



# Comhairle Contae Chill Mhantáin Wicklow County Council

**Pleanáil, Forbairt Eacnamaíochta agus Tuaithe  
Planning, Economic and Rural Development**

Áras An Chontae / County Buildings  
Cill Mhantáin / Wicklow  
Guthán / Tel: (0404) 20148  
Faics / Fax: (0404) 69462  
Rphost / Email: [plandev@wicklowcoco.ie](mailto:plandev@wicklowcoco.ie)  
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Goldstein Property ICAV  
88 Harcourt Street  
Dublin 2

4<sup>th</sup> July 2024

RE: Declaration in accordance with Section 5 of the Planning & Development Act  
2000 (As Amended) – EX53/2024 – Seefin Events Unlimited Company

A Chara,

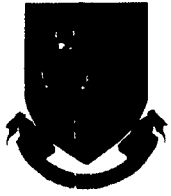
I enclose herewith Declaration in accordance with Article 5 (2) (A) of the Planning & Development Act 2000.

Where a Declaration is used under this Section any person issued with a Declaration under subsection (2) (a) may, on payment to An Bord Pleanála of such fee as may be prescribed, refer a declaration for review by the Board within four weeks of the date of the issuing of the declaration by the Local Authority.

Is mise, le meas,

  
ADMINISTRATIVE OFFICER  
PLANNING DEVELOPMENT & ENVIRONMENT.





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ABBD  
Clonsanny  
Clara  
Co. Offaly

4<sup>th</sup> July 2024

RE: Declaration in accordance with Section 5 of the Planning & Development Act  
2000 (As Amended) – EX53/2024 – Seefin Events Unlimited Company

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## DECLARATION IN ACCORDANCE WITH ARTICLE 5 (2) (A) OF THE PLANNING & DEVELOPMENT ACT 2000 AS AMENDED

**Applicant:** Seefin Events Unlimited Company

**Location:** Kippure Lodge & Holiday Village, Kippure, Estate, Manor Kilbride,  
Blessington, Co. Wicklow

**CHIEF EXECUTIVE ORDER NO. CE/PERD/890/2024**

Section 5 Declaration as to whether:

- a) Structure No.1 -Gate Lodge A and Gate Lodge B
- b) Structure No. 2- Semi-Detached Agricultural Storage Facility
- c) Structure No. 3-Detached Agricultural Maintenance/ Storage Facility
- d) Structure No.4- Electricity Distribution Building
- e) Structure No. 5-Open Fronted Agricultural Storage Shed
- f) Structure No. 6-Former Agricultural Building, now used to accommodate protected persons
- g) Structure No. 7 and 8 – Pavillion and Kitchen Building
- h) Structure No. 10 – Former Belfry Building
- i) Structure No. 11- Concrete Paved Area adjacent to Structure No. 10 and 12.
- j) Structure No. 12-Accommodation Block No.1
- k) Structure No.13- Art O'Neills Building
- l) Structure No.14 - Carpark adjacent to the Former 'Belfry Building'
- m) Structure No.15-Large Gravelled Area to the Northeast of the Holiday Village
- n) Structure No.16 –Accommodation Block No. 2
- o) On-site storage of soil/stone, boulders, machinery and building materials

constitutes exempted development within the meaning of the Planning and Development Acts, 2000(as amended).

**Having regard to:**

- 1. The Section 5 Declaration Application documentation.
- 2. Planning History i.e. PRR ABP-300834-18 (PRR 17/1335) , PRR 17/352, PRR 12/6761, PRR 12/6539 , PRR 12/6455, PRR 11/4773; PRR 05/2792, PRR 05/2468, PRR 04/1945, PRR 99/1150, PRR 98/9461, PRR 94/1113.
- 3. County Development Plan 2022-2028- Landscape Designation – Area of Outstanding Natural Beauty Mountain Uplands.
- 4. Natura 2000 Sites – Wicklow Mountains SAC , Wicklow Mountains SPA
- 5. Section 2,3, 4 of the Planning and Development Act 2000(as amended)
- 6. Planning and Development Regulations 2001 (as amended) Article 2,3, 5,6, 9 and Schedule 2 : Part 1, Class 14, Class 16, Class 17, Class 20F, Class 33
- 7. European Union (Planning and Development) (Displaced Persons from Ukraine Temporary Protection) Regulations 2022.
- 8. Council Implementing Decision (EU) 2022/382 of 4 March 2022

*Ta an doiciméad seo ar fáil i bhformáid eile ar iarratas  
This document is available in alternative formats on request*

Ba chóir gach comhfhreagras a sheoladh chuig an Stiúthóir Seirbhísí, Pleanáil, Forbairt Eacnamaíochta agus Tuaithe  
All correspondence should be addressed to the Director of Services, Planning, Economic and Rural Development



9. Habitats Directive
10. Electricity Regulation Act 1999
11. Sustainable Residential Development and Compact Growth Settlements : Guidelines for Planning Authorities
12. Google Earth Photography, Aerial Photography , and previous photographs related to Kippure Holiday Village.

**Main Reasons with respect to Section 5 Declaration:**

- A. The acts of construction, excavation, demolition, extension, alteration, repair and renewal , which were undertaken in respect of Structures labelled No. 1, No.2, No.3 No.4, No.5, No.6, No.7 and No.8, No.10, No.12, No.13, and No. 16 and the laying out of Structures labelled No.11, No. 14, and No. 15 would come within the definition of works set out in Section 2 of the Planning and Development Act 2000 (as amended).
- B. Having regard to the definition of development set out in Section 3 of the Planning and Development Act 2000(as amended) which identifies "development" as the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land, it is considered that Structures labelled No. 1, No.2, No.3 No.4, No.5, No.6, No.7 and No.8, No.10, No. 11, No.12, No.13, No.14, No.15 would come within the definition of development. Structures labelled No. 14, No. 15 and No. 16 and the on-site storage of soil/stone, boulders, machinery and building materials would result in a material change of use of the lands from use as agriculture.
- C. Structures Labelled No. 1 – Gate Lodge A and Gate Lodge B would not come within the description set out in Class 17 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) as the occupiers are not for those persons carrying on the construction works, and neither are they in respect of development which has the necessary permission, consent, approval or confirmation granted under the Planning and Development Act 2000(as amended) or any other enactment or exempted development.
- D. Structures labelled No. 2 and No. 6 , semi-detached structures constructed for Agricultural purposes, would not come within the description set out in Class 9 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001 (as amended), as the structures are 634sqm and 500sqm respectively, and it has not been demonstrated that they are in use or were in use for agriculture, and cumulatively they would exceed the 900sqm aggregate floor space permissible.
- E. Structures labelled No. 3, and No. 5 constructed for agricultural purposes would not come within the provisions set out in Class 9 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001 (as amended), as the structures would not accord with the limitations thereunder, as both were constructed after Structures 2 and 6 , and therefore the cumulative area of similar structures would exceed 900sqm, and it is not evident that Structure No. 3 is in use for agriculture.
- F. Structure Labelled No. 4 , constructed for electricity distribution would not come within the description set out in Class 29 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) as the applicant would not come within the definition of electricity undertaking as defined under in Article 3 of the Regulations, and the Electricity Regulation Act 1999.





