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AN COIMISIÚN PLEANÁLA
LDG- 082867-25
ACP-
15 SEP 2025
Fee: € 220 Type: Cheque
Time: 10.49 By: Hand

The Secretary
An Coimisiún Pleanála
64 Marlborough Street
Dublin 1

15 September 2025

Re: Referral of a Declaration under Section 5 of the Planning and Development Act, 2000, as amended

Maudlins Industrial Estate, Monread Road, Naas, Co. Kildare

KCC Ref.: ED1257

Dear Sir

This Referral of a Declaration under section 5 of the Planning and Development Act, 2000, as amended, is submitted on behalf of QK Cold Stores Ltd., Maudlins Industrial Estate, Monread Road, Naas, Co. Kildare.

The subject matter of this Referral is whether the installation of an additional water tank, a structure of the nature of plant for the purposes of an industrial process, is or is not development and is or is not exempt development.

Kildare County Council (KCC) issued a Notification of Declaration dated 20 August 2025, stating that the development is not exempt development. A copy of the Notification is attached at Appendix A.

The statutory referral fee of €220 is attached herewith.

1 Site Location and Context

The site on which the structure is situated forms part of the Maudlins Industrial Estate which is located to the south-west of Junction 9 on the M7 Motorway, approximately 2km north of Naas town centre. The Maudlins Industrial Estate is bounded to the east by the R445 (Naas-Dublin) Road.

The Maudlins Industrial Estate comprises a number of industrial and commercial buildings accessed via the R445 (Naas-Dublin) Road. The Applicant on the Section 5 referral is a company that is part of the wider Arrow Group that operates agri-food processing activities from a number of facilities occupying the western and southern portion of the Maudlins Industrial Estate (as illustrated in Figure 1 below).

The Arrow Group's agri-food production facilities were established at the Maudlins Industrial Estate in 1981. The existing industrial buildings and ancillary storage, plant, circulation and parking areas accommodate five different manufacturing activities employing over 1,000 people, as follows:

Directors:
Declan Brassil &
Sharon Gorman

Reg No.:
329512

1. Dawn Farm Foods – The largest of the activities on the Maudlins site and is involved in the manufacture of cooked meat products and cooked meat ingredients
2. QK Coldstore (Housing the Subject Site) – Storage of Frozen Foods
3. The Culinary Food Group Food Manufacture specialising in natural stocks, sauces and culinary prepared Ingredients.

Figure 1: Extent of Maudlins Industrial Estate Occupied and Operated by the Arrow Group

