2. The carrying out of works and/or the making of any material change in the use of any land or structure applies in relation to structures whether they are temporary or other structures.
- 8.1.3. The owner of the subject site in question is James Hughes, and he has changed the use of the adjacent equestrian centre to temporary use for displaced persons from Ukraine. The equestrian centre has been divided into a number of self-contained apartments with cooking and welfare facilities and is currently in operation and was declared exempted development under planning reference ABP-319805-24. The owner James Hughes has installed a water well pump on the subject site to serve the adjacent building for temporary use for displaced persons from Ukraine.
- 8.1.4. Based on the definition of development as stated in Section 3(1)(a) the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land. I have carried out a site visit, and I note a small well house (approximately 2m<sup>2</sup>) has been provided on the lands directly adjacent to the temporary

accommodation owned by James Hughes. The temporary accommodation is used for providing temporary accommodation to displaced persons from Ukraine.

8.1.5. In conclusion, based on this assessment the provision of Infrastructure and other works ancillary to the provision of temporary accommodation for displaced persons constitutes development within the meanings described as in same in section 3 of the Planning and Development Act 2000 as amended.

## **8.2. Is or is not exempted development.**

8.2.1. Based on the information submitted, the referral should be assessed in accordance with S.I. No. 306/2022 – European Union (Planning and Development) (Displaced Persons from Ukraine Temporary Protection) Regulations 2022. The development consists of a temporary well house to serve the temporary change of use of a former equestrian centre/conference centre for the temporary protection to displaced persons from Ukraine in the form of a number of self-contained apartments including cooking and welfare facilities. The facility is currently in operation.

8.2.2. S.I. No. 306/2022 Regulations allow for temporary change of use and repurposing of existing buildings and facilities including temporary new-build accommodation and structures to address this emergency which is outlined in the accompanying circular. The works must be carried out by or on behalf of a State Authority. The class of development listed in the Schedule for the purposes of providing temporary protection to displaced persons comprise:

- Reception and integration facilities.
- Residential accommodation, including ancillary recreational and sporting facilities.
- Medical and other health and social care accommodation.
- Education and childcare facilities, including ancillary recreational and sporting facilities.
- Emergency management coordination facilities.

- Structures or facilities ancillary to development referred to above, including administration and storage facilities; and
  - Infrastructure and other works ancillary to the above development.
- 8.2.3. The Regulations provide that the provisions of the Planning Act (other than the environmental considerations in Sections 181A to 181C) will not apply to certain classes of development by or on behalf of a State Authority i.e. A Minister of the Government or the Commissioners of Public Works in Ireland, for the purposes of providing temporary protection to displaced persons as specified in the Regulations.
- 8.2.4. As noted above, the accommodation is currently in operation, I note the current referral does not include a letter from Department of Children, Equality, Disability, Integration and Youth (DCEDIY). However, under the previous planning reference ABP-319805-24, the Planning Authority acknowledged that the owners of the Wallslough premises submitted an offer and expression of interest in Commercial Accommodation for Beneficiaries of Temporary Protection (BOTPs) from Ukraine via the Department of Children, Equality, Disability, Integration and Youth (DCEDIY) online portal on February 7<sup>th</sup>, 2023. The DCEDIY issued a letter of intent and noted “the Accommodation shall be made available by the contractor for the exclusive use of the Minister”. Therefore, I am satisfied that the works are been undertaken on behalf of the State and are currently in operation.
- 8.2.5. In regard to the development in which the landowner has converted the former equestrian centre to c. 40 no. self-contained apartment/accommodation units with ancillary works and has provided a water well on the adjacent lands within the ownership of James Hughes lands. I consider that the provision of a well falls within Article 3, Schedule of SI 306 of 2022, paragraph 7 Infrastructure and other works ancillary to development referred to in Paragraphs 1 to 6
- 8.2.6. I am satisfied that there was sufficient information on previous file ABP-319805-24, indicating that the works were undertaken on behalf of the Department of Children, Equality, Disability, Integration and Youth (DCEDIY). I am also satisfied having carried out a site visit that the works

are completed and that the facilities currently provide accommodation for displaced persons.

- 8.2.7. Having considered the provision as set out in S.I. 306/2022, I consider the provision of water well ancillary to the temporary accommodation for displaced persons falls within the criteria as set out in S.I. 306/2022 European Union (Planning and Development) (Displaced Persons from Ukraine Temporary Protection) Regulations 2022.