- G. Structures Labelled No. 7 and No. 8 are new buildings which were not permitted by reference to Appeal Reference ABP-300834-18 (PRR 17/1335). There are no exemptions in the Planning and Development Regulations 2001 (as amended) available for such structures.
- H. Structure Labelled No. 10, the former Belfry building, has been altered significantly in terms of its height, length and size, with a doubling in size of the structure from the details set out in PRR 05/2792. The works therefore are not works of maintenance, improvement or alteration which only affect the interior, but are works such that the structure is not the same structure as that identified in PRR05/2792, and therefore would not come within the provisions of Section 4(1)(h) of the Planning and Development Act 2000(as amended). There are no exemptions available within the Planning and Development Regulations 2001 (as amended) for this structure.
- I. Structure Labelled No. 11, the concrete paved area adjacent to Structures 10 and 12 would not come within the description set out in Class 33 (a) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended). The area which is used in part as a thoroughfare / access area within the development, would not come within the definition of Park as identified in Collins Dictionary i.e. a large area of open land for recreational use by the public, and neither would it be Private Open Space as defined by the Sustainable Residential Development and Compact Growth Guidelines, as it is not a private area solely for use by the occupants of a residential unit and their visitors, and it would not be an ornamental garden. The installation of the concrete paved area would have required the alteration of levels to a material degree to accommodate this flat area, and therefore such works, which would have involved raising/ lowering of levels, would not come within the description of laying out.
- J. Structure Labelled No. 12 is a newly built accommodation structure, and there are no exemptions in the Planning and Development Regulations 2001 (as amended) available for such structures.
- K. Structure Labelled No. 13 the external cladding of the structure in timber would materially affect the external appearance of it when reviewed in relation to its status in 2017 i.e. as a white plastered structure, and it would therefore be inconsistent with the character of the structure. The provision of an extended covered area to Structure 13 which is an external addition would also materially affect the external appearance and would not come within the scope of Section 4(1)(h). There are no exemptions under the Planning and Development Regulations 2001(as amended) in respect of the works undertaken on Structure 13.
- L. Structure Labelled No. 14, carpark would not come within the description set out in Class 16 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) as carpark is not solely for construction workers but is also for administrative persons related to the facilities on site, and neither is the carpark provided on foot of development which has the necessary permission, consent, approval or confirmation granted under the Planning and Development Act 2000(as amended) or any other enactment or exempted development.
- M. Structure Labelled No. 15, large gravelled area located proximate to the Wicklow Mountains SAC and Wicklow Mountains SPA, would not come within the description set out in Class 16 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) as the provision of this area was not on foot of development which has the necessary permission, consent, approval or confirmation

- granted under the Planning and Development Act 2000(as amended) or any other enactment or exempted development, and the development would have required a Stage 2 Appropriate Assessment, and therefore the restrictions set out in Article 9 (1) (a) (viiB) would apply to this development.
- N. Given the extensive nature of the on-site storage of soil/stone, boulders, machinery and building materials, and location proximate to the Wicklow Mountains SAC and Wicklow Mountains SPA, the works would not come within the description set out in Class 16 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) as such deposition was not on foot of development which has the necessary permission, consent, approval or confirmation granted under the Planning and Development Act 2000(as amended) or any other enactment or exempted development, and the development would have required a Stage 2 Appropriate Assessment, and therefore the restrictions set out in Article 9(1) (a) (viiB) would apply to this development.
- O. There is no evidence that the Structures Labelled No. 1, No.2, No.3 No.4, No.5, No.6, No.7, No.8, No.10, No. 11, No.12, No.13, No.14, No.15 and No. 16 were being provided for/on behalf of a State Authority or evidence that the units are accommodation or are related to accommodation for displaced persons, given the definition of such persons set out in Annex 2 of the Council Implementing Decision (EU) 2022/382), therefore the provisions of SI. 306 of 2022 EU (Planning and Development) (Displaced Persons from Ukraine Temporary Protection) Regulations 2022 are not applicable.
- P. The discharge of waste from Structures labelled No. 1, No.6, No.7, No.8, No.10, No.12 and No.16, the subject of this Section 5 Declaration, would discharge to an existing wastewater treatment system serving the overall Kippure Village development. This waste water treatment system is operating below standard and is overloaded. The occupation of these structures would result in further increased loadings to this wastewater treatment system which is located c. 70m from the River Liffey and the Wicklow Mountains SAC a Natura 2000 site. Significant impacts on the River Liffey , on groundwater and consequently on the Wicklow Mountains SAC, cannot be ruled out, and therefore these developments would have required a Stage 2 : Appropriate Assessment.
- Q. An Appropriate Assessment of the developments the subject of this Section 5 Declaration request is required. Therefore, the provisions of Section 4(4) of the Planning & Development Act 2000, as amended, apply, and hence, no exemptions contained in the Planning & Development Regulations 2001, as amended, can be availed of.


**The Planning Authority considers that: -**


- (a)Structure No.1 -Gate Lodge A and Gate Lodge B is **Development and is Not Exempted Development.**
- (b)Structure No. 2- Semi-Detached Agricultural Storage Facility is **Development and is Not Exempted Development.**
- (c)Structure No. 3-Detached Agricultural Maintenance/ Storage Facility is **Development and is Not Exempted development.**
- (d)Structure No.4- Electricity Distribution Building is **Development and is Not Exempted Development.**
- (e)Structure No. 5-Open Fronted Agricultural Storage Shed is **Development and is Not Exempted development.**



- (f)Structure No. 6-Former Agricultural Building, now used to accommodate protected persons **is Development and is Not Exempted Development.**
- (g)Structure No. 7 and 8 – Pavillion and Kitchen Building **is Development and is Not Exempted Development.**
- (h)Structure No. 10 – Former Belfry Building **is Development and is Not Exempted Development.**
- (i)Structure No. 11- Concrete Paved Area adjacent to Structure No. 10 and 12 **is Development and is Not Exempted Development.**
- (j)Structure No. 12-Accommodation Block No.1 **is Development and is Not Exempted Development.**
- (k)Structure No.13- Art O'Neills Building **is Development and is Not Exempted development.**
- (l)Structure No.14 - Carpark adjacent to the Former 'Belfry Building' **is Development and is Not Exempted Development.**
- (m)Structure No.15-Large Gravelled Area to the Northeast of the Holiday Village **is Development and is Not Exempted Development.**
- (n)Structure No.16 –Accommodation Block No. 2 **is Development and is Not Exempted Development.**
- (o)On-site storage of soil/stone, boulders, machinery and building materials **is Development and is Not Exempted Development.**

within the meaning of the Planning & Development Act 2000 (as amended) all at Kippure Lodge & Holiday Village, Kippure, Estate, Manor Kilbride, Blessington, Co. Wicklow

Signed:   
ADMINISTRATIVE OFFICER  
PLANNING, ECONOMIC & RURAL DEVELOPMENT

Dated  July 2024





WICKLOW COUNTY COUNCIL

PLANNING & DEVELOPMENT ACTS 2000 (As Amended)  
SECTION 5

CHIEF EXECUTIVE ORDER NO. CE/PERD/890/2024

**Reference Number:** EX53/2024  
**Name of Applicant:** Seefin Events Unlimited Company  
**Location of Subject Site:** Kippure Lodge & Holiday Village, Kippure, Estate, Manor Kilbride, Blessington, Co. Wicklow

**Nature of Application:** Section 5 Declaration request as to whether or not: -

- (a) Structure No.1 -Gate Lodge A and Gate Lodge B
- (b) Structure No. 2- Semi-Detached Agricultural Storage Facility
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- (o) On-site storage of soil/stone, boulders, machinery and building materials

constitutes exempted development within the meaning of the Planning and Development Act, 2000(as amended).

