An Coimisiún Pleanála

Inspector's Report ACP-324443-26

Question	whether 5 stables and associated works for an equestrian isolation and quarantine facility at Thomastown, Caragh, Co. Kildare is or is not development or is or is not exempted development
Location	Thomastown, Caragh, Co. Kildare

Declaration

Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	ED/1364
Applicant for Declaration	Patrick Byrne
Planning Authority Decision	Is not exempted development

Referral

Referred by	Patrick Byrne
Owner/ Occupier	Patrick Byrne
Observer(s)	None
Date of Site Inspection	8 October 2026
Inspector	Natalie de Róiste

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1.0 Site Location and Description

1.1. The subject site is in a rural location, comprising of a yard to the rear (south) of an existing extended thatched cottage (a protected structure), accessed off a rural road. It forms part of a long narrow landholding of c. 1.9 hectares, which is under grass to the south end. There is a barrel-roofed two-storey building immediately west of the site in the same yard, which the planning authority refers to as an apartment block containing 5 apartments, as well as a large steel shed storing construction machinery, and smaller prefab buildings. The extension to the rear of the thatched cottage also gives directly onto the yard.

1.2. It is in the townland of Thomastown, 2.1 kilometres south of the village of Caragh, and c. 7 km west of Naas. The adjoining site to the east has large industrial/commercial buildings, while there are houses immediately east of that, c. 30 metres from the subject site.

2.0 The Question

2.1. Whether 5 stables and associated works for an equestrian isolation and quarantine facility is or is not development and is or is not exempted development.

3.0 Planning Authority Declaration

3.1. Declaration

Is development and is not exempted development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

One report, summarised as follows

- Location, planning history, live enforcement, and legislation set out.
- Construction constitutes works, and therefore is development.
- Enforcement warning letter for ‘erection of a building to be used for the stabling of animals or commercial storage with a floor area of 670 sqm’ was

issued on 9/12/2025 for building on this footprint. Therefore Article 9(1)(a)(viii) (prohibition on works to an unauthorised structure) is relevant.

- Class 6 of Part 3 of Schedule 2 covers roofed structures for animals not exceeding 300 sqm. The proposed stables (318 sqm) exceed this, and do not come within the class. Additionally, there are a number of nearby structures within the applicant's control which might exceed the cumulative aggregate figure (450 sqm) set out as a condition/limitation of the use class.
- The works are development, and not exempted development.

3.2.2. Other Technical Reports

Appropriate Assessment Screening Report and Determination – no potential significant effects, AA is not required.

4.0 Planning History

- Reg ref 26/60278 – Permission refused for retention and completion of workshop/storage building for three reasons: 1. Haphazard piecemeal development in a rural area, not an appropriate one-off enterprise, contrary to Objective RD O1 of the Development Plan. 2. Overbearing and insufficiently integrated into the established farmstead associated with the curtilage of the Protected Structure RPS No. B18-20, contravening Objective AH O21 and Objective AH O34 (high quality design). 3. Risk of overshadowing and overbearing on adjacent residential properties, contrary to Objective HO O6.

- ***Enforcement history***

The planner's report makes the following reference – *'UD 8973 – Warning letter issued and enforcement case ongoing. 26/60278 sought retention permission for issues raised in this case'.*

- ***On neighbouring sites:***

Reg ref 16/1366 – permission granted for subdivision of existing site and construction of dormer style dwelling house and effluent treatment plant, at Thomastown, Caragh, Naas (northeast of subject site).

5.0 Policy Context

5.1. Kildare County Development Plan 2023-2029 (as varied)

5.1.1. The site is not zoned.

The site is adjacent to a protected structure, RPS no B18-20, described as 'thatched house', which lies within the blue line boundary (lands within the ownership or control of the would-be applicant). It is not in an Architectural Conservation Area. There are no objectives for preservation of views, or objectives for the preservation of any sites or features of archaeological, geological, historical, scientific or ecological interest on the site. There are no Tree Preservation Orders on the site.

5.2. Natural Heritage Designations

The site is c. 3 km from Mouds Bog SAC.

6.0 The Referral

6.1. Referrer's Case

The referrer makes the following case:

- The Board should set aside the decision of the Planning Authority, which erred in fact and law.
- The Planning Authority considered unrelated and irrelevant planning history and enforcement issues in their assessment, which is outside the remit of a Section 5 referral.
- The proposal is shown in the drawings as a roofed stable building of 300 sqm, which is permitted under Class 6. It is accompanied by an Agricultural Consultant's report confirming that it will be appropriately managed, and that it is part of an existing agricultural enterprise. The Planning Authority did not dispute the agricultural use.

