



<b>AN BORD PLEANÁLA</b>	
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AEP-	
20 MAR 2024	
Fee: €	220.00
Type:	card
Time:	16:00
By:	hand

Referrals,  
An Bord Pleanála,  
64 Marlborough Street,  
Dublin 1,  
D01 V902

Our ref: 230203  
Your ref:

Date: 20<sup>th</sup> of March 2024

**Re: Section 5 (3) Declaration of Exemption Referral for 20kV Grid Connection at Keiloge Solar Park, in relation to Pl. Ref 17/113**

Dear Sir/Madam,

On behalf of our client Keiloge Solar Limited (the Applicant), MKO have been instructed to refer a declaration issued by Waterford City and County Council (Pl Ref. D5 2023 28) that the laying of a 20kV underground grid connection is development and is not exempted development. This referral is made on behalf of Keiloge Solar Ltd. under section 5(3)(a) of the Planning and Development Act 2000 (as amended). The declaration (Pl Ref. D5 2023 28) was received by the Applicant on 22<sup>nd</sup> of February 2024. The subject request (Pl Ref. D5 2023 28) was submitted to Waterford City and County Council on 13<sup>th</sup> of September 2023 and was accompanied by the following documents:

- > Cover Letter prepared by MKO setting out the context of the proposed grid connection;
- > Section 5 Application Form;
- > Appropriate Assessment Screening Report;
- > Site Location Map and Drawings.

### **The Question**

The question which is the subject of this referral to the Board is that which was referred to Waterford City and County Council which is as follows:

*Whether the development of 20kV underground grid connection is or is not exempted development. The proposed development consists of the laying of 20kV underground electricity transmission cables and associated joint bays and communications chambers in the public road (R708) from the permitted Keiloge Solar Park (Pl. Ref 17/113) to the existing Kilcarragh substation (38 kV). The proposed cable route is c.1.4km in length and runs through the townlands of Keiloge & Monamintra.*

### **Context of the Proposed Grid Connection**

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*“the carrying out by any undertaker authorised to provide an electricity service of development consisting of the laying underground of mains, pipes, cables or other apparatus for the purposes of the undertaking”.*

### **Article 9(1) Restrictions on Exemptions**

Relevant provisions of Article 9(1) which sets out restrictions of Exempted Development where works shall not be exempted development for the purposes of the Act are set out below:

*“9(1) (a) Development to which article 6 relates shall not be exempted development for the purposes of the Act—*

*(i) Contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act.*

*(ii) endanger public safety by reason of traffic hazard or obstruction of road users,*

*(iii) consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, watermain, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31(a) specified in Column 1 of Part 1 of Schedule 2 applies.*

*(iiia) endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft,*

*(v) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,*

*(viiA) comprise of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12(1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No 2 of 1930) as amended.*

*(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,*

*(viiC) if it is development to which Part 10 applies unless the development is required by or under any statutory provision (other than the Act or these regulations) to comply with the procedures for the purposes of giving effect to the Council Directive.”*

### **Precedent Cases**

The Board is directed to the following determinations issued by the Board which are similar in nature to the proposed works which are the subject of this referral.

#### **ABP-302895-19**

The Board determined that the provision of a medium voltage (20kV) underground grid connection between the permitted solar farm development at Dysart, Johnstownbridge, County Kildare and the

## Policy Compliance

In addition to the aforementioned grounds for this referral it is considered that the proposed grid connection from the permitted Keiloge Solar Farm to the existing Kilcarragh 38kV substation is supported by policy at the local and national level with particular reference to our obligations under the Climate Action & Low Carbon Development Act (2015) and the Climate Action Plan 2023. In order for Ireland to achieve its target of net zero emissions by 2050 it is critical that projects such as the permitted Keiloge Solar Farm are carried out as a matter of urgency, including the provision of the means of connection and supply of solar energy to the national grid. In particular, it is critical that works which fall within the scope of Section 6(1) of the Planning and Development Regulations 2001 (as amended) and those who do not fall within the classes of development set out in Article 9(1) are deemed by the Planning Authorities to be works which are exempted development.

## National Energy Security Framework

The National Energy Security Framework was first published in April 2022 and updated in November 2023. The Framework provides an overarching and comprehensive response to Ireland's energy security needs in the context of the war in Ukraine. Of particular relevance to the subject grid connection, the framework outlines proposals to speed up the country's shift to increased energy efficiency and indigenous renewable energy systems. Relevant to the subject application and the development of solar renewable energy projects in general are the following responses:

**Response 25:** Align all elements of the planning system to fully support accelerated renewable energy development;

**Response 26:** Review grid connection arrangements for renewable electricity projects and the development of system services to accelerate the growth in renewable electricity.

The proposed works are aligned with the actions set out in the Energy Security Framework as it will enable for an increased provision of renewable energy onto the grid and will contribute to the diversification of the electricity sector away from imported fossil fuels.

## Climate Action Plan 2023

The Climate Action Plan 2023, adopted in December 2022, sets out a roadmap to deliver Ireland's climate objectives. It aligns with the legally binding carbon budgets and sectoral ceilings that were agreed by Government in July 2022 following the Climate Action & Low Carbon Development Act (2015). The Climate Action & Low Carbon Development Acts, commit Ireland to a legally binding target of net-zero greenhouse gas emissions no later than 2050, and a reduction of 51% by 2030.