**Report from Edel Bermingham, SEP**

**Having regard to:**

1. The Section 5 Declaration Application documentation.
2. Planning History i.e. PRR ABP-300834-18 (PRR 17/1335) , PRR 17/352, PRR 12/6761, PRR 12/6539 , PRR 12/6455, PRR 11/4773, PRR 05/2792, PRR 05/2468, PRR 04/1945, PRR 99/1150, PRR 98/9461, PRR 94/1113.
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12. Google Earth Photography, Aerial Photography , and previous photographs related to Kippure Holiday Village.

**Main Reasons with respect to Section 5 Declaration:**

- A. The acts of construction, excavation, demolition, extension, alteration, repair and renewal , which were undertaken in respect of Structures labelled No. 1, No.2, No.3 No.4, No.5, No.6, No.7 and No.8, No.10, No.12, No.13, and No. 16 and the laying out of Structures labelled No.11, No. 14, and No. 15 would come within the definition of works set out in Section 2 of the Planning and Development Act 2000 (as amended).
- B. Having regard to the definition of development set out in Section 3 of the Planning and Development Act 2000(as amended) which identifies "development" as the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land, it is considered that Structures labelled No. 1, No.2, No.3 No.4, No.5, No.6, No.7 and No.8, No.10, No. 11, No.12, No.13, No.14, No.15 would come within the definition of development. Structures labelled No. 14, No. 15 and No. 16 and the on-site storage of soil/stone, boulders, machinery and building materials would result in a material change of use of the lands from use as agriculture.
- C. Structures Labelled No. 1 – Gate Lodge A and Gate Lodge B would not come within the description set out in Class 17 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) as the occupiers are not for those persons carrying on the construction works, and neither are they in respect of development which has the necessary permission, consent, approval or confirmation granted under the Planning and Development Act 2000(as amended) or any other enactment or exempted development.
- D. Structures labelled No. 2 and No. 6 , semi-detached structures constructed for Agricultural purposes, would not come within the description set out in Class 9 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001 (as amended), as the structures are 634sqm and 500sqm respectively, and it has not been demonstrated that they are in use or were in use for agriculture, and cumulatively they would exceed the 900sqm aggregate floor space permissible.
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- F. Structure Labelled No. 4 , constructed for electricity distribution would not come within the description set out in Class 29 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) as the applicant would not come within the definition of electricity undertaking as defined under in Article 3 of the Regulations, and the Electricity Regulation Act 1999.
- G. Structures Labelled No. 7 and No. 8 are new buildings which were not permitted by reference to Appeal Reference ABP-300834-18 (PRR 17/1335). There are no

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exemptions in the Planning and Development Regulations 2001 (as amended) available for such structures.

- H. Structure Labelled No. 10, the former Belfry building, has been altered significantly in terms of its height, length and size, with a doubling in size of the structure from the details set out in PRR 05/2792. The works therefore are not works of maintenance, improvement or alteration which only affect the interior, but are works such that the structure is not the same structure as that identified in PRR05/2792, and therefore would not come within the provisions of Section 4(1)(h) of the Planning and Development Act 2000(as amended). There are no exemptions available within the Planning and Development Regulations 2001 (as amended) for this structure.
- I. Structure Labelled No. 11, the concrete paved area adjacent to Structures 10 and 12 would not come within the description set out in Class 33 (a) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended). The area which is used in part as a thoroughfare / access area within the development, would not come within the definition of Park as identified in Collins Dictionary i.e. a large area of open land for recreational use by the public, and neither would it be Private Open Space as defined by the Sustainable Residential Development and Compact Growth Guidelines, as it is not a private area solely for use by the occupants of a residential unit and their visitors, and it would not be an ornamental garden. The installation of the concrete paved area would have required the alteration of levels to a material degree to accommodate this flat area, and therefore such works, which would have involved raising/ lowering of levels, would not come within the description of laying out.
- J. Structure Labelled No. 12 is a newly built accommodation structure, and there are no exemptions in the Planning and Development Regulations 2001 (as amended) available for such structures.
- K. Structure Labelled No. 13 the external cladding of the structure in timber would materially affect the external appearance of it when reviewed in relation to its status in 2017 i.e. as a white plastered structure, and it would therefore be inconsistent with the character of the structure. The provision of an extended covered area to Structure 13 which is an external addition would also materially affect the external appearance and would not come within the scope of Section 4(1)(h). There are no exemptions under the Planning and Development Regulations 2001(as amended) in respect of the works undertaken on Structure 13.
- L. Structure Labelled No. 14, carpark would not come within the description set out in Class 16 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) as carpark is not solely for construction workers but is also for administrative persons related to the facilities on site, and neither is the carpark provided on foot of development which has the necessary permission, consent, approval or confirmation granted under the Planning and Development Act 2000(as amended) or any other enactment or exempted development.
- M. Structure Labelled No. 15, large gravelled area located proximate to the Wicklow Mountains SAC and Wicklow Mountains SPA, would not come within the description set out in Class 16 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) as the provision of this area was not on foot of development which has the necessary permission, consent, approval or confirmation granted under the Planning and Development Act 2000(as amended) or any other enactment or exempted development, and the development would have required a



Stage 2 Appropriate Assessment, and therefore the restrictions set out in Article 9 (1) (a) (viiB) would apply to this development.

- N. Given the extensive nature of the on-site storage of soil/stone, boulders, machinery and building materials, and location proximate to the Wicklow Mountains SAC and Wicklow Mountains SPA, the works would not come within the description set out in Class 16 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) as such deposition was not on foot of development which has the necessary permission, consent, approval or confirmation granted under the Planning and Development Act 2000(as amended) or any other enactment or exempted development, and the development would have required a Stage 2 Appropriate Assessment, and therefore the restrictions set out in Article 9(1) (a) (viiB) would apply to this development.
- O. There is no evidence that the Structures Labelled No. 1, No.2, No.3 No.4, No.5, No.6, No.7, No.8, No.10, No. 11, No.12, No.13, No.14, No.15 and No. 16 were being provided for/on behalf of a State Authority or evidence that the units are accommodation or are related to accommodation for displaced persons, given the definition of such persons set out in Annex 2 of the Council Implementing Decision (EU) 2022/382), therefore the provisions of SI. 306 of 2022 EU (Planning and Development) (Displaced Persons from Ukraine Temporary Protection) Regulations 2022 are not applicable.
- P. The discharge of waste from Structures labelled No. 1, No.6, No.7, No.8, No.10, No.12 and No. 16, the subject of this Section 5 Declaration, would discharge to an existing wastewater treatment system serving the overall Kippure Village development. This waste water treatment system is operating below standard and is overloaded. The occupation of these structures would result in further increased loadings to this wastewater treatment system which is located c. 70m from the River Liffey and the Wicklow Mountains SAC a Natura 2000 site. Significant impacts on the River Liffey , on groundwater and consequently on the Wicklow Mountains SAC, cannot be ruled out, and therefore these developments would have required a Stage 2 : Appropriate Assessment.
- Q. An Appropriate Assessment of the developments the subject of this Section 5 Declaration request is required. Therefore, the provisions of Section 4(4) of the Planning & Development Act 2000, as amended, apply, and hence, no exemptions contained in the Planning & Development Regulations 2001, as amended, can be availed of.