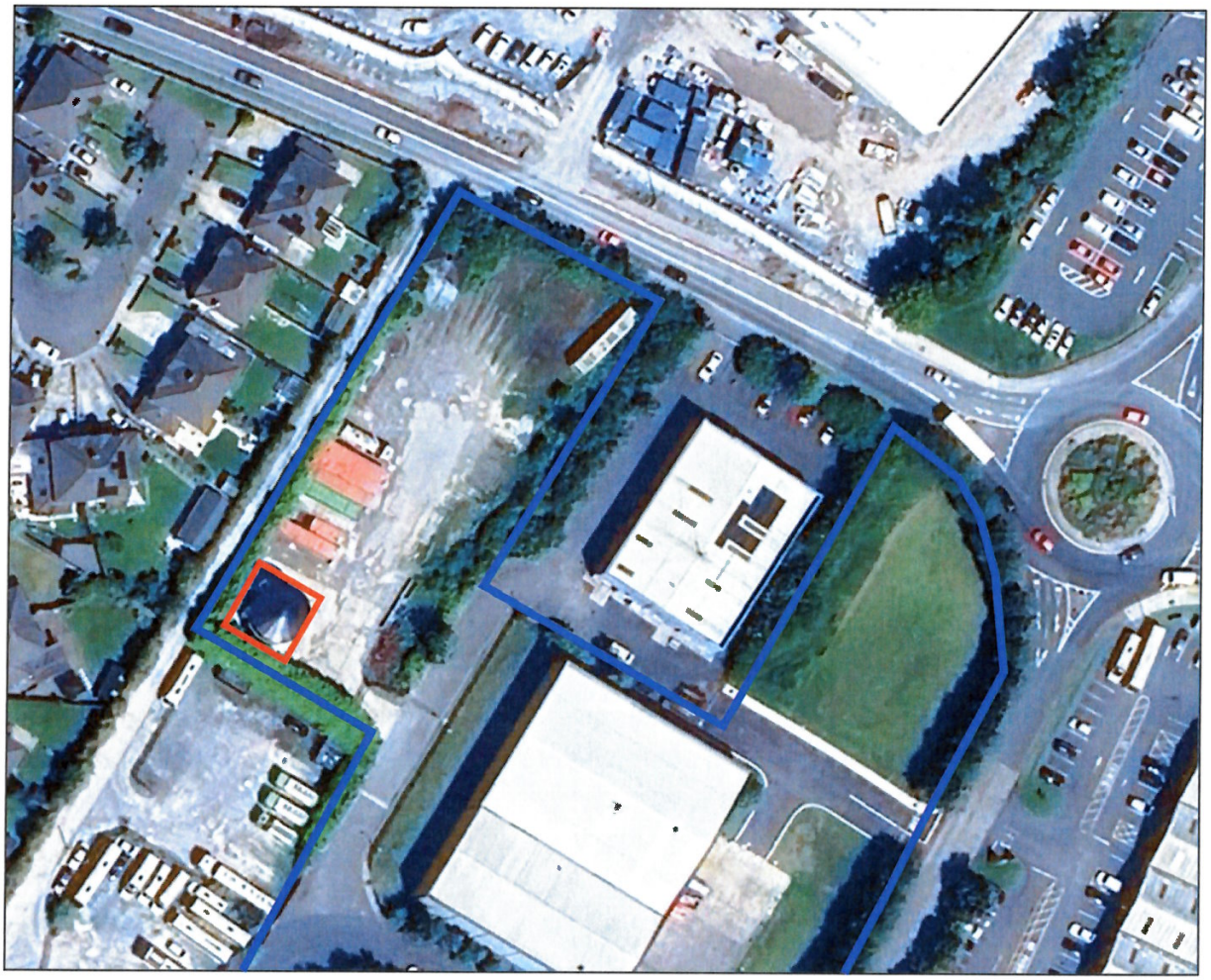


(Source: Google Maps 2025, annotated by DBCL)

These food manufacturing businesses specialise in the manufacture and supply of fully cooked protein and meat products, pasta products, soup stocks and storage. The businesses share common infrastructural services such as cold storage, distribution, waste disposal, hot water and steam supply. The industrial buildings are surrounded by internal access roads and areas of hardstanding associated with car parking, storage and associated plan all ancillary to the primary food processing activities.

The part of the Arrow Group's landholding on which the structure is located was acquired by the Arrow Group in 1998[1]. The site on which the structure is located adjoins lands owned by QK Coldstores Ltd., another Arrow Group Company, that also owns the internal access road between the QK Cold Stores site and the site on which the structure is located. The site on which the structure is located has been used for storage or other industrial uses ancillary to the QK Cold Stores use and the wider industrial uses accommodated within the Arrow Group lands at Maudlins Industrial Estate.

Figure 2: Part of the Site Subject to this Appeal



(Source: Google Maps 2025, annotated by DBCL)

2 Development Subject to this Referral

The development that is the subject to this Referral is the construction of a water tank which is described as measuring 7m in height and 10.2m in diameter and sits on a concrete slab of 500 mm thick. The overall height (maximum height) of the structure is 9.54 m.

The purpose of the water tank is to store water required for the operation of the agri-food production facilities on the wider site and for firefighting purposes.

[1] Please refer to correspondence at Appendix B.

3 Relevant Legislation

Section 3 (1) of the **Planning and Development Act, 2000** (the Act) defines "development" as, '*except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land*'.

