

AN BORD PLEANÁLA
LDG- 072088 - 24
ABP- _____
20 MAY 2024
Fee: € 220.00 Type: Card Email: _____
Time: 14.16pm By: Hancl

Mark Hennessey
Wallslough
Co. Kilkenny
R95 YF6E

20th May 2024

The Secretary,
An Bord Pleanála,
64 Marlborough Street,
Dublin 1,
D01 V902

Referral: Concerns Regarding Proposed Accommodation of 299 Persons within the Wallslough Equestrian Facility, Wallslough Village, Wallslough, Co. Kilkenny

Kilkenny Planning Section 5 Declaration Reference: DEC 792

Dear Sir / Madam,

I refer to the above and my Section 5 submission to Kilkenny County Council relating to same.
please find attached the following: -

1. My Section 5 submission along with a received receipt from Kilkenny County Council.
2. Kilkenny County Council's Section 5 Declaration decision Reference DEC 792.
3. Letter dated 22nd of April 2024 from Mr. Sean McKeown Director of Services for Kilkenny County Council.
4. Letter dated 19th of April 2024 to Kilkenny County Council outlining environmental concerns.

In the letter dated 22nd of April 2024 wrote to residents confirming the developments location at approximately 1km from the River Nore SAC wherein it stated it was the council's:-

"considered view..... the proposed development..... would not be likely to have a significant effect on any Natura 2000 designated sites"

I have sought the basis for this decision and the assessment report supporting same from the council, as their reasoning was unclear.

Notably, in the very same letter dated 22nd of April 2024, it stated that Kilkenny County Council were also requesting additional information from the developers concerning water supply and wastewater sewerage proposals for further consideration.

It is a contradictory position to one on hand say there are no issues environmental issues; whilst on the other hand for the council to request technical information and proposal from the developer relating to wastewater and water supply.

Given the forgoing I am referring Kilkenny County Council's decision to An Bord Pleanála for re-consideration for the following reasons

1. I am concerned the development has not been properly screened for appropriate assessment.
2. I am concerned the development has not been properly screened for Environmental Impact Assessment on the basis of installation of waste water treatment plants are a type of project covered by category 11 (C) of part 2.

Kind regards,

Mark Hennessy

Wallslough

Kilkenny

R95 YF6E

REF: ENF21087

DATE: 28th September 2021

Peter Thomson
Peter Thomson Planning Solutions
4 Priory Grove
Kells
Co. Kilkenny

RE: Alleged unauthorised change of use of premises to Furniture workshop
At: Wallslough Village, Wallslough, Co. Kilkenny

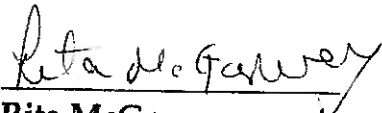
A Chara,

Further to previous correspondence in connection with the above I now wish to inform you that the Planning Enforcement Department has fully investigated this matter and wish to advise that this case is now closed. Upon review of the planning history of the site it is considered that the location of the furniture workshop area observed within the subject premises during the site inspection is in accordance with the workshop location shown on approved plans under planning ref. P.97/396. No unauthorised change of use has occurred in this regard.

In light of the above the planning enforcement department do not intend taking any further action in this case at this juncture. File ENF21087 has now been closed.

If you wish to discuss this matter further, please contact Lisa McCann, Executive Planner, on 056 7794010.

Mise le meas


Rita McGarvey
Staff Officer
Planning



Comhairle Chontae Chill Chainnigh
Halla an Chontae Sraid Eoin Cill Chainnigh
R95 A39T

Kilkenny County Council
County Hall John Street Kilkenny
R95 A39T



Our Ref: DEC 792

22nd April 2024

Mark Hennessy
Wallslough,
Kilkenny
R95 YF6E

**Re: Application for Declaration under Section 5 of the Planning & Development Acts 2000-
as amended**
ADDRESS OF DEVELOPMENT: Wallslough Village, Wallslough, Co Kilkenny

A Chara,

I refer to the above application and now attach Declaration relating to same.

Mise le meas,

Una Kealy
Administrative Officer
Planning Section

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**Declaration and Referral on Development and Exempted Development under
Section 5 of the Planning & Development Acts 2000 as amended**

Kilkenny County Council Reference: DEC 792

WHEREAS a question has arisen "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".

AND WHEREAS the said question was referred to Kilkenny County Council by Aidan Kelly, Craft House, Wallslough, Kilkenny R95 FT82 on 25/03/2024.

AND WHEREAS Kilkenny County Council, in considering this referral, had regard to:

- (a) Section 2 & 3 of the Planning and Development Act 2000, as amended
- (b) S.I 306 of 2022 - EUROPEAN UNION (PLANNING AND DEVELOPMENT) (DISPLACED PERSONS FROM UKRAINE TEMPORARY PROTECTION) REGULATIONS 2022
- (c) Section 181(A) to 181(C) of the Planning and Development Act 2000 as amended

AND WHEREAS Kilkenny County Council has concluded that:

The construction of c. 40 no. self-contained units/apartments within the equestrian shed (granted under permission P97/396) is for residential purposes to house Beneficiaries of Temporary Protection and is thus covered under Article 3 of .SI. 306 of 2022.

NOW THEREFORE Kilkenny County Council, in exercise of the powers conferred on it by Section 5 of the 2000-2022 Act, hereby decides that the construction of c. 40 no. self-contained units/apartments within the equestrian shed (granted under permission P97/396) 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

**Una Kealy, AO
PLANNING**

22/04/2024

Footnote: Section 5 (3)(a) of the Planning & Development Acts 2000-2010 states: 'Where a declaration is issued under this section, any person issued with a declaration under subsection (2)(a) may, on payment to the Board of such fee as may be prescribed, refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.'

Mark & Mary T Hennessy and Martin & Mia Phelan
Wallslough
Co. Kilkenny
R95 YF6E and R95 H317

Email: [REDACTED]

19th April 2024

Messrs. Tim Butler & Sean McKeown,
Directors of Services
Kilkenny County Council,
81 John Street Lower,
Collegepark,
Kilkenny, R95 PK20,
Sent by email: [REDACTED]
[REDACTED]

Subject: Concerns Regarding Proposed Accommodation of 299 Persons within the Wallslough Equestrian Facility, Wallslough Village, Wallslough, Co. Kilkenny

Dear Messrs. Tim Butler & Sean McKeown,

We refer to the above and wish to draw your attention to the fact that our homes are situated directly adjacent to the development in question. Enclosed below are our concerns and queries, which we submit for your attention.