### **8.3. Restrictions on exempted development**

- 8.3.1. Article 9 of the PDR refers to restrictions on exempted development. I have assessed the provision of a water well ancillary to the provision of accommodation for displaced persons or persons seeking international protection under S.I. 306/2022 having regard to the relevant Article 9 restrictions. The proposal does not:

- (i) Contravene a condition.
- (ii) Consist of or comprise the formation, layout out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width.
- (iii) Endanger public safety by reason of traffic hazard or obstruction of road users.
  - (iiia) Endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft.
- (iv) Interfere with the character of a landscape, or a view or prospect of special amenity value or special interest.
- (v) Comprise development in relation to which a planning authority or An Coimisiún 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,

- (vi) Consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.
- (vii) 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,

8.3.2. Therefore, the development complies with Article 9 of the Planning and Development Regulations 2001 as amended.

#### **8.4. Environmental Impact Assessment (EIA) Preliminary Examination**

- 8.4.1. Development in respect of which an environmental impact assessment or appropriate assessment is required cannot be exempted development (Section 4(4) of the Planning and Development Act 2000 (as amended)). The proposal relates to provision of a water wall ancillary to the provision of temporary accommodation for displaced persons. Schedule 5 of Planning and Development Regulations 2001-2024 sets out the prescribed classes of development for the purposes of EIA. Part 1 of Schedule 5 provides a list of specified developments where an EIA is mandatory. The proposal does not fall into any of these categories. Part 2 of Schedule 5 identifies sub-threshold developments where if a development does not equal or exceed, a quantity, area or other limit specified in that Schedule in respect of the relevant class of development. Having regard to the categories as listed in Part 2, the proposal does not fall into any of these categories.
- 8.4.2. Having regard to the limited nature and scale of the development and the absence of any significant environmental sensitivities in the vicinity of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. Please refer to Form 1 as per Appendix 1 below.

## 8.5. Appropriate Assessment

- 8.5.1. Having regard to provision of a water well ancillary to the provision of temporary accommodation for displaced persons. The nearest European site is River Barrow and River Nore SAC (Site code: 002162) and River Nore SPA (Site code: 004233) located 1.1km and 1.2km respectively from the subject site. Wallslough Lake is located directly across the road from the site entrance and approximately 80 metres from the subject building and is currently used as amenity by the landowner and the residents of Wallslough holiday homes. There is no evidence of open drainage inflow or outflow from the lake. There is no evidence of an open water hydrological link between the site and Wallslough Lake. There is no evidence of a direct hydrological pathway or ecological stepping stone to the River Nore SAC from the subject site.
- 8.5.2. Having regard to the separation distance, the use of a water well on site and no evidence of direct open water pathways to the River Nore SAC, it is considered 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.

## 9.0 Recommendation

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

**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 11<sup>th</sup>

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 15<sup>th</sup> 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,
- (g) the planning history of the 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 different entity's land, which has not sought any derogation or exemption, when used for commercial purposes is development and is 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.

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Jennifer McQuaid

Planning Inspector

6<sup>th</sup> January 2026

## Appendix 1: Form 1 - EIA Pre-Screening

<b>Case Reference</b>	ACP-321664-25
<b>Proposed Development Summary</b>	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?
<b>Development Address</b>	Wallslough Equestrian Facility, Wallslough, Co. Kilkenny.
	<b>In all cases check box /or leave blank</b>
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b>  (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)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input type="checkbox"/> No, No further action required.
<b>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</b>	
<input type="checkbox"/> Yes, it is a Class specified in Part 1.  <b>EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.</b>	
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
<b>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?</b>	

<input checked="" 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.  <b>No Screening required.</b>	
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.  <b>EIA is Mandatory. No Screening Required</b>	
<input type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.  <b>Preliminary examination required. (Form 2)</b>  <b>OR</b>  <b>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</b>	

<b>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)?</b>	
<b>Yes</b> <input type="checkbox"/>	<b>Screening Determination required (Complete Form 3)</b>
<b>No</b> <input checked="" type="checkbox"/>	<b>Pre-screening determination conclusion remains as above (Q1 to Q3)</b>

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_