**Recommendation:**

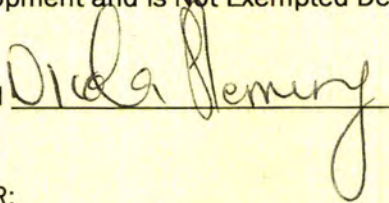
The Planning Authority considers that:-

- (a)Structure No.1 -Gate Lodge A and Gate Lodge B is Development and is Not Exempted Development.
- (b)Structure No. 2- Semi-Detached Agricultural Storage Facility is Development and is Not Exempted Development.
- (c)Structure No. 3-Detached Agricultural Maintenance/ Storage Facility is Development and is Not Exempted development.
- (d)Structure No.4- Electricity Distribution Building is Development and is Not Exempted Development.
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- (f)Structure No. 6-Former Agricultural Building, now used to accommodate protected persons is **Development and is Not Exempted Development**.
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- (j)Structure No. 12-Accommodation Block No.1 is **Development and is Not Exempted Development**.
- (k)Structure No.13- Art O'Neills Building is **Development and is Not Exempted development**.
- (l)Structure No.14 - Carpark adjacent to the Former 'Belfry Building' is **Development and is Not Exempted Development**.
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- (n)Structure No.16 –Accommodation Block No. 2 is **Development and is Not Exempted Development**.
- (o)On-site storage of soil/stone, boulders, machinery and building materials is **Development and is Not Exempted Development**.

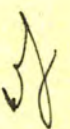
Signed



Dated 4<sup>th</sup> day of July 2024

**ORDER:**

- I HEREBY DECLARE that “(a)Structure No.1 -Gate Lodge A and Gate Lodge B is **Development and is Not Exempted Development**.
- (b)Structure No. 2- Semi-Detached Agricultural Storage Facility is **Development and is Not Exempted Development**.
- (c)Structure No. 3-Detached Agricultural Maintenance/ Storage Facility is **Development and is Not Exempted development**.
- (d)Structure No.4- Electricity Distribution Building is **Development and is Not Exempted Development**.
- (e)Structure No. 5-Open Fronted Agricultural Storage Shed is **Development and is Not Exempted development**.
- (f)Structure No. 6-Former Agricultural Building, now used to accommodate protected persons is **Development and is Not Exempted Development**.
- (g)Structure No. 7 and 8 – Pavillion and Kitchen Building is **Development and is Not Exempted Development**.
- (h)Structure No. 10 – Former Belfry Building is **Development and is Not Exempted Development**.
- (i)Structure No. 11- Concrete Paved Area adjacent to Structure No. 10 and 12 is **Development and is Not Exempted Development**.
- (j)Structure No. 12-Accommodation Block No.1 is **Development and is Not Exempted Development**.
- (k)Structure No.13- Art O'Neills Building is **Development and is Not Exempted development**.
- (l)Structure No.14 - Carpark adjacent to the Former 'Belfry Building' is **Development and is Not Exempted Development**.
- (m)Structure No.15-Large Gravelled Area to the Northeast of the Holiday Village is **Development and is Not Exempted Development**.
- (n)Structure No.16 –Accommodation Block No. 2 is **Development and is Not Exempted Development**.

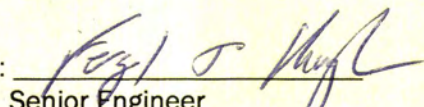




(o) On-site storage of soil/stone, boulders, machinery and building materials is Development and is Not Exempted Development.

within the meaning of the Planning & Development Act 2000 (as amended) all at Kippure Lodge & Holiday Village, Kippure, Estate, Manor Kilbride, Blessington, Co. Wicklow

Signed:

  
Senior Engineer  
Planning, Economic & Rural Development

Dated <sup>4</sup>04 day of July 2024



## Section 5 Declaration EX 53/2024

Date : 2<sup>nd</sup> July 2024

Applicant : Seefin Events Unlimited Company

Address : Kippure Lodge & Holiday Village, Kippure Estate, Manor Kilbride, Co. Wicklow

Exemption Whether or not :

- (a) Whether Structure No.1 is exempt development pursuant to Class 17 of Part 1, Schedule 2 of the Planning Regulations.
- (b) Whether Structure No.2 is exempt development pursuant to Class 9 of Part 3, Schedule 2 of the Planning Regulations.
- (c) Whether Structure No.3 is exempt development pursuant to Class 9 of Part 3, Schedule 2 of the Planning Regulations.
- (d) Whether Structure No.4 is exempt development pursuant to Class 29 of Part 1, Schedule 2 of the Planning Regulations.
- (e) Whether Structure No.5 is exempt development pursuant to Class 9 of Part 3, Schedule 2 of the Planning Regulations.
- (f) Whether Structure No.6 is exempt development pursuant to Section 14(1)(h) of the Planning Acts.
- (g) Whether Structures No's. 7 and 8 are exempt development pursuant to Section 14(1)(h) of the Planning Acts.
- (h) Whether Structure No 10 is exempt development pursuant to Section 14(1)(h) of the Planning Acts.
- (i) Whether Structure No.11 is exempt development pursuant to Class 33 of Part 1, Schedule 2 of the Planning Regulations.
- (j) Whether Structure No.12 is exempt development pursuant to Section 14(l)(h) of the Planning Acts, and or S.I. No. 582 of 2015, Planning and Development (Amendment)(No.4) Regulations 2015
- (k) Whether Structure No.13 is exempt development pursuant to Section 14(1)(h) of the Planning Acts.
- (l) Whether Structure No.14 is exempt development pursuant to Class 16 of Part3, Schedule 2 of the Planning Regulations.
- (m) Whether Structure No.15 is exempt development pursuant to Class 16 of Part 3, Schedule 2 of the Planning Regulations
- (n) Whether Structure No.16 is exempt development pursuant to Section 14(l)(h) of the Planning Acts, and or S.I. No. 306 European Union (Planning and Development) (Displaced Persons From Ukraine Temporary Protection) Regulation 2022.
- (o) On-site storage of soil/stone, boulders, machinery and building materials. Part of the estate is used for the storage of soil/stone and or boulders, machinery and building materials as necessary and incidental to the development of Kippure. This is exempted development pursuant to Class 16 of Part 1, Schedule 2 of the Planning Regulations.

constitutes exempted development within the meaning of the Planning and Development Acts, 2000(as amended).