Concrete Tank and Disposal of Material

We would like to draw your attention to the image provided below (Image 1), which depicts a significant excavation on the aforementioned property. Following this excavation, the removed material was transported off-site. We are currently seeking confirmation regarding two points: first, that the material was transported by licensed haulier, and second, that it was deposited at a licensed landfill facility.



Image 1: Aerial View of Equestrian Shed, it's Location and Substantial Excavation Works

Image 2 showcases the installation of a notably large tank, presumably for effluent. However, as observed in Images 2, 3, and 4, it appears that the large concrete tank is un-bunded and without any waterproofing membrane around the tank to stop any leakage.



Image 2: Aerial View of Tank Installed



Image 3: Aerial View of Tank Installed, and Back Filled with Top.



Image 4: Aerial View of Tank Installed, and Back Filled with Top.

Image 4 illustrates a mound of new material that has been brought onto the site. Once more, we are requesting confirmation that this material was transported by licensed carriers and, secondly, that it is not waste material but rather certified material.

Location of Possible Effluent Tank

We draw your attention to Image 5 below, which outlines the locations of three private wells, an Irish Water pumping station, two new boreholes, and the aforementioned tank. Notably, this tank is situated less than 99 meters away from private well number 1 and the Irish Water pumping station, both of which are downstream from the tank's location.

According to the Environmental Protection Agency's Code of Practice for Domestic Wastewater Treatment Systems (population equivalent <10), systems designed for fewer than 10 individuals require the tank plant and infiltration/treatment area to be a minimum of 60 meters away from down-gradient domestic wells. However, in this instance, the system is intended to accommodate up to 299 people, significantly exceeding the 10-person threshold. Consequently, it should not be located in close proximity to any of these private wells or the Irish Water pumping station.

Similarly, the new boreholes No. 2 located to the southeast are downstream from the tank, while the new borehole No 1 to the north of the tank is within a 100-meter radius, which is additionally concerning.

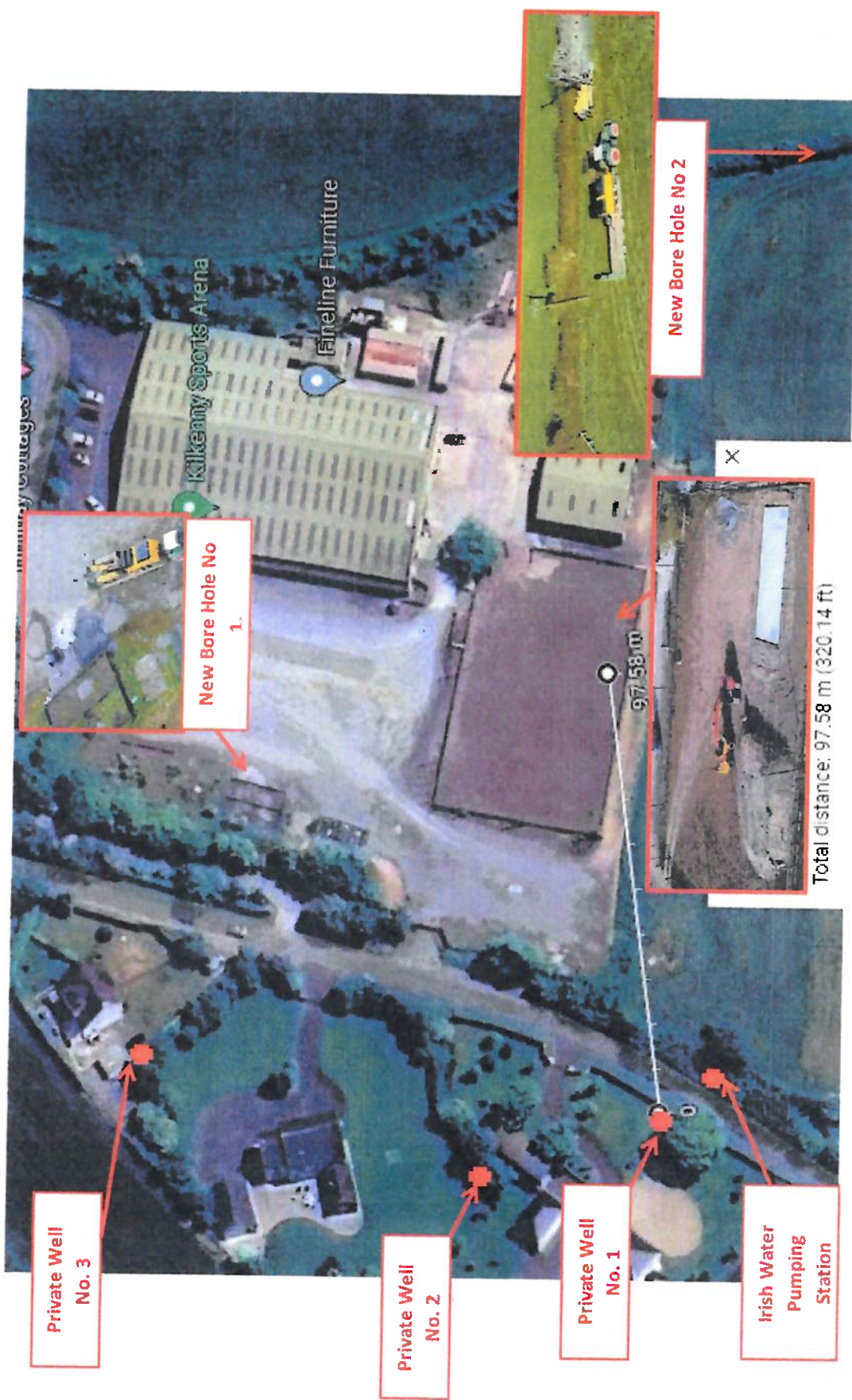


Image 5: Location of Tank from Private Wells

We have several concerns and inquiries that we respectfully request Kilkenny County Council (KCC) to address and answer:

- Water Framework Directive;
 - With regard to the water framework directive are KCC satisfied that in the event of a potential spillage (tank failure etc.) that there will not be a serious environmental incident with respect to the nearby water body which is potential linked to the Rover Nore (see below for details and connections of the aquifer)?
 - Wallslough Lake which is a surface water asset (and is also connected to the local aquifer by means of an artesian spring) – hence if there was a spill or a leak from a tank, or transportation from same, there is a significant risk of impacting upon the surface water body and the entire aquifer (see below image 8)?
 - Do KCC not have obligations under the Water Framework Directive to identify situations and rectify accordingly, where this could occur?
 - Can KCC please indicate that they do not foresee any risk to the local aquifer, the adjoining Wallslough Lake or the local domestic wells with regard to the proposed wastewater storage and emptying arrangements?
 - Is the on-site effluent storage proposal as is being progressed in this instance identified in the Water Framework Directive as an acceptable approach and suitable management process for any premises?