The Climate Action Plan sets out a range of emissions reductions for each sector of the economy. Largescale deployment of renewable energy is considered critical to aid in the decarbonisation of the power sector, stating:

*“The proposed pathway includes a massive and rapid build-out of renewable generation capacity (wind and solar power generation technologies) and will also rely on the continued build-out and strengthening of grid infrastructure, the deployment of zero emissions gas and improved electricity demand management. The decarbonisation of the electricity sector will be an immense challenge as we face a growing demand for electricity and a need to ensure security of supply, while providing support for the decarbonisation of other sectors through the electrification of transport and heat.”*

Having regard to the above, it is clear that there is strong policy support for the provision of additional renewable energy assets, such as the Keiloge Solar Park. The achievement of the specified targets is reliant on the development and completion of renewable energy proposals and development necessary to enable the operation of such, including that of the proposed works to facilitate the efficient transfer of energy generated by the permitted Keiloge Solar Park to the national grid. Without the



Comhairle Cathrach & Contae Phort Láirge  
Waterford City & County Council

23 FEB 2024

PLANNING & DEVELOPMENT ACT 2000, AS AMENDED.

Section 5

Planning Authority Reference No. D5 2023 28

**WHEREAS** a question has arisen as to whether the provision of 20kv underground grid connection to Kilcaragh Grid with the proposed route from Keiloge Solar Park along the R708 to the Kilcaragh Substation on Kilcaragh Park Road located approximately 1.4 km north of permitted development 17/113 is development, which is exempted development within the meaning of the Act.

**AND WHEREAS** Keiloge Solar Limited have requested a declaration on the said question from Waterford City & County Council on the 5<sup>th</sup> of September 2023

**AND WHEREAS** Waterford City & County Council, in considering this request, had regard to the details submitted and:

- (a) Sections 2(1), 3(1), 4(4), 172(1) and 177U(9) of the Planning and Development Act, 2000, as amended,
- (b) Articles 3, 6 and 9 and Class 26, Part 1, Schedule 2 of the Planning and Development Regulations, 2001, as amended,

**AND WHEREAS** the Planning Authority concluded that:-

- (a) the said works come within the scope of Sections 2(1) and 3(1) of the Act and constitutes development,
- (b) the said works come within the scope of Class 26, Part 1, Schedule 2, of the Planning and Development Regulations, 2001, as amended,
- (c) the said works do not come within the scope of Section 4(4) of the Planning and Development Act, 2000, as amended.
- (d) the said works do come within the scope of Articles 9(1)(a)(iii) of the Planning and Development Regulations, 2001, as amended, as currently presented it is considered that, the works would endanger public safety by reason of traffic hazard or obstruction of road users.

**NOW WHEREAS** Waterford City and County Council, in exercise of the powers conferred on it by section 5(2)(a) of the 2000 Act, as amended, it is hereby decided that the provision of 20kv underground grid connection to Kilcaragh Grid with the proposed route from Keiloge Solar Park along the R708 to the Kilcaragh Substation on Kilcaragh Park Road located

Waterford City and County Council, City Hall, The Mall, Waterford, X91 PK15.

Comhairle Cathrach agus Contae Phort Láirge, Halla na Cathrach, An Meal, Port Láirge, X91 PK15

[contact@waterfordcouncil.ie](mailto:contact@waterfordcouncil.ie)

Tel : 0761 10 20 20

[www.waterfordcouncil.ie](http://www.waterfordcouncil.ie)

approximately 1.4 km north of permitted development 17/113 is development and is not exempted development.

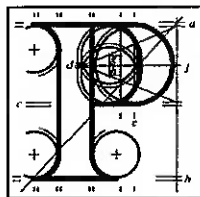
**IT IS DECLARED** that the said development constitutes development which is not exempted development.



For: Paul Johnston  
A/ Director of Services,  
Corporate Services, Culture and Planning

Dated this: 22/02/2024

*In accordance with Section 5 (3) (a) of the Planning & Development Act, 2000 (as amended), any person issued with this declaration may, on payment of the prescribed fee, refer this declaration for review by An Bord Pleanála, 64, Marlborough Street, Dublin 1, within 4 weeks of date of issuing of the declaration.*



An  
Bord  
Pleanála

Referral Form

~~Planning Appeal Form~~

## Your details

### 1. Appellant's details (person making the appeal)

Your full details:

(a) Name

Keiloge Solar Limited

(b) Address

5 Mount Street Upper, Dublin 2

## Agent's details

### 2. Agent's details (if applicable)

If an agent is acting for you, please **also** provide their details below. If you are not using an agent, please write "Not applicable" below.

(a) Agent's name

Isobel O'Beirne Morrissey c/o MKO

(b) Agent's address

MKO, Tuam Road, Galway, H91 VW84



## Supporting material

6. If you wish you can include supporting materials with your appeal.

Supporting materials include:

- photographs,
- plans,
- surveys,
- drawings,
- digital videos or DVDs,
- technical guidance, or
- other supporting materials.

## Acknowledgement from planning authority (third party appeals)

7. If you are making a third party appeal, you **must** include the acknowledgment document that the planning authority gave to you to confirm you made a submission to it.

## Fee

8. You **must** make sure that the correct fee is included with your appeal. You can find out the correct fee to include in our Fees and Charges Guide on our website.