## **Planning History :**

ABP-300834-18 (PRR 17/1335) Permission refused on appeal for 2 no marquees, 3 no prefabricated units consisting of kitchen, washing up, store w.c. facilities and 1 no 40 ft container.

17/352 Permission granted for the replacement dormer style building in place of the section of the original building which was burnt down in June 29th 2016. Permission is also sought for alterations to the original design layout of the section of the overall building, elevational alterations, the construction of a single storey kitchen extension to the rear, the construction of an open canopy above the existing entrance doors over the eastern façade of the existing two storey section which was undamaged in the fire, relocating the front entrance door to the existing two storey building, minor internal and external elevational alterations all to the existing building.

12/6761 Permission granted for a single storey function room extension to rear of conference and administration building. Materials to match existing, with new roof lights to existing and new roof to a holiday and adventure centre.

12/6539 Permission granted for Retention of revised floor levels and changes to elevations for 14 no two storey houses within walled garden to comply with planning permission 04/1945 at a holiday and adventure centre

12/6455 Retention permission granted for end of terrace 3 bedroom, 2 storey dormer House No 1 within walled garden to comply with planning permission 04/1945 at a holiday and adventure centre

11/4773 Retention Grant 3 no rooflights on south elevation and 1 no door with two sidescreens and 1 no window on north elevation

05/2792 Permission granted for the refurbishment of the existing Belfry Building (197sqm) for use as backup facility for outdoor facilities

05/2468 Retention granted of the existing building and change of use of part of the existing building (94/1113) from a self catering area to a common room / dining room and wine bar.

04/1945 Permission granted for an extension of the existing holiday complex involving the construction of 14 no. 2-storey dormer holiday homes (1 no. terrace format and 1 no. semi-detached format) located within the walled garden

99/1150 Permission granted for retention of conversion of farm building to 2 storey recreation building

98/9461 Permission granted for retention of cottages 9 & 10 and relocate cottages 1 - 6

94/1113 Permission granted for 14 no. holiday homes & recreation centre to replace existing buildings & extension of farm buildings as equestrian centre.

## **County Development Plan 2022-2024**

Landscape Designation : Area of Outstanding Natural Beauty – The Mountain Uplands

Prospect 18 : Sally Gap Road R759 : Prospect extending from Sroughmore to Ballysmuttan.

Recorded Monuments – WI 00262 , WI02581

Wicklow Wetland Survey : Wicklow Mountains SAC/ SPA

### **Natura 2000 Sites**

#### Wicklow Mountains SAC

##### Qualifying Interests

Oligotrophic waters containing very few minerals of sandy plains (*Littorelletalia uniflorae*) [3110]  
Natural dystrophic lakes and ponds [3160]  
Northern Atlantic wet heaths with *Erica tetralix* [4010]  
European dry heaths [4030]  
Alpine and Boreal heaths [4060]  
Calaminarian grasslands of the *Violetalia calaminariae* [6130]  
Species-rich *Nardus* grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) [6230]  
Blanket bogs (\* if active bog) [7130]  
Siliceous scree of the montane to snow levels (*Androsacetalia alpinae* and *Galeopsietalia ladani*) [8110]  
Calcareous rocky slopes with chasmophytic vegetation [8210]  
Siliceous rocky slopes with chasmophytic vegetation [8220]  
Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles [91A0]  
*Lutra lutra* (Otter) [1355]

#### Wicklow Mountains SPA

##### Qualifying Interests

Merlin (*Falco columbarius*) [A098]  
Peregrine (*Falco peregrinus*) [A103]

## Relevant Legislation

### Planning and Development Act 2000 (as amended)

#### Section 2

"agriculture" includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the training of horses and the rearing of bloodstock, the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and "agricultural" shall be construed accordingly;

"alteration" includes—

- (a) plastering or painting or the removal of plaster or stucco, or
  - (b) the replacement of a door, window or roof,
- that materially alters the external appearance of a structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures

"appropriate assessment" shall be construed in accordance with section 177R  
"development" has the meaning assigned to it by section 3, and "develop" shall be construed accordingly;

"European site" has the meaning given to it by section 177R of Part XAB;

"statutory undertaker" means a person, for the time being, authorised by or under any enactment or instrument under an enactment to—

- (a) construct or operate a railway, canal, inland navigation, dock, harbour or airport,
- (b) provide, or carry out works for the provision of, gas, electricity or telecommunications services, or
- (c) provide services connected with, or carry out works for the purposes of the carrying on of the activities of, any public undertaking;

"structure" means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and—

- (a) where the context so admits, includes the land on, in or under which the structure is situate, and
- (b) in relation to a protected structure or proposed protected structure, includes—
  - (i) the interior of the structure,
  - (ii) the land lying within the curtilage of the structure,
  - (iii) any other structures lying within that curtilage and their interiors, and
  - (iv) all fixtures and features which form part of the interior or exterior of any structure or structures referred to in subparagraph (i) or (iii);

"unauthorised development" means, in relation to land, the carrying out of any unauthorised works (including the construction, erection or making of any unauthorised structure) or the making of any unauthorised use;

"unauthorised structure" means a structure other than—

- (a) a structure which was in existence on 1 October 1964, or
- (b) a structure, the construction, erection or making of which was the subject of a permission for development granted under Part IV of the Act of 1963 or deemed to be such under section 92 of that Act or under section 34, 37G or 37N or 293 of this Act, being a permission which has not been

revoked, or which exists as a result of the carrying out of exempted development (within the meaning of section 4 of the Act of 1963 or section 4 of this Act);

“unauthorised use” means, in relation to land, use commenced on or after 1 October 1964, being a use which is a material change in use of any structure or other land and being development other than—

(a) exempted development (within the meaning of section 4 of the Act of 1963 or section 4 of this Act), or

(b) development which is the subject of a permission granted under Part IV of the Act of 1963 or under section 34, 37G, 37N or 293 of this Act, being a permission which has not been revoked, and which is carried out in compliance with that permission or any condition to which that permission is subject;

“unauthorised works” means any works on, in, over or under land commenced on or after 1 October 1964, being development other than—

(a) exempted development (within the meaning of section 4 of the Act of 1963 or section 4 of this Act), or

(b) development which is the subject of a permission granted under Part IV of the Act of 1963 or under section 34, 37G, 37N or 293 of this Act, being a permission which has not been revoked, and which is carried out in compliance with that permission or any condition to which that permission is subject;

“use”, in relation to land, does not include the use of the land by the carrying out of any works thereon;

“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.

### Section 3 :

3.—(1) In this Act, “development” means, except where the context otherwise requires “development” means

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

(b) development within the meaning of Part XXI (inserted by section 171 of the Maritime Area Planning Act 2021)

(2) For the purposes of subsection (1) and without prejudice to the generality of that subsection—

(a) where any structure or other land or any tree or other object on land becomes used for the exhibition of advertisements, or

(b) where land becomes used for any of the following purposes—

(i) the placing or keeping of any vans, tents or other objects, whether or not moveable and whether or not collapsible, for the purpose of caravanning or camping or habitation or the sale of goods,

(ii) the storage of caravans or tents, or

(iii) the deposit of vehicles whether or not usable for the purpose for which they were constructed or last used, old metal, mining or industrial waste, builders’ waste, rubbish or debris, the use of the land shall be taken as having materially changed.