- The standard KCC Planning Application Form which is available on the KCC website has a section relating to *Proposed Wastewater Management/Treatment*?
 - There appears to be 4no. options which can be identified as a potential option to select from.
 - There does not appear to be an option available to choose from which aligns with what is being proposed i.e. on-site storage.
 - Do KCC permit developments with only on-site storage options?
 - It is noted that a technical process has not been developed or outlined within the submission with regard to the process of wastewater.
Is this something which is typically accepted by KCC for any entity by KCC?
 - Are KCC neglecting their own basic wastewater requirements in this instance?

Proposed Wastewater Management/Treatment	
a. Existing connection []	OR New connection []
b. TO: Public Sewer []	
c. Other on-site treatment system [] Please specify _____	
d. Conventional septic tank system []	
If an existing septic tank have you demonstrated that the existing system is capable of accommodating and assimilating any extra loading as a result of the proposed development	
Yes []	No []
Is your application form accompanied by an up to date site characterisation form and professional indemnity certificate? ²⁰	
Yes []	No []

Image 6: Appendix 4 of the KCC Planning Application Form

- Appendix 4 of the KCC Planning Application Form (Image 7 below)
 - It is understood there is no on-site treatment proposed in this instance?
 - Again, are KCC neglecting their own basic wastewater requirements in this instance?

Where the disposal of wastewater for the proposed development is other than to a public sewer:

- Information on the on-site treatment system proposed and evidence as to the suitability of the site for the system proposed.

Image 7: Appendix 4 of the KCC Planning Application Form

- Storage of a waste product needs an IPC licence?

It would be normal for a development of the type proposed to require a Licence issued by the Environmental Protection Agency (EPA) however it is understood that there has been no consultation with the EPA in this regard?

It would also be reasonable to expect the developer to clearly outline the direct and significant risks of the proposal on the following factors:

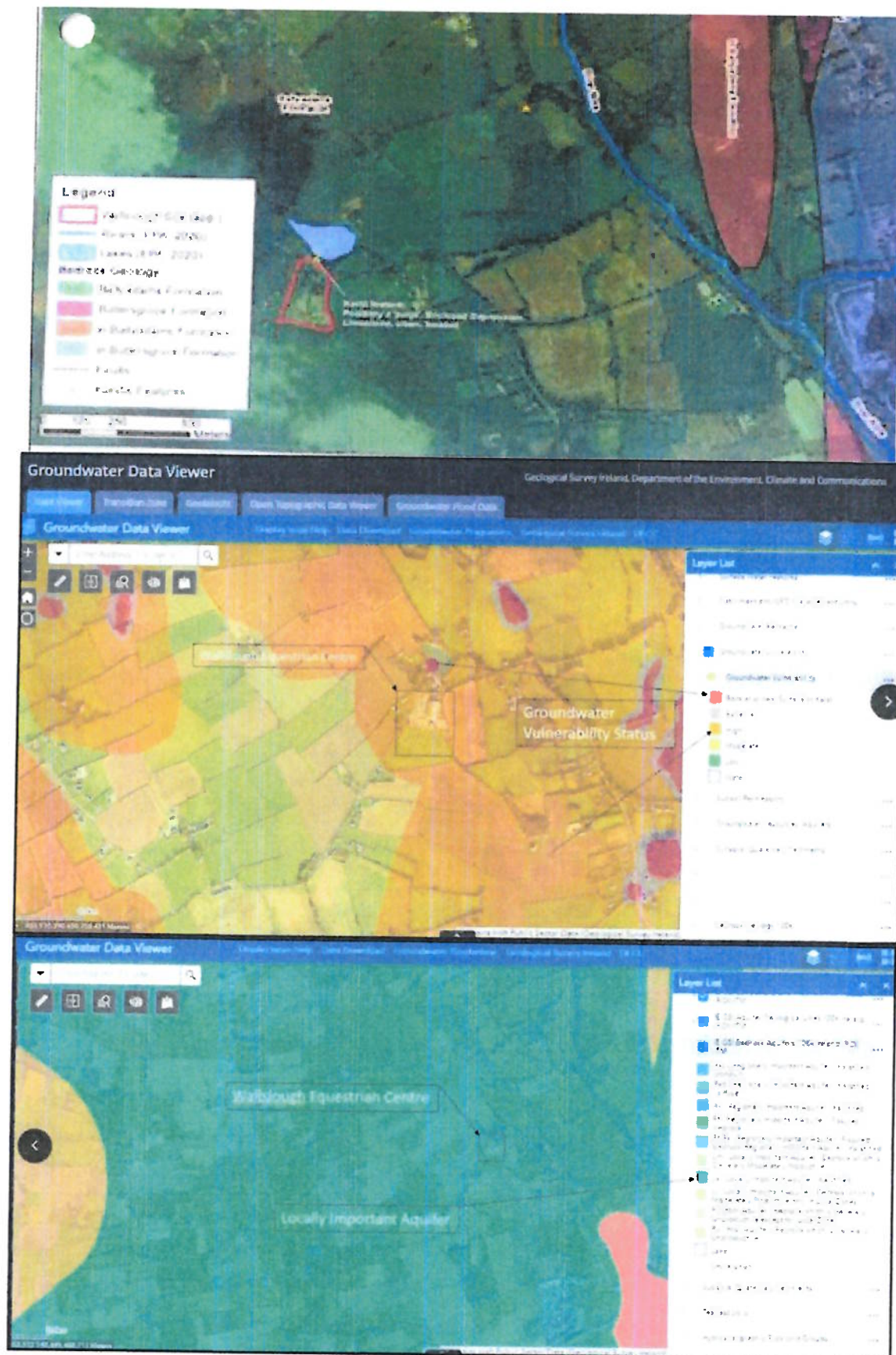
- a) Risk to population and human health;
- b) Risk to biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC;
- c) land, soil, water, air and climate;
- d) material assets, cultural heritage and the landscape;
- e) the interaction between the factors referred to in points (a) to (d)

Have KCC satisfied themselves with regard to potential risks and that the proposed wastewater infrastructure and wastewater management arrangements are in compliance with the relevant European and Irish legislation?