Of relevance to the interpretation of development, Section 2(1) states that, except where the context otherwise requires, –

> ***"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.*

Development requires planning permission unless that development is 'exempt' development. Section 4 of the Act sets out development that is exempt development. In addition to specified exemptions in the Act, Section 4(2) of the Act provides that the Minister may by regulations provide for any class of development being exempted development.

The **Planning and Development Regulations, 2001,** as amended (the Regulations), provides for exemptions that are relevant to this referral.

Article 6 of the Regulations provides (subject to the restrictions in Article 9) for the classes of exempted development under column 1 of Parts 1, 2 and 3 of Schedule 2, subject, where applicable, to the conditions and limitations imposed upon such classes as set out in column 2.

Class 21 of Schedule 2, Part 1 relates to development for industrial purposes:

CLASS 21	***Conditions and Limitations***
(a) Development of the following descriptions, carried out by an industrial undertaker on land occupied and used by such undertaker for the carrying on, and for the purposes of, any industrial process, or on land used as a dock, harbour or quay for the purposes of any industrial undertaking— *(i) the provision, rearrangement, replacement or maintenance of private ways or private railways, sidings or conveyors,* *(ii) the provision, rearrangement, replacement or maintenance of sewers, mains, pipes, cables or other apparatus,* *(iii) the installation or erection by way of addition or replacement of plant or machinery, or structures of the nature of plant or machinery.* *(b) Any works for the provision within the curtilage of an industrial building of a hard surface to be used for the purposes of or in connection with the industrial process carried on in the building.*	*1. Any such development shall not materially alter the external appearance of the premises of the undertaking.* *2. The height of any plant or machinery, or any structure in the nature of plant or machinery, shall not exceed 15 metres above ground level or the height of the plant, machinery or structure replaced, whichever is the greater*

Article 5(1), Part 2 of the Regulations provides interpretations for the purposes of exempted development. The following are relevant:

> ***"Light Industrial Building"*** *means an industrial building in which the processes carried on or the plant or machinery installed are such as could be carried on or installed in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit;*
>
> ***"Industrial Process"*** *means any process which is carried on in the course of trade or business other than agriculture, and which is for or incidental to the making of any article or part of an article or the altering, repairing, ornamenting, finishing, cleaning, washing, packing, canning, adapting for sale, breaking up or demolition of any article, including the getting, dressing or treatment of minerals.*
>
> *For the purposes of the above paragraph, "article" includes:*
>
> *(i) a vehicle, aircraft, ship, or vessel, or*
>
> *(ii) a sound recording, film, broadcast, cable programme, publication and computer program or other original database*
>
> ***"Industrial Undertaker"*** *means a person by whom an industrial process is carried on and "industrial undertaking" shall be construed accordingly.*

Article 9(1)(a) de-exempts development to which article 6 relates if the carrying out of such development would:

> *'(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'.*

4 Planning Considerations and Issues Arising

The subject matter of this Referral is whether the installation of an additional water tank, a structure of the nature of plant for the purposes of an industrial process, is or is not development and is or is not exempt development.

4.1 Is or Is Not Development

The installation of a water tank comes within the definition of "development" which includes *'the carrying out of any works in, on, over or under land'*, where "works" includes *'any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal'*. In this respect, and consistent with the findings of the Planning Authority, it is accepted that the installation of the water tank constitutes development.

4.2 Is or Is Not Exempt Development

With regard to whether the development is exempt or not, it is noted that much of the assessment by the Planning Authority focuses on allocating specific and individual uses to individual land registry folios. It is submitted that this is not the appropriate approach to establishing the status of that part of the overall lands controlled by the Arrow Group on which thew structure is located.

In this regard, it is submitted that the relevant 'planning unit' for the assessment of the status of the structure established use of the Arrow Group's agri-food production and manufacturing facility, being an industrial use, at Maudlins Industrial Estate. That part of the overall Arrow Group industrial site on which the structure is situated forms part of this planning unit. The extent of the planning unit is identified by the blue line on Figures 1 and 2 above. As noted, this area was acquired by the Arrow Group in 1998 and has formed part of the industrial planning unit since that time.