#### Section 4

(1) The following shall be exempted developments for the purposes of this Act—

(h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;

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

(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.

(4A) Notwithstanding subsection (4), the Minister may make regulations prescribing development or any class of development that is—

(a) authorised, or required to be authorised by or under any statute (other than this Act) whether by means of a licence, consent, approval or otherwise, and

(b) as respects which an environmental impact assessment or an appropriate assessment is required, to be exempted development.

#### Section 181A to Section 181 C

#### Habitats Directive

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

#### Article 3(3)

“electricity undertaking” means an undertaker authorised to provide an electricity service,

“gross floor space” means the area ascertained by the internal measurement of the floor space on each floor of a building (including internal walls and partitions), disregarding any floor space provided for the parking of vehicles by persons occupying or using the building or buildings where such floor space is incidental to the primary purpose of the building;

#### Article 5

“business premises” means—

(a) any structure or other land (not being an excluded premises) which is normally used for the carrying on of any professional, commercial or industrial undertaking or any structure (not being an excluded premises) which is normally used for the provision therein of services to persons,

(b) a hotel, hostel (other than a hostel where care is provided) or public house, or

(c) any structure or other land used for the purposes of, or in connection with, the functions of a State authority;

“excluded premises” means—

(a) any premises used for purposes of a religious, educational, cultural, recreational or medical character,

- (b) any guest house or other premises (not being a hotel or a hostel) providing overnight guest accommodation, block of flats or apartments, club, or boarding house, or,
- (c) any structure which was designed for use as one or more dwellings, except such a structure which was used as business premises immediately before 1 October, 1964 or is so used with permission under the Act;

“protected person”, for the purposes of Schedule 2, means—

- (a) a person who has made an application to the Minister for Justice and Equality under the Refugee Act of 1996 or the Subsidiary Protection Regulations 2013 (S.I. No. 426 of 2013),
- (b) a person who falls to be considered or has been considered under section 3 of the Immigration Act of 1999, or
- (c) a programme refugee within the meaning of section 24 of the Refugee Act of 1996;

#### Article 6 (1)

Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

#### Article 9(1) Note see Regulations for full Article

Development to which article 6 relates shall not be exempted development for the purposes of the Act—

- (a) if the carrying out of such development would—

- (i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,

- (vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

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

- (viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,

#### Article 10.

(1) Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not—

- (a) involve the carrying out of any works other than works which are exempted development,
- (b) contravene a condition attached to a permission under the Act,
- (c) be inconsistent with any use specified or included in such a permission, or
- (d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned.



(2)(a) A use which is ordinarily incidental to any use specified in Part 4 of Schedule 2 is not excluded from that use as an incident thereto merely by reason of its being specified in the said Part of the said Schedule as a separate use.

#### Schedule 2 : Part 1

##### CLASS 14

Development consisting of a change of use—

(i) from use as a hotel, motel, hostel, guesthouse, holiday accommodation, convent, monastery, Defence Forces barracks or other premises or residential institution providing overnight accommodation, or part thereof, or from the change of use specified in paragraph

(h) of the said premises or institution, or part thereof, to use as an emergency reception and orientation centre for protected persons, and

##### CLASS 16

The erection, construction or placing on land on, in, over or under which, or on land adjoining which, development consisting of works (other than mining) is being or is about to be, carried out pursuant to a permission under the Act or as exempted development, of structures, works, plant or machinery needed temporarily in connection with that development during the period in which it is being carried out.

##### Limitation

Such structures, works, plant or machinery shall be removed at the expiration of the period and the land shall be reinstated save to such extent as may be authorised or required by a permission under the Act.

##### CLASS 17

The erection, construction or placing on land on, in, over or under which, or on land adjoining which, development (other than mining) is being, or is about to be carried out, pursuant to any permission, consent, approval or confirmation granted under the Act or any other enactment or as exempted development, of temporary on-site accommodation for persons employed, or otherwise engaged, in connection with the carrying out of the development, during the period in which it is being carried out.

##### Limitation

Such accommodation shall be removed at the expiration of the period and the land shall be reinstated save to such extent as may be authorised or required by the permission, consent, approval or confirmation granted under the Act or any other enactment.

##### CLASS 20F

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

##### Limitation :

1. The temporary use shall only be for the purposes of accommodating displaced persons or for the purposes of accommodating persons seeking international protection.

2. Subject to paragraph 4 of this class, the use for the purposes of accommodating displaced persons shall be discontinued when the temporary protection introduced by the Council Implementing

Decision (EU) 2022/382 of 4 March 2022<sup>1</sup> comes to an end in accordance with Article 6 of the Council Directive 2001/55/EC of 20 July 2001<sup>2</sup>.

3. The use for the purposes of accommodating persons seeking international protection shall be discontinued not later than 31 December 2028.

4. Where the obligation to provide temporary protection is discontinued in accordance with paragraph 2 of this class, on a date that is earlier than 31 December 2028, the temporary use of any structure which has been used for the accommodation of displaced persons shall continue for the purposes of accommodating persons seeking international protection in accordance with paragraph 3 of this class.

5. The relevant local authority must be notified of locations where change of use is taking place prior to the commencement of development.

6. 'displaced persons', for the purpose of this class, means persons to whom temporary protection applies in accordance with Article 2 of Council Implementing Decision (EU) 2022/382 of 4 March 2022.

7. 'international protection', for the purpose of this class, has the meaning given to it in section 2(1) of the International Protection Act 2015 (No. 66 of 2015).

8. 'temporary protection', for the purpose of this class, has the meaning given to it in Article 2 of Council Directive 2001/55/EC of 20 July 2001.

#### CLASS 29

The carrying out by any electricity undertaking of development consisting of the construction or erection of a unit substation (excluding a charging point for electric vehicles) or minipillar for the distribution of electricity at a voltage not exceeding a nominal value of 20kV.

Limitation :

The volume above ground level of any such unit substation or minipillar shall not exceed 11 cubic metres, measured externally.

#### CLASS 33

Development consisting of the laying out and use of land—

(a) as a park, private open space or ornamental garden,

(b) as a roadside shrine, or

(c) for athletics or sports (other than golf or pitch and putt or sports involving the use of motor vehicles, aircraft or firearms), where no charge is made for admission of the public to the land.

Limitation :

The area of any such shrine shall not exceed 2 square metres, the height shall not exceed 2 metres above the centre of the road opposite the structure and it shall not be illuminated.

#### Part 3

##### CLASS 9

Works consisting of the provision of any store, barn, shed, glass-house or other structure, not being of a type specified in class 6, 7 or 8 of this Part of this Schedule, and having a gross floor space not exceeding 300 square metres.