The local aquifer as per relevant maps describes the local aquifer been of high vulnerability. "Vulnerability" is a term used to represent the intrinsic geological and hydrogeological characteristics that determine the ease with which groundwater may be contaminated by human activities (EPA Drinking Water ADVICE NOTE Advice Note No. 7). There appears to be gravel overburden throughout indicating significant pollution pathways.

With the identification of the link between the Wallslough Lake and the facility, there are two potential pathways for pollution into local wells;

- Spill from the facility to the lake and from the artesian spring supplying the lake back into the groundwater/aquifer and also
- Pollution directly into the ground from the storage tanks.



The above maps clearly show how the proposed development site boundary is actually overlapping the GIS's highlighted area of Aquifer Vulnerability higher risk category "X, rock at/near surface or Karst".

Therefore, any spill or leak from effluent holding tanks shall have a significant consequence. No source protection zones for local wells or the Wallslough Lake have been developed to establish a degree of risk as a result of discharge?

Impact upon Domestic Drinking Water Wells – As described previously with the potential for two pollution pathways to impact upon local wells from the facility there is a significant risk that local drinking water supplies shall be impacted upon.

The EPA (<https://www.epa.ie/water/dw/hhinfo/protprivwell/>) describes the best way to ensure your well is safe is to look for any potential sources of contamination such as:

- Domestic wastewater treatment systems such as septic tanks;
- Land spreading of slurry;
- Storage of chemicals such as disinfectants, pesticides, paints;
- Fuel storage tanks for home heating oil;
- Abandoned boreholes.

In the proposed facility, there are to be storage tanks which are at risk of overflowing, leaking and require emptying on a regular basis, all resulting in a significant risk of spills and contamination.

A groundwater protection plan for each of the adjacent wells has not been developed in accordance with good practice and EPA Drinking Water ADVICE NOTE Advice Note No. 7. Source protection zones have not been established for any of the existing domestic drinking wells to evaluate the degree of risk – which is likely to be considerable given the aquifer designation.

The location of the surface water lake is within 25m of the site boundary hence locating the surface water lake closely within the zone of influence of any wastewater or other discharge point from the proposed facility. Considering this is located within a Karst landscape the travel time through a location with such high conductivity rates would inevitably lead to pollution reaching the lake. With pollution reaching the lake there shall be pollution likely to reach the River Nore (again due to the high conductivity and short travel times of a typical Karst aquifer – confirmed as such by GIS maps indicating the facility is located upon a high vulnerability aquifer).

The Wallsough lake is fed from an artesian well which comes to the surface at this location. The lake is located circa 25m from the proposed facility.

No account has been taken of an overland pathway in the event of the lake overspilling onto the adjoin road due high water-table levels in the area and the profile of the hydraulic gradient.

It is inevitable that a source pathway from the proposed development site to the River Nore and Wallslough lake is via the local aquifer. No account has been acknowledged or assessed of the widespread local drinking well infrastructure within very close proximity of the proposed facility which shall potentially be polluted as a result of a spill or leak. The matters arising highlight once more the fact that the infrastructure required to negate any impact on the environment and to

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accommodate such a facility is simply not present in such a rural landscape setting as is proposed. In summary, there is potential for impact on Wallslough Lake and the River Nore and local drinking wells (through the local aquifer) due to the following:

1. **Source** are petrol, potential chemical spills, potential firefighting extinguishment water, industrial chemical cleaning products, effluent and process discharge. There is no treatment system to be installed of any description other than buried tanks containing raw effluent.
2. **Pathway** In a previous planning permission application (file ref.: 19954) for the site the applicants expert acknowledged that "it is inevitable that there would be an indirect pathway within the aquifer from the site to the Wallslough lake and the Nore river". The applicant in their own previously submitted report have acknowledged there is a pathway/link between the facility, Wallslough Lake and the River Nore. This would be typical of a Karst aquifer where high conductivity of pollutants is inevitable thus speeding up the process of contamination from the proposed facility into the local aquifer and impact upon local wells (in addition to the lake and River Nore). No account has been taken of a potential overland pollution pathway in the event Wallslough lake overspilled onto the adjoining road/ditches (due to the groundwater gradient profile and connectivity to the proposed facility).
3. **Receptor** is into the ground water, which is Karst limestone as identified on Geological Survey Ireland's independent maps and an aquifer deemed to be of a high vulnerability which in turn has the potential to pollute (through the local aquifer) groundwater wells, the Wallslough lake and the River Nore.

This is especially critical considering the site's proximity to a lake, situated just 500 meters away, and its proximity to the River Nore SPA, River Barrow, and River Nore SAC, all within a 1km distance from the development site boundary. Can Kilkenny County Council confirm that both an Environmental Impact Assessment and an Appropriate Assessment have been conducted in light of these considerations?

Well Drilling

Referring to the EPA's abstraction volume estimation published in 2018, a population of 299 individuals would require a volume of 65.78 cubic meters per day, as illustrated in Image 9 below.

According to EPA regulations, if you abstract 25 cubic meters (25,000 litres) of water or more per day, registration of this abstraction with the EPA is mandatory. These regulations are outlined in the European Union (Water Policy) (Abstractions Registration) Regulations 2018 (S.I. No. 261 of 2018). We request that Kilkenny County Council confirm whether this system has been registered in accordance with these requirements.

59	Domestic use[iii] (e.g. for Drinking Water)	persons/households	litres/day	m ³ /day
60	Population Served - 0.22 m ³ / day per person supplied	299	65780	65.78
61	No. households / connections - 0.6 m ³ / day per household supplied	0	0	0
62		rooms		
63	Hotel (without swimming pool) - 0.15 m ³ / day per no. hotel rooms	0	0	0
64	Hotel (with swimming pool) - 0.5 m ³ / day per no. hotel rooms	0	0	0
65		employees		
66	Offices - 0.015 m ³ / day per no. employees	0	0	0
67	Commercial Business / Small Schemes - 0.035 m ³ / day per no. employees	0	0	0
68	Total domestic volume		65780	65.78

Image 9: EPA Abstraction Volume Estimation

We have several concerns and inquiries that we respectfully request Kilkenny County Council to address and answer:

- Is it not the case that it is necessary to obtain full planning permission before sinking a well for non-domestic purposes?
- It is understood that one of the purposes for requiring planning permission for a non-domestic supply is to enable the planning authority to assess the likely draw on the local aquifer and as such to give the Planning Authority the option to seek further information on the matter and potentially seek an Environmental Assessment where the draw on the aquifer could have significant environmental impacts on the adjacent groundwater and surface water bodies.
- Is the local aquifer suitable and does it have an adequate recharge for the supply required to facilitate the new installation?
- In this instance there is both a surface water course and a karst aquifer which could result in significant impacts on both if the level of the water table was significantly reduced as a result of significant pumping and drawdown rates?
- What investigations and/or environmental assessment have been undertaken in this instance to establish the potential effects on the adjoining surface water body, artesian well and the local existing domestic wells?
- Furthermore, as per EUROPEAN UNION (DRINKING WATER) REGULATIONS 2023 if it is proposed to use the private well to supply a public or commercial activity, or if it is proposed to supply more than 50 people or will be producing more than 10m³ of water per day, then the supply will be classed as a regulated drinking water supply and will be required to register with the local authority and comply in full with the requirements of the EUROPEAN UNION (DRINKING WATER) REGULATIONS 2023.
- Has registration of this supply been undertaken in this instance in parallel with submission of planning permission for the non-domestic well?
- EUROPEAN UNION (DRINKING WATER) REGULATIONS 2023– Drinking Water Regs;

○ The Regulations state the following;

○ *Local Authorities:*

- *shall support risk assessment and risk management of catchments for abstractions, through the sharing of relevant data, expertise and information, consistent with their roles and responsibilities under Water Framework Directive,*
 - *may carry out further characterisation in the catchment areas of sources and shall share findings with Water Suppliers and the EPA,*
 - *may review and assess source risk assessments and source risk management plans,*
 - *shall collect, and make available to the EPA, relevant information on the nature of the supplies, and their risk and risk management assessments,*
 - *may support the planning and implementation of measures in catchments of abstractions, and may refer actions to the relevant implementing bodies where appropriate, and*
 - *shall prioritise, where appropriate, the enforcement of measures established for contaminant-specific safeguard zones, where these are established*
- Have Kilkenny Co. Co. undertaken any risk assessment or analysis with regard to the well(s) being drilled on the site in question at Wallslough to establish the potential environmental impact of such a draw (for 350 persons +) on the local aquifer. existing artesian spring, Wallslough Lake (surface water body) all of which are directly adjacent to the site in question?
 - Has there been any assessment as to what potential impact such a well(s) shall have on local wells in the immediate vicinity?

In summary, have Kilkenny Co. Co. fully and diligently fulfilled their own obligations to assess and negate any potential impacts or other as identified under EUROPEAN UNION (DRINKING WATER) REGULATIONS 2023? Should any harm be inflicted upon our well, we will be compelled to pursue legal recourse as the means to address the situation and seek appropriate restitution.

Regards,

- Mark & Mary T Hennessy
- Martin & Mia Phelan

CC:

- Kathleen Funchion TD ([REDACTED])
- Malcolm Noonan TD ([REDACTED])
- John Paul Phelan TD ([REDACTED])
- David Fitzgerald ([REDACTED])
- Peter Cleere ([REDACTED])
- Michael Doyle ([REDACTED])
- Joe Malone ([REDACTED])

- La [redacted]wer, CEO, Kilkenny Co Co [redacted]
- Laura Burke, Director General, Environmental Protection Agency [redacted]
- Niall Gleeson, Chief Executive, Irish Water [redacted]

1. The first part of the paper discusses the importance of the study of the history of the United States.

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KILKENNY COUNTY COUNCIL
COUNTY HALL
JOHN STREET
KILKENNY

26/03/2024 09:14:57

Receipt No. : CASHOFF/0/378674

MARK HENNESSY,
WALLSLOUGH,
KILKENNY.
R95 YF6E
SECTION 5

SECTION 6 DECLARATION 80.00
GOODS 80.00
VAT Exempt/Non-vatable

Total : 80 00 EUR

Tendered :
CASH 80.00

Change : 0.00

Issued By : ANNE MARIE RYAN
From : CASH OFFICE
Vat reg No.0252726L

Council's decision in due course.

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Kilkenny County Council
County Hall John Street Kilkenny
R95 A39T

Kilkenny

Creating Sustainable Communities and Places

26/03/2024

Declaration under Section 5 of the Planning and
Control Act 2001 (as amended)

Statement

Wallslough, Co Kilkenny

your application in connection with the above 25/03/2024
receiving attention. You will be informed of the

Please find enclosed receipt for €80.00 confirming payment of the application fee.

Mise le meas

May Heffernan

Planning



Comhairle Chontae Chill Chainnigh
Halla an Chontae Sraid Eoin Cill Chainnigh
R95 A39T
Pobail agus Áiteanna Inbhuanaithe a Chruthú

Kilkenny County Council
County Hall John Street Kilkenny
R95 A39T

Creating Sustainable Communities and Places

Kilkenny

Ref: DEC792

26/03/2024

Mark Hennessy
Wallslough
Kilkenny
R95 YF6E

**Re: Application for Declaration under Section 5 of the Planning and
Development Act 2000 (as amended)**

Address of Development

Wallslough Village, Wallslough, Co Kilkenny

A chara

I wish to acknowledge receipt of your application in connection with the above 25/03/2024 and inform you that the matter is receiving attention. You will be informed of the Council's decision in due course.

Please find enclosed receipt for €80.00 confirming payment of the application fee.

Mise le meas

May Heyland

Planning



Comhairle Chontae Chill Chainnigh
Killean Chontae Sraid Eoin Cill Chainnigh
R95 A39T

Kilkenny County Council
County Hall John Street Kilkenny
R95 A39T

Kilkenny

Our Ref: DEC 792

22nd April 2024

Mark Hennessy
Wallslough,
Kilkenny
R95 YF6E

**Re: Application for Declaration under Section 5 of the Planning & Development Acts 2000-
as amended**

ADDRESS OF DEVELOPMENT: Wallslough Village, Wallslough, Co Kilkenny

A Chara,

I refer to the above application and now attach Declaration relating to same.

Mise le meas,

Una Kealy

Una Kealy
Administrative Officer
Planning Section



**Declaration and Referral on Development and Exempted Development under
Section 5 of the Planning & Development Acts 2000 as amended**

Kilkenny County Council Reference: DEC 792

WHEREAS a question has arisen "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".

AND WHEREAS the said question was referred to Kilkenny County Council by Aidan Kelly, Craft House, Wallslough, Kilkenny R95 FT82 on 25/03/2024.