- The Planning Authority concluded that the proposal was not exempted development due to an active enforcement file on a previous development, and due to the development exceeding the maximum floor area of 300 sqm.
- The Planning Authority has misinterpreted Article 9(1)(a)(viii), which refers to extensions, alterations, repairs, or renewals of unauthorised structures. This is an application for an entirely new agricultural building, and the enforcement file UD8973 is of no relevance to it. The Authority has given too much weight to an enforcement investigation, which does not come within the narrow grounds of Article 9(1)(a)(viii). Such an approach is inconsistent, disproportionate, and a misinterpretation of the law.
- The proposal is fundamentally different to the previous development refused under 26/60278, which the Planning Authority referred to repeatedly.
- Class 6 was introduced to avoid unnecessary planning applications for routine agricultural development, and the Planning Authority is frustrating this legislative objective.
- The Planning Authority has not stated how they measured the structure at 318 sqm, when the drawings show it at 300 sqm.
- There is no lawful basis to find that the development does not fall within the parameters of the exemption at Class 6, and the Commission is requested to issue a declaration that it constitutes exempted development.

6.2. Planning Authority Response

No response.

6.3. Further Responses

None received.

7.0 Statutory Provisions

7.1. Planning and Development Act, 2000

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

- ‘development’ has the meaning assigned to it by Section 3;
- “exempted development” has the meaning specified in Section 4;
- “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) states that:

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

7.1.3. Section 4(2) of the Act provides that the Minister may, by regulations, provide for any class of development to be exempted development. The main regulations made under this provision are the Planning and Development Regulations 2001-2025.

7.1.4. Section 4(4) of the Act sets out that if a development requires an Environmental Impact Assessment or Appropriate Assessment, it is not exempt.

Section 4(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.

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

7.2.1. Article 6(3) of the Planning and Development Regulations 2001 (as amended) (‘the Regulations’) provides that *‘subject to article 9, in areas other than a city, a town or an area specified in section 19(1)(b) of the Act or the excluded areas as defined in section 9 of the Local Government (Reorganisation) Act, 1985 (No. 7 of 1985),*

development of a class specified in column 1 of Part 3 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 3 opposite the mention of that class in the said column 1'.

7.2.2. Article 9 sets out a large number of restrictions and limitations on exemptions available under Article 6, including but not limited to developments that would contravene a condition attached to a permission, developments that would contravene specific Development Plan objectives, developments affecting national monuments, developments requiring Appropriate Assessment, and developments that would obstruct any public right of way or endanger public safety.

7.3. Schedule 2 deals with Exempted Development, with Part 3 of that Schedule dealing with *Exempted Development – Rural*. Class 6 of Part 3 deals with Agricultural Structures as follows:

Column 1 Description of Development	Column 2 Conditions and Limitations
Agricultural Structures Class 6 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 300 square metres (whether or not by extension of an existing structure), and any ancillary provision for effluent storage.	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 450 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 such structure shall be constructed within a flood zone identified in statutory land use plans as Flood Zone A or Flood Zone B or where the probability of flooding is moderate to high or erosion control zone. 8. No such structure shall be within 60 metres of a public or private water source. 9. No such structure shall be situated, at the closest point, less than 50 metres from a water course or water body in the case of new farmyards, and not less than 10m in

	the case of extensions/modifications to an existing facility. 10. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure. 11. The use of this Class of exemption requires a declaration from the relevant Planning authority under section 5 of the Principal Act, declaring the exemption is applicable prior to commencement of construction. 12. Ancillary provision shall include as appropriate the installation of any signage, fencing or other safety infrastructure as recommended by the Health and Safety Authority regarding Slurry Safety.

8.0 Assessment

8.1. Is or is not development

8.1.1. The proposal is for the construction of a building (which has been partly commenced). This is an act or operation of construction, which constitutes works, and therefore development.

8.2. Is or is not exempted development

8.2.1. The referrer sets out that the development comprises of stables and associated facilities (feed and bedding storage, agricultural hard standing, manure management facilities). The exemption for Agricultural Structures (Class 6, Part 3, Schedule 2, of the Planning and Development Regulations 2001) is a relevant exemption.