1. No such structure shall be used for any purpose other than the purpose of agriculture or forestry, but excluding the housing of animals or the storing of effluent.
2. The gross floor space of such structures together with any other such structures situated within the same farmyard complex or complex of such structures or within 100 metres of that complex shall not exceed 900 square metres gross floor space in aggregate.
3. No such structure shall be situated within 10 metres of any public road.
4. No such structure within 100 metres of any public road shall exceed 8 metres in height.
5. No such structure shall be situated 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.

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

## European Union ( Planning and Development) (Displaced Persons from Ukraine Temporary Protection) Regulations 2022.

2 . In these Regulations –

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

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

“State authority” means –

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

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

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

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

## SCHEDULE

### Article 3

1. Reception and integration facilities.
2. Residential accommodation, including ancillary recreational and sporting facilities.
3. Medical and other health and social care accommodation.
4. Education and childcare facilities, including ancillary recreational and sporting facilities.
5. Emergency management coordination facilities.
6. Structures or facilities ancillary to development referred to in paragraphs 1 to 5, including administration and storage facilities.
7. Infrastructure and other works ancillary to development referred to in paragraphs 1 to 6.

## Council Implementing Decision (EU) 2022/382 of 4 March 2022

### Article 2 ;

1. This Decision applies to the following categories of persons displaced from Ukraine on or after 24 February 2022, as a result of the military invasion by Russian armed forces that began on that date:

- (a) Ukrainian nationals residing in Ukraine before 24 February 2022;
- (b) stateless persons, and nationals of third countries other than Ukraine, who benefited from international protection or equivalent national protection in Ukraine before 24 February 2022; and,
- (c) family members of the persons referred to in points (a) and (b).

## Submission of Agent

Extract from Submission- Further details of submission set out in main assessment.

*Our clients responded to this government appeal for suitable properties to house protected persons. Wicklow County Council (the "Council") approached Seefin Events ULC (operator of the site) in March 2022 to explore the feasibility of meeting this urgent requirement for good quality accommodation.*

*At all times, this team acted on the clear and unambiguous understanding that these buildings are exempted development. It is acknowledged that once the emergency measures end, the use can only continue with the benefit of a successful grant of planning permission.*

*The area of the Holiday Village site is outlined in red ink. The buildings the subject of this declaration application are shown as Structure No.1 to No.16 respectively, on the larger scale Site Layout Plan, scale 1/1000 (Drawing No.PL1010KE-A0-1000), and all save Structure No.1 is shown on a plan at scale 1/500 (Drawing No.PL1011KE-A0-500).*

*This request does not invite the Council to give a declaration regarding the use of these structures. Their lawful use under Class 14(h) and/or Class 20F of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) (the "Planning Regulations") is not the subject of this request.*

*The nature and extent of these uses has been helpfully clarified by the High Court, so that use for these purposes is not in doubt: see *Leitrim County Council v. Dromaprop Ltd* [2024] IEHC 233 and *Dromaprop Ltd v. Leitrim County Council* [2024] IEHC 234. In those judgments, the complaints of the local planning authority were dismissed. The judgment recognised that "national policy regarding the need for additional residential provision for international protection seekers and displaced persons", and the regulations that mean use as accommodation for such persons is exempted development.*

## Assessment :

The Section 5 Declaration application identifies a number of structures within Kippure Holiday Village and seeks confirmation in each case whether such structure is or is not development and is or is not exempted development. The declaration specifically states that the querist is not seeking answers in respect to the use of the units., therefore this assessment will restrict itself to the individual queries identified in the cover letter received with the application in so far as the queries identified in the cover letter and associated drawings. The report deals with each unit in accordance with the labelling set out in Drawing PL 1010KE and Drawing PL1011KE. For ease of reference the units location are identified on the attached Google Earth map, and the relevant planning permissions.

### Structures No. 1 - Gate Lodge A and Gate Lodge B

*Submission indicates that these structures will be temporary demountable residential buildings, used by security personnel on site during the period of use of the lands for those seeking protection under the temporary exemptions for that use. The details in addition identify that these units are considered exempt by reference to Class 17: Part 1:Schedule 2 of the Planning and Development Regulations 2001(as amended).*

This query relates to two separate new gate lodge structures, one of which is located at the main entrance to Kippure Estate, and the second structure which would be located adjoining the second

entrance further east along the R759. The units are each to be c. 85sqm , 2 bedroomed, 4.25m in height.

The construction of the gate lodge units would come within the meaning of works given that works is defined as including any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal.

The construction of the temporary demountable lodges would therefore be development as provided for under Section 3 (1) i.e.

*In this Act, "development" means, except where the context otherwise requires "development" means*

*(a) 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, or*

The provisions of Section 4 (1) (h) are not applicable given these are two new structures on the lands.

Schedule 2 : Part 1: Class 17 provides that the following is exempted development i.e.

*The erection, construction or placing on land on, in, over or under which, or on land adjoining which, development (other than mining) is being, or is about to be carried out, pursuant to any permission, consent, approval or confirmation granted under the Act or any other enactment or as exempted development, of temporary on-site accommodation for persons employed, or otherwise engaged, in connection with the carrying out of the development, during the period in which it is being carried out.*

This exemption is for on-site accommodation for persons who are engaged in the development, and that such development has the necessary consents or exemptions as appropriate. The temporary lodges are not for security for the construction works, but security for those occupying the facility, and neither is it evident that the ongoing development has the necessary permission or exemption, and therefore these lodges would not come within the description set out under Class 17.

It is further concluded that the lodges would not come within the remit of Class 14 Part (i) and (h), as these exemptions relate to a change of use. There are no other exemptions under the Regulations for such structures.

SI. 306 of 2022 EU ( Planning and Development) (Displaced Persons from Ukraine Temporary Protection) Regulations 2022 relates to proposed development carried out by, or on behalf of , a State Authority for the purposes of providing temporary protection to displaced persons.

It is noted that there is no evidence that the structures are being provided on behalf of a State Authority i.e. a Minister of the Government, or the Commissioners of Public Works in Ireland. In addition there is no evidence that the units are related to accommodation for displaced persons, given the definition of such persons set out in Annex 2 of the Council Implementing Decision (EU) 2022/382).

There are no other exemptions available for these Structures. Therefore Gate Lodge A and Gate Lodge B are development and are not exempted development.

### Structure No. 2 – Semi-Detached Agricultural Storage Facility

*Submission – This structure is exempt by reference to Class 9 ; Part 3 ; Schedule 2 of the Planning and Development Regulations 2001 (as amended), and meets all limitations thereunder.*

Structure No. 2 is a large cladded structure which is attached to Structure No. 6, and sits within a complex of structures formed by Units 3,4,5 and 6. This structure is finished in metal cladding, and as identified in the submitted drawing PL-0206-02-KE as 8.577m in height. The structure consists of a ground floor and a mezzanine floor, and has an overall floor area of c. 634 sqm. This structure would appear from aerial photography to have been constructed between January 2020 and March 2022, and this unit and no. 6 would be the first structures to be built within this area.

Google Earth Jan 2020



The construction of Structure No. 2 : Semi-Detached Agricultural Storage Facility would come within the meaning of works, given works is defined as including any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal.

The construction of the Agricultural Storage Shed would therefore be development as provided for under Section 3 (1) which defines "development" as the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land.