The Class 21 exempted development provision states that '*development of the following descriptions, carried out by an industrial undertaker on land occupied and used... for the purposes of, any industrial process...*' and lists part (iii) as:

> *'The installation or erection by way of addition or replacement of plant or machinery, or structures of the nature of plant or machinery.*

With the qualification that:

> *'1. Any such development shall not materially alter the external appearance of the premises of the undertaking.*
>
> *'2. The height of any plant or machinery, or any structure in the nature of plant or machinery, shall not exceed 15 metres above ground level or the height of the plant, machinery or structure replaced, whichever is the greater.*

It is submitted that the activities which are carried out at the Arrow Group's industrial site, as described in Section 1 above, and the nature and appearance of the structures forming the overall landholding, which the referral site forms part of, are consistent with the definition of an 'industrial undertaker' as the long established food processing operations on site clearly fall within the scope of 'industrial process' which is defined as '*the altering,...., finishing, cleaning, washing, packing, canning, adapting for sale, breaking up....of any article...*'.

It is submitted that the water storage tank can clearly be considered to be in the nature of plant or machinery for the purposes of Class 21.

Having regard to the foregoing, it is submitted that that the Class 21 exemption set out under the Planning and Development Regulations, 2001 (as amended), applies subject to satisfaction of the conditions and limitations set out in Column (which will be considered in the subsequent section).

4.3 Limitations and Restrictions on Exempt Development

Class 21 includes two conditions and limitations in respect of exempt development provided for under the class. Each is addressed in turn below:

1. *Any such development shall not materially alter the external appearance of the premises of the undertaking.*

The water tank is located to the northwest of the site on lands that are currently well screed by existing hedgerow and planting that restrict its visibility from the public realm and the wider Maudlins Industrial Estate. Furthermore, the nature, form and scale of the water tank are in keeping with the industrial character of the area and the structure is not of a size or scale to be visually obtrusive. In this regard, it is submitted that the water tank does not materially alter the external appearance of the premises of the undertaking.

2. *The height of any plant or machinery, or any structure in the nature of plant or machinery, shall not*

exceed 15 metres above ground level or the height of the plant, machinery or structure replaced, whichever is the greater.

The maximum height of the water tank is 9.54 m above adjacent ground level, significantly below the 15m limitation referenced in Class 21.

Accordingly, it is submitted that the water tank comes within the scope of Class 21 and is within the conditions and limitations stated in column 2.

Article 9(1) de-exempts development to which article 6 relates if the carrying out of such development would:

'(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'.

Having regard to the nature and extent of the development within an established urban and industrial area, and that the distance of the site to nearest European site, no appropriate assessment issues arise, and it can be concluded that the development would not be likely to have any significant effect individually or in combination with other plans or projects on a European site. This is consistent with the screening undertaken by KCC as part of its assessment of the Section 5 Declaration.

Having regard to the nature, limited size and location of the development and to the criteria set out in Schedule 7 of the Regulations, it is submitted that there is no real likelihood of significant effects on the environment arising from the development.

5 Conclusion

On the basis of the foregoing, it is submitted that site on which the structure is located comprises part of a long-established food processing facility spread across a large and coherent part of Maudlins Industrial Estate, in multiple buildings and ancillary storage, plant, parking and circulation areas, that reasonably comprises a single planning unit.

The established operation of the planning unit comes within the scope of an "industrial undertaking" as defined in Article 5(1) of the Regulations.

The structure is used solely for the purpose of supplying water to the permitted industrial processes within the planning unit within which it is situated.

The structure can be considered to be exempt under Class 21(a)(iii) of Part 1 of the Second Schedule to the Regulations on the basis that the water storage tank is 'plant or machinery', its height does not exceed 15 m, and the structure does not materially alter the external appearance of the premises of the undertaking.

On this basis, the Coimisiún is respectfully requested to overturn that decision of KCC and issue a declaration confirming that the provision of a water tank on lands forming part of the Arrow Group's established food processing facility at Maudlins Industrial Estate is development and is exempt development.