AND WHEREAS Kilkenny County Council, in considering this referral, had regard to:

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Una Kealy, AO
PLANNING

22/04/2024

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An Bord Pleanála, 64 Marlborough Street, Dublin 1, Tel 01 8588100 or LoCall 1890 275175, www.pleanala.ie



Comhairle Chontae Chill Chainnigh

Halla an Chontae Sraid Eoin Cill Chainnigh
R95 A39T

Kilkenny County Council

County Hall John Street Kilkenny
R95 A39T



Our Ref: DEC 792

22nd April 2024

Mark Hennessy
Wallslough,
Kilkenny
R95 YF6E

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as amended**
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Una Kealy
Administrative Officer
Planning Section



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AND WHEREAS Kilkenny County Council has concluded that:

The construction of c. 40 no. self-contained units/apartments within the equestrian shed (granted under permission P97/396) is for residential purposes to house Beneficiaries of Temporary Protection and is thus covered under Article 3 of S.I. 306 of 2022.

NOW THEREFORE Kilkenny County Council, in exercise of the powers conferred on it by Section 5 of the 2000-2022 Act, hereby decides that the construction of c. 40 no. self-contained units/apartments within the equestrian shed (granted under permission P97/396) 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

**Una Kealy, AO
PLANNING**

22/04/2024

Footnote: Section 5 (3)(a) of the Planning & Development Acts 2000-2010 states: 'Where a declaration is issued under this section, any person issued with a declaration under subsection (2)(a) may, on payment to the Board of such fee as may be prescribed, refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.'
An Bord Pleanála, 64 Marlborough Street, Dublin 1, Tel 01 8588100 or LoCall 1890 275175, www.pleanala.ie

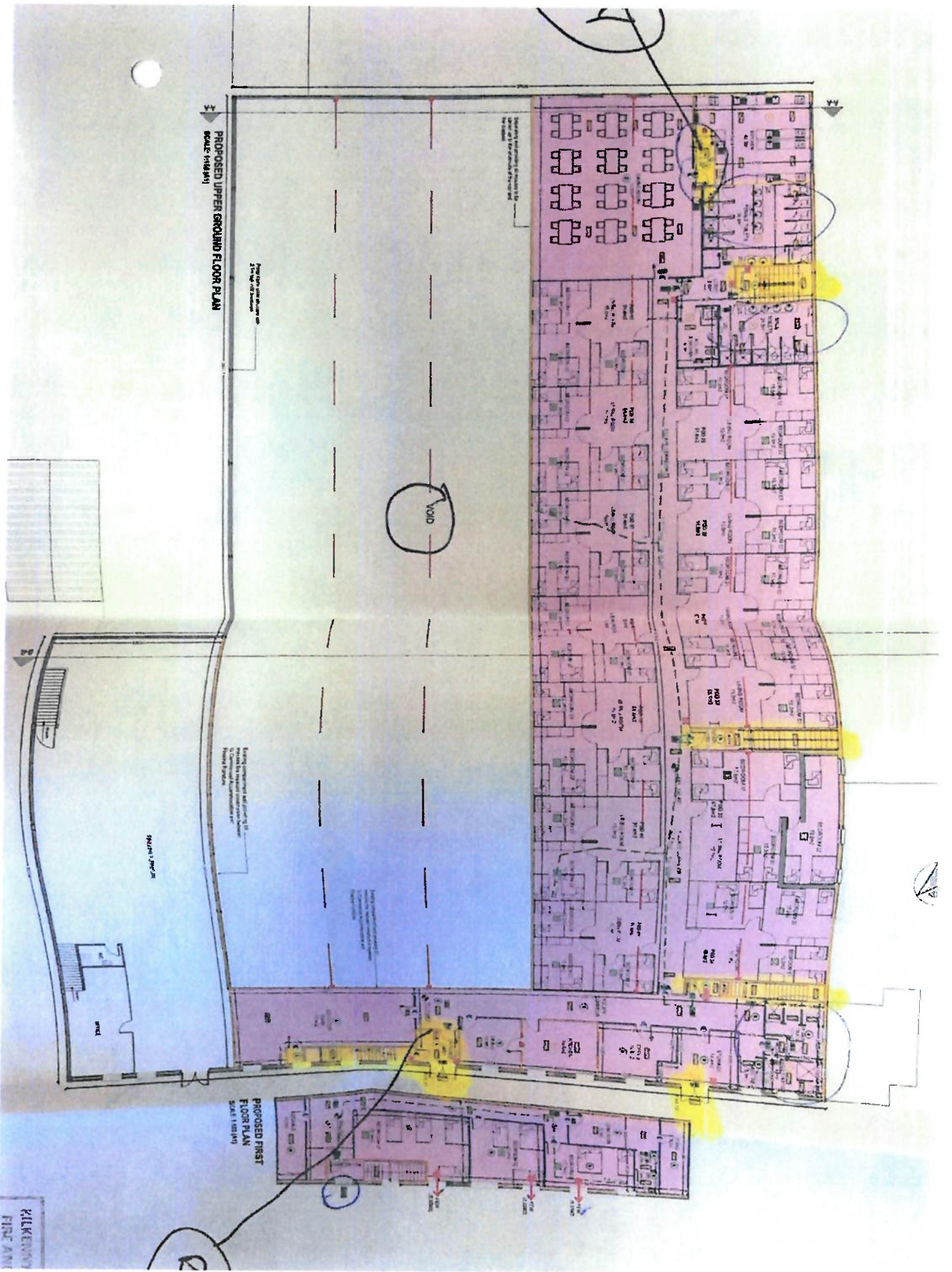


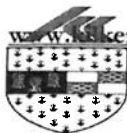


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MOORE ARCHITECTS

KILMER, NY COMPANY CO
FIRE AND RESCUE SER





**Application Form for Declaration and Referral on
Development and Exempted Development under
Section 5 of the Planning and Development Acts 2000 (as amended)**

(This is a non-statutory advice application prepared by Kilkenny County Council for the purpose of advising people what information is required for a decision to be made under Section 5. This document does not purport to be a legal interpretation of the statutory legislation nor does it state to be a legal requirement under the Planning and Development Acts 2000 (as amended))

APPLICANT DETAILS:

Applicant Name	Mark Hennessy
Address:	Wallslough Kilkenny R95 YF6E
Contact Telephone No:	[REDACTED]
Fax No. or E-mail Address, if any:	[REDACTED]

PERSON/AGENT ACTING ON BEHALF OF APPLICANT (IF ANY):

Name	
Address:	
Telephone No:	
Fax No. or E-mail Address:	
Should all correspondence be sent to the Agents address? Yes { } No { }	

Section 5 of the Planning and Development Acts 2000 (as amended) states that if any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of these Acts, any person may, on payment of the prescribed fee, request in writing from the relevant Planning Authority a declaration on that question, and that person shall provide to the Planning Authority any information necessary to enable the authority to make its decision on the matter:

Sample Question: Is the construction of shed at Hebron Road, Kilkenny development and if so, is it exempt development?

PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT:

Is the construction of circa 40 no. self-contained units/apartments within the equestrian shed (shed granted permission under P.97/396) allowed without planning permission noting the works are well underway?

If Kilkenny County Council determines that planning permission is unnecessary, could they please specify the technical and legal grounds for this decision?

Completion of this question is essential. Failure to do so will invalidate your application.

ADDITIONAL INFORMATION WHICH MAY ASSIST THE PLANNING AUTHORITY:

As supported in the attached letter, on the 28th of September 2021 Kilkenny Council's Enforcement Section confirmed in writing to Residents that planning reference P.97/396 was in enforce. Planning P.97/396 granted on the 17th of December 1998 is for the follows: -

"to demolish existing sheds & construct 8 holiday homes, a pine furniture workshop, a hay barn & equestrian facility"

Given the foregoing the valid planning permission in force at the subject premises is for use as an equestrian facility – i.e. agriculture.

Therefore, the premises are not eligible for Class 20F designation under S.I. 376 &/or 306. It is unclear if any new intervening events have occurred since the confirmation by Kilkenny Council's Enforcement Section on the 28th of September 2021.

The Applicant is advised to set out the matter on which the declaration is sought, as comprehensively as possible using additional pages if necessary and should use additional material including plans and drawings as appropriate to give as full account as possible on this matter.

LOCATION ADDRESS OF DEVELOPMENT:

Site Location Map must be attached

Attached.

SITE AREA:

Area of site to which the application relates in hectares

Unknown ha

WHERE THE APPLICATION RELATES TO A BUILDING OR BUILDINGS IF AVAILABLE:

Gross floor space of any existing building(s) in m ² :
Gross floor space of proposed works in m ² :
Gross floor space of work to be retained in m ² (if appropriate):
Gross floor space of any demolition in m ² (if appropriate):
Overall height of any existing structure in metres:
Overall height of any proposed structure in metres:
Distance of existing or proposed structure to nearest dwelling(s) not being the applicants, where appropriate:

WHERE THE APPLICATION REFERS TO A MATERIAL CHANGE OF USE OF ANY LAND OR STRUCTURE OR THE RETENTION OF SUCH A MATERIAL CHANGE OF USE:

Details of Existing or Previous use: Equestrian/Agricultural Shed
Proposed use (or use it is proposed to retain): Housing of refugees
Nature and extent of any such proposed use (or use it is proposed to retain): Please find attached the relevant fire application drawings and photos of extensive extension and excavation / site works.

LEGAL INTEREST OF APPLICANT IN THE LAND OR STRUCTURE:

Please tick appropriate box to show applicant's legal interest in the land or structure C.	A. Owner	B. Occupier
	C. Other ✓	

Where legal interest is 'Other', please expand further on your interest in the land or structure:

Concerned neighbour where principles of proper planning and sustainable development are not being upheld by incorrect use of a statutory instrument planning exemption.

Name & Address of Landowner and/or Occupier if not the Applicant:

Jim & Tommy Hughes, Wallslough Village, R95T9FE

DEVELOPMENT DETAILS

Please tick appropriate box	Yes	No
Does the proposed development consist of work to a protected structure and/or its curtilage or proposed protected structure and/or its curtilage?		X
Does the proposed development involve the demolition of any habitable house or part thereof?		X

Are you aware of any valid planning applications previously made in respect of this land/structure?

Yes ☒]

No ☐]

If Yes – Please provide Planning Register Ref. No(s) if known:

Planning P.97/396

The Applicant is advised that notwithstanding the completion of the above application form, that the Planning Authority may require the Applicant to submit further information or particulars with regard to the request in order to enable the Planning Authority to issue the declaration on the question.

The Applicant is also advised that the Planning Authority may request other person(s) other than the applicant to submit information on the question which has arisen and on which the declaration is sought.

Subject to the above, the Planning Authority shall issue the declaration on the question that has arisen and the main reasons and considerations on which its decision is based to the person who made the request and where appropriate, the owner and occupier of the land in question, within 4 weeks of the receipt of the request.

APPLICATION FEE ATTACHED:

Fee payable **€80.00**: Payment must be made by Cash or Cheque which should be made payable to Kilkenny County Council

I hereby declare that, to the best of my knowledge and belief, the information given in this form is correct and accurate:

Signed: Mark Hennessy

Date: 26/03/2024

Applicant or Agent as appropriate

Failure to complete this form or attach the necessary prescribed documentation, or the submission of incorrect information or omission of required information will lead to the invalidation of your application.

THE FOLLOWING DOCUMENTATION IF AVAILABLE SHOULD BE SUBMITTED WITH YOUR APPLICATION:

- Site Location Map (1:2500 Rural Areas) (1:1000 Urban Areas) with location of works clearly marked in red
- A Site Layout Plan (Scale 1:500)
- Drawings of the development (Scale 1:50)
- All drawings to differentiate between the original building, all extensions and proposed development

- Copy of Planning Permission, Fire Safety Certificate or any other statutory approval already obtained, where applicable
- Prescribed Fee of €80.00 Euro

COMPLETED APPLICATIONS TO BE RETURNED TO:

**Kilkenny County Council
Planning Department
County Hall
John Street
Kilkenny**

(

22nd April, 2024

Wallslough Residents Group

RE: Concerns regarding proposed accommodation at Wallslough

Dear Mark,

Thank you for your email of 4th April last. I acknowledge and understand your concerns. First and foremost I would like to assure you that Kilkenny County Council are complying fully with the regulations, introduced by Government to provide temporary exemption under the Planning and Development Act for the provision of emergency accommodation for displaced persons from Ukraine (i.e. Statutory Instrument 306/2022) and international protection refugees (i.e. Statutory Instrument 376/2023). Second, Kilkenny County Council are required to implement Government policy. While eligible proposals may avail of exemptions under the Planning and Development Act, they must still comply with all other relevant regulatory requirements, including under the remit of local authorities, namely fire safety, building control and environmental regulations. In this regard, the Council are following up with all developments that have been notified to it, to ensure compliance with these regulations.