8.2.2. Structures not exceeding 300 square metres are exempt (subject to a number of conditions and limitations). The Local Authority states the building would measure 318 sqm (gross floor area), while the referrer states that it would measure 300 sqm. I note the drawings provided by the referrer do not measure to the stated scale, and the font is so small as to be almost illegible, even with magnification. No original drawings were provided by the Local Authority. I have consulted the online documents for their file ED/1364 at https://kildarecoco.ie/AllServices/Planning/LicencesandDeclarations/Section5SI30/2026/ and found the measurements illegible.

8.2.3. I undertook a site visit, and was able to examine the foundations as laid. I consider the drawings accurate, having regard to the location of the proposed development to be completed, relative to existing boundaries and buildings. However, it is not possible to infer from the construction undertaken to date (the pouring of concrete) the eventual precise gross floor area of the proposed building, as this depends on the width of the walls.

8.2.4. The Commission may wish to request further information from the referrer on the precise measurements of the proposed structure. However, given the conditions and limitations on this use class, (considered below) that may not be necessary.

8.3. Restrictions on exempted development

8.3.1. As noted above, there are a number of Conditions and Limitations, considered in turn below.

1. No such structure shall be used for any purpose other than the purpose of agriculture.

The stated purpose is an agricultural one, the stabling of horses.

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 450 square metres gross floor space in aggregate.

I did not see evidence of agricultural activity on the site, and I would not consider this to be an existing farmyard complex. I did not observe any other such structures (ie, structures for the housing of animals) within 100 metres of the building, or the yard.

The referrer states (in the original submission to the council) that this is proposed as an isolation and quarantine facility for a principle horse breeding operation in Rathangan. The site to the west is that of Briglec/the National Heat Treatment Centre, an industrial use.

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.

Details on adequate effluent storage are provided.

4. No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road.

Both the structure and the dungstead are more than 10 metres from the public road.

5. No such structure within 100 metres of any public road shall exceed 8 metres in height.

The proposed building is less than 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.

The planner's report states that the stables are within 80 metres of the nearest dwelling, which is in the applicant's control, and considers this condition and limitation complied with. However, I note the wording of the condition, which refers to consent from the owner, and *'as may be appropriate, the occupier or person in charge thereof'*. As such, in my view, the consent of occupiers is required, where the owner is not the occupier.

The planner's report refers to the barrel-roofed two-storey structure (c. 55 metres from the proposed stables) as a block containing 5 apartments. I did not find any planning history for this building. The referrer (in the original submission to the council) refers to '*the nearby apartment development'* as well as the thatched cottage. I did not undertake an internal inspection of either building.

It is c. 70 metres from the proposed stables to the rear elevation of the extended thatched cottage (which gives directly onto the yard, with no rear boundary wall or garden). I consulted https://www.eircode.ie/, and found three eircodes for the extended thatched cottage, with addresses Apartment 3, Apartment 4, and Apartment 5. The barrel-roofed building (55 metres from the proposed stables) has an eircode with the address Branach Developments Ltd. I note there are seven post boxes outside the gate to the site.

Additionally, the nearest neighbouring house outside the site is c. 87 metres from the proposed stables. This is the house permitted under 16/1366. The parent property (from which it was subdivided) is c. 100 metres from the proposed stables.

No consent of any owner or occupier has been submitted. I do not consider that this condition has been complied with.

7. No such structure shall be constructed within a flood zone identified in statutory land use plans as Flood Zone A or Flood Zone B or where the probability of flooding is moderate to high or erosion control zone.

The site is not within such a Flood Zone or an erosion control zone. There is no indication of a moderate to high probability of flooding.

8. No such structure shall be within 60 metres of a public or private water source.

No information has been submitted on water sources. I am not aware of any public or private water sources within 60 metres of the site. The Local Authority expressed no concerns on the matter.

9. No such structure shall be situated, at the closest point, less than 50 metres from a water course or water body in the case of new farmyards, and not less than 10m in the case of extensions/modifications to an existing facility.

There is no evidence of farming activity on the site, and as such I consider 50 metres the relevant distance. I did not observe any water course or water body within this distance.

10. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.

No details on proposed finishes have been submitted.

11. The use of this Class of exemption requires a declaration from the relevant Planning authority under section 5 of the Principal Act, declaring the exemption is applicable prior to commencement of construction.

The Council considered this condition complied with. This is not my view. Having undertaken a site visit and observed the large areas of poured concrete, I consider that construction of the stables has commenced. No declaration was issued by the Planning Authority prior to commencement of construction.

12. Ancillary provision shall include as appropriate the installation of any signage, fencing or other safety infrastructure as recommended by the Health and Safety Authority regarding Slurry Safety.