I trust that this Referral is in order and I look forward to an early and favourable decision.

Yours faithfully,



Declan Brassil
Declan Brassil & Co.

Appendix A

KCC's Notification of Declaration (including Planner's Report)

Comhairle Contae Chill Dara
Kildare County Council

Date: 20th August 2025.
Our Ref: ED/1257.

QK Cold Stores Ltd
C/O Ronan Clarke
Clarke and Company
3 Highland View Terrace
Kilcullen Road
Naas
Co.Kildare
W91A278

RE: Application for a Declaration of Exempted Development under Section 5 of Planning and Development Act 2000 (as amended) for development at QK Cold Storage Limited, Maudlins Industrial Estate, Monread Road, Naas, Co Kildare. W91 HY27.

Dear Sir/Madam,

I refer to your correspondence received on 11th July 2025 in connection with the above.

Please find attached declaration made under Section 5 of Planning and Development Acts 2000 (as amended) in this regard.

Yours sincerely,

Senior Executive Officer,
Planning Department.

Comhairle Contae Chill Dara
Kildare County Council

Declaration of Development & Exempted Development under Section 5 of the Planning and Development Act 2000 (as amended).

ED/1257.

WHEREAS a question has arisen as to whether Installation of an industrial water tank at QK Cold Storage Limited, Maudlins Industrial Estate, Monread Road, Naas, Co Kildare. W91 HY27, is exempted development,

AS INDICATED on the plans and particulars received by the Planning Authority on 11th July 2025

AND WHEREAS QK Cold Stores Ltd requested a declaration on the said question from Kildare County Council,

AND WHEREAS Kildare County Council as the Planning Authority, in considering this application for a declaration under Section 5 of the Planning and Development Act 2000 (as amended), had regard to;

(a) Planning and Development Act 2000 (as amended) and
(b) Planning and Development Regulations 2001 (as amended); and

AND WHEREAS Kildare County Council has concluded that the development comprises works to which the provisions of the following applies:

(a) Sections 2 and 3 of the Planning and Development Act 2000 (as amended);
(b) Articles 5, 6, and 9 of the Planning and Development Regulations 2001 (as amended);
(c) The nature, extent and purpose of the works,

NOW THEREFORE Kildare County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that:
the the installation of an additional water tank, a structure of the nature of plant for purposes of an industrial process at QK Cold Storage Limited, Maudlins Industrial Estate, Monread Road, Naas, Co Kildare. W91 HY27

IS DEVELOPMENT and IS NOT EXEMPTED development pursuant to Sections 2 and 3 of the Planning and Development Act 2000 (as amended) and Articles 5, 6, and 9 of the Planning and Development Regulations 2001 (as amended).

Please note that any person issued with a declaration under subsection 2(a) of the Planning and Development Act 2000 (as amended) may on payment to the Coimisiún of the prescribed fee, refer a declaration to An Coimisiún Pleanála within 4 weeks of the issuing of the decision.

20th August 2025

Senior Executive Officer,
Planning Department.

Appendix B

Correspondence from Arrow Group regarding Ownership of the Site

ARROW

10th September 2025.

To whom it may concern.

In 1998 Cheekvale Limited purchased Folio KE28346F.

Cheekvale Limited is a wholly owned subsidiary of Arrow Group Limited, an Irish holding company for businesses, which also includes QK Cold Stores Limited.

The Cheekvale land adjoins lands owned and registered to QK Cold Stores Ltd.

QK Cold Stores Ltd owns the main road and entrance which gives access to the Cheekvale lands at the Maudlins.

Both companies are wholly owned subsidiaries of Arrow Group Limited.

Yours Sincerely,

John Kearns

Financial Controller

Registered Office
c/o Arrow Trust Limited,
Confederation House,
Waterford Business Park,
Waterford, X91 E9TV

Registered in Ireland
No: 132776

Directors:
John Queally, Michael Queally,
Marie Crowley, Liam Queally,
Ivor Queally, Irene Queally