As regards your queries in relation to the proposed accommodation facility at Wallslough, I wish to advise that this property is currently under consideration under the Emergency Ukrainian Refurbishment Programme. The property owner is in receipt of a Letter of Intent from the Department of Children Equality Disability Integration and Youth (DCEDIY) for temporary use of the premises as an accommodation facility. The Letter of Intent states that the accommodation shall be made available by for the exclusive use of the Minister subject to regulatory compliance. The Letter of Intent suffices to commence a process, whereby the various service areas of Kilkenny County Council, namely Fire Services, Building Control and Environment must ensure the proposal is in compliance with the respective regulatory requirements. DCEDIY will only enter into a contract with the property owner once they have received confirmation from the Council that the property is in compliance with all regulatory requirements.

I will now respond to the specific queries raised in your email of 4th April, as per responses highlighted in Green:

1. Specifics regarding exchanges related to water supply, wastewater and sewerage services between Kilkenny Co. Co., Irish Water, and relevant Government Departments and Agencies.

In relation to water supply, we are aware that Uisce Éireann have responded to the property owner in relation to upgrade works which would be required. Furthermore, we can confirm that a proposal was received by the Council's Environment Section in relation to providing water supply from existing and planned wells. This is under consideration.

In relation to wastewater and sewerage services, the Council's Environment Section have sought further information from the property owner in relation to the wastewater proposal, which will require agreement from Uisce Éireann.

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2. Documentation pertaining to compliance provisions for wastewater management proposals, highlighting adherence to relevant EU Directives on wastewater management. Please address the proximity of surface water courses and the reliance of local residents on groundwater for drinking water (wells). Please note the locality's vulnerable groundwater 'high risk' status relative to the Wallslough's aquifer.

For your convenience, in Appendices A and B, we have utilized NPWS and Geological Survey Ireland Mapping to accomplish the following:

- A. Highlight the approximate 1KM distance between the development site boundary and the River Nore SPA, as well as the River Barrow and River Nore SAC.

The site is located approximately 1 km from the River Nore SAC.

There is no evidence of a direct hydrological pathway or ecological stepping stone to the SAC from the subject site. On the basis of the information available, it is the considered view of the Council's Planning Section that the proposed development, individually or in combination with other plans or projects, would not be likely to have a significant effect on any Natura 2000 designated sites.

- B. Confirm the site location within the area of 'High' Groundwater Vulnerability.

Additionally, in Appendix C, we have included aerial photos illustrating significant excavation works completed on the site, followed by subsequent underground concrete tank structures dated March 21st and April 3rd, 2024, respectively.

As stated above, the Council's Environment Section have requested further information from the property owner in relation to the wastewater proposal, which will require agreement from Uisce Eireann.

3. Correspondence on the surface water implications of the development, taking into account historical and on-going road flooding.

For your convenience, we direct your attention to the following appendices: -

- A. Appendix D: Historical photos from 2018 depicting the extent of road flooding. At that time, members of the community contacted Kilkenny County Council Senior Engineer Seamus Kavanagh, copied on this email, for assistance in alleviating the issue.

In response to flooding of a section of the road at Wallslough, the Council's Thomastown/Callan Area Office implemented mitigation measures in 2021 on the road verges. Works carried out entailed 2m deep soakage trenches along the length of the flooding area on foot of complaints from Mark and Mary Hennessy at the time.

There is no natural outfall for surface water drainage at this location. Flooding of the road only happens on occasion during extreme rainfall events when the water table is too high and ground conditions cannot cater for same. The water then recedes after the rainfall event. It is the considered view of the Council's Roads Section that the proposed change of use will not make further contribution to surface water on the public road.

- B. Appendix E: Engineer's report dated April 7th, 2020, submitted in support of the planning application (which was not enacted, as previously mentioned in correspondence dated March 14th, 2024). This report addresses surface water runoff onto the public road, stating:

"It must be noted that there may have been past issues, as the applicant provided us with documents, as attached in Appendix C, confirming extensive drainage upgrades carried out last year in the hardstanding/car park area in Wallslough Village."

We have included extracts of the relevant documentation and photos referred to by the engineer above.

The Engineer's report you reference refers to a document submitted as part of a response to a further information request under planning application ref 19954. That permission was not executed. The report referenced is from Mr. Denis Brennan consulting engineer and sets out measures which were carried out at Wallslough prior to the planning application ref 19954. I copy below the response to the further information request (item 5) in purple as follows:

5. It is noted that the existing road side drainage is poor in the vicinity of the service entrance to the development and is liable to flooding during severe weather events. In order to mitigate against flooding during these events, the applicant is requested to submit proposals to prevent surface water run-off from the development hardstand areas onto the public road.

Kilkenny County Council Highways department visited the site to review this item with the appointed consultant engineer Denis Brennan. Surface water drainage from the build and was deemed to be in line and functioning as per the granted application. A detailed engineering response from Denis Brennan forms part of this request for further information. We should note that some of the storm gullies did silt up a few years ago and these were fully flushed and remediated last year. Subsequently the management of Wallslough have introduced a maintenance schedule to de-silt all gullies on an ongoing basis.

Denis Brennan's report further states the issue had been addressed by his client prior to lodging of the planning application.

The application was appealed to An Bord Pleanála (ABP) and a decision to grant was made by ABP on 17/2/21.

Appendix C: We have included a sample photo of ongoing road flooding dated October 23rd, 2023, along with a video from the same date, attached to this email.

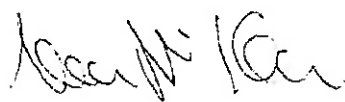
As stated above, in response to flooding of a section of the road at Wallslough, the Council's Thomastown/Callan Area Office implemented mitigation measures in 2021 on the road verges. Works carried out entailed 2m deep soakage trenches along the length of the flooding area on foot of complaints from Mark and Mary Hennessy at the time.

There is no natural outfall for surface water drainage at this location. Flooding of the road only happens on occasion during extreme rainfall events when the water table is too high and ground conditions cannot cater for same. The water then recedes after the rainfall event. It is the considered view of the Council's Roads Section that the proposed change of use will not make further contribution to surface water on the public road.

D. Appendix C: An aerial photo (dated March 21st and April 3rd, 2024) depicting significant spoil heaps placed over the drainage works referenced in the engineer's report dated April 7th, 2020. The Council's Environment Section note your concerns and will ensure as part of regulatory compliance that the property owner puts in place measures to dispose of all waste in accordance with the relevant Waste legislation.

I trust the above information is helpful.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Sean McKeown', written in a cursive style.

SEAN Mc Keown
Director of Services