The letter from the Registered Agricultural Consultant states that no slurry will be produced on this holding.

8.4. **Conclusion on exemptions**

8.4.1. The relevant exemption is Class 6 of Part 3 of Schedule 2, Agricultural Structures. The referrer has not submitted adequate drawings to ascertain whether the proposal comes under the 300 sqm limit for such structures, or marginally exceeds it. Additionally, the proposal does not comply with two of the conditions and limitations of Class 6. Firstly, the proposed structure is situated within 100 metres of houses or other residential buildings, other than the house of the person providing the structure, with no written consent from owners or occupiers. Secondly, no Section 5 Declaration was issued by Kildare County Council prior to commencement of construction. The proposal is development, and is not exempted development.

9.0 **EIA Screening**

9.1. The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended (or Part V of the 1994 Roads Regulations). No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.

10.0 Appropriate Assessment

10.1. Having considered the nature, scale and location of the project, including the details submitted by the Registered Agricultural Consultant, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site. I conclude that the proposed development (alone) would not result in likely significant effects on any European site. The proposed development would have no likely significant effect in combination with other plans and projects on any European site(s). No further assessment is required for the project. No mitigation measures are required to come to these conclusions.

11.0 Water Framework Directive

11.1. An assessment of the proposed development has been undertaken with regard to the objectives set out in Article 4 of the EU Water Framework Directive.

11.2. Having considered the nature, scale, and location of the proposed development, it is concluded that the proposal will not result in any risk of deterioration in the status of any water body, including surface waters (rivers and lakes), groundwater, transitional waters, or coastal waters. This applies to both qualitative and quantitative status, and in respect of temporary and permanent effects.

11.3. In addition, the proposed development will not adversely affect the achievement of established environmental objectives, including the protection, maintenance, and improvement of water body status, as required under the Directive.

11.4. Accordingly, the proposed development is considered to be compliant with the requirements of Article 4.

12.0 Recommendation

12.1. I recommend that the Commission should decide this referral in accordance with the following draft order.

WHEREAS a question has arisen as to whether 5 stables and associated works for an equestrian isolation and quarantine facility at Thomastown, Caragh, Co. Kildare is or is not development or is or is not exempted

development is or is not development or is or is not exempted development:

AND WHEREAS Patrick Byrne requested a declaration on this question from Kildare County Council and the Council issued a declaration on the 29th day of June, 2026 stating that the matter was development and was not exempted development:

AND WHEREAS Patrick Byrne referred this declaration for review to An Coimisiún Pleanála on the 14th day of July, 2026:

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) article 6(3) and article 9(1) of the Planning and Development Regulations, 2001, as amended,

(e) Part 3 of Schedule 2 to the Planning and Development Regulations, 2001, as amended, and use class 6 in particular,

(f) the planning history of the site,

(g) the pattern of development in the area:

AND WHEREAS An Coimisiún Pleanála has concluded that:

(a) The construction of a stables constitutes works, and therefore constitutes development within the meaning of the Planning and Development Act 2000, as amended

(b) The works do not come within the scope of the exemption under Class 6 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001 (as amended), for Agricultural Structures

NOW THEREFORE An Coimisiún Pleanála, in exercise of the powers conferred on it by section 5 of the 2000 Act (as amended), hereby decides that the construction of 5 stables and associated works for an equestrian isolation and quarantine facility at Thomastown, Caragh, Co. Kidlare is development and is not exempted development.

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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 me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.

Natalie de Róiste
Planning Inspector

23 October 2026

Form 1 - EIA Pre-Screening

Case Reference	ACP-324443-26
Proposed Development Summary	Stables
Development Address	Thomastown, Caragh, Co. Kildare.
	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)	☒ Yes, it is a 'Project'. Proceed to Q2. ☐ No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
☐ Yes, it is a Class specified in Part 1. **EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.**	State the Class here
☒ 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?	
☒ 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.**	
☐ Yes, the proposed development is of a Class and meets/exceeds the threshold. **EIA is Mandatory. No Screening Required**	**State the Class and state the relevant threshold**
☐ Yes, the proposed development is of a Class but is sub-threshold. **Preliminary examination required. (Form 2)** **OR** **If Schedule 7A information submitted proceed to Q4. (Form 3 Required)**	**State the Class and state the relevant threshold**

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 ☐	**Screening Determination required (Complete Form 3)** ***[Delete if not relevant]***
No ☒	**Pre-screening determination conclusion remains as above (Q1 to Q3)** ***[Delete if not relevant]***

Inspector: _____Date: _____