The Planning and Development Regulations 2001(as amended) provide for exemptions for Agricultural Structures under Schedule 2: Part 3 , in this case Class 9 is the relevant class of development. Class 9 provides that the following is exempt -

Works consisting of the provision of any store, barn, shed, glass-house or other structure, not being of a type specified in class 6, 7 or 8 of this Part of this Schedule, and having a gross floor space not exceeding 300 square metres.

The structure in question has a gross floor area of c. 660sqm. Note the definition of gross floor area as defined in Article 3 of the Regulations includes the floor area on each floor of a building (including internal walls and partitions). Therefore the structure would not come within the description set out in Class 9.

#### Limitations

1. No such structure shall be used for any purpose other than the purpose of agriculture or forestry, but excluding the housing of animals or the storing of effluent.

The structure is indicated to be in use for agricultural purposes, however from inspection the structure is in use for storage of what appears to be building materials, and would not appear to be in use for agriculture as defined under Section 2 of the Planning and Development Act 2000 (as amended) i.e.

horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the training of horses and the rearing of bloodstock, the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds,

Therefore it has not been demonstrated that the structure is for agricultural purposes.

2. The gross floor space of such structures together with any other such structures situated within the same farmyard complex or complex of such structures or within 100 metres of that complex shall not exceed 900 square metres gross floor space in aggregate.

Taking into account the overall floor area of this structure coupled with Structure 6 i.e. 1134sqm, the total aggregate of such structures within this complex would exceed 900 sqm.

3. No such structure shall be situated within 10 metres of any public road.

Structure is in excess of 10m from the public road

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

Structure is in excess of 10m from the public road.

5. No such structure shall be situated 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.

Structure is not within 100m of any house.

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

Metal sheeting on structure is painted.

The structure would not come within the provisions of Class 9, and therefore is not exempted development.

### Structure No. 3 - Detached Agricultural Maintenance / Storage Facility

*Submission : Structure is exempt by reference to Class 9 ; Part 3 ; Schedule 2 of the Planning and Development Regulations 2001 (as amended), and meets all limitations thereunder.*

Structure No. 3 is a 179sqm unit with an overall height of 6.176m, and sits within the complex formed by Structures 2,4,5 and 6. This structure would appear from Google Earth aerial photography to have been constructed after March 2022.

The construction of Structure No. 3 : Agricultural Maintenance/ Storage Facility would come within the meaning of works given that works is defined as including any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal. The works would therefore come

within the meaning of development as provided for under Section 3 (1) i.e. "development" means, the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land.

The Planning and Development Regulations 2001(as amended) provide for exemptions for Agricultural Structures under Schedule 2: Part 3, in this case Class 9 is the relevant class of development. Class 9 provides the following is exempt -

Works consisting of the provision of any store, barn, shed, glass-house or other structure, not being of a type specified in class 6, 7 or 8 of this Part of this Schedule, and having a gross floor space not exceeding 300 square metres.

The structure in question has a gross floor area of 179sqm, and would come within the description set out under Class 9.

#### Limitations

1. No such structure shall be used for any purpose other than the purpose of agriculture or forestry, but excluding the housing of animals or the storing of effluent.

The structure is indicated to be in use for agricultural maintenance/ storage. No evidence has been submitted to confirm the structure is in such a use, and there appears to be some storage in relation to the construction works on site. Therefore it has not been demonstrated that the structure is in use for agricultural purposes.

2. The gross floor space of such structures together with any other such structures situated within the same farmyard complex or complex of such structures or within 100 metres of that complex shall not exceed 900 square metres gross floor space in aggregate.

Structures 2 and Structure 6 were completed prior to Structure 3, are within 100m of this structure, and have an overall area of 1134sqm, therefore given that the Structure 2 and 6 were built in advance of this structure, and at that time of construction of Structure 3 indicated to be within Class 9, the limitation of 900sqm was already exceeded.

3. No such structure shall be situated within 10 metres of any public road.

Structure is in excess of 10m from the public road

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

Structure is in excess of 10m from the public road.

5. No such structure shall be situated 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.

Structure is not within 100m of any house.

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

Metal sheeting on structure is painted.

The structure would not come within the provisions of Class 9, and therefore is not exempted development.



#### Structure No. 4 – Electricity Distribution Building

*Submission This structure is exempt by reference to Class 29 ; Part 1 ; Schedule 2 of the Planning and Development Regulations 2001 (as amended),*

The electrical distribution building is located adjoining Structure No. 2, and appears to have been constructed some time after March 2022 given the details from Google Earth.

The construction of the electricity building would be works having regard to the definition of works under Section 2 of the Planning and Development Act 2000(as amended). Section 3 (1) of the Act provides that

In this Act, "development" means, except where the context otherwise requires "development" means

(a) 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 on land, or

Accordingly, the structure would be development having regard to the provisions of Section 3 (1).

Schedule 2 : Part 1 : Class 29 provides that

The carrying out by any electricity undertaking of development consisting of the construction or erection of a unit substation (excluding a charging point for electric vehicles) or minipillar for the distribution of electricity at a voltage not exceeding a nominal value of 20kV.

'electricity undertaking' means an undertaker authorised to provide an electricity service,

The Electricity Regulation Act 1999 provides that "electricity undertaking "means any person engaged in generation, transmission, distribution or supply of electricity, including any holder of a licence or authorisation under this Act, or any person who has been granted a permit under section 37 of the Principal Act;

As the applicant is not a person engaged in the supply and generation of electricity, and is not licenced or authorised operator, the development would not come within the description set out under Class 29, and is therefore not exempted development.

#### Structure No. 5 – Open Fronted Agricultural Storage Shed

*Submission - This is exempted development pursuant to Class 9 of Part 3, Schedule 2 of the Planning Regulations. The gross floor area of this structure is less than 300 square metres, and satisfies the conditions and limitation in the second column of the class, including for distance from public roads etc.*

Structure No. 5 is an open fronted storage shed with a 208sqm gross floor area and 5.999m in overall height, and sits within the complex formed by Structures 2,3, 4, and 6. This structure would appear from Google Earth aerial photography to have been constructed after March 2022.

The construction of Structure No. 5 : Open Fronted Agricultural Storage Shed would come within the meaning of works, given that works is defined as including any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal. The construction of Structure 5 would therefore be development as provided for under Section 3 (1) which defines "development" as the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land.

The Planning and Development Regulations 2001(as amended) provide for exemptions for Agricultural Structures under Schedule 2: Part 3 , and Class 9 is the relevant class of development. Class 9 provides the following is exempt -

Works consisting of the provision of any store, barn, shed, glass-house or other structure, not being of a type specified in class 6, 7 or 8 of this Part of this Schedule, and having a gross floor space not exceeding 300 square metres.

The structure in question has a gross floor area of 208sqm, and would come within the description set out under Class 9.

#### Limitations

1.No such structure shall be used for any purpose other than the purpose of agriculture or forestry, but excluding the housing of animals or the storing of effluent.

The structure is indicated to be in use for agricultural storage, and from inspection there is evidence of wood storage, storage of tracker machine, and stone within the structure, and would appear to be in use in relation to the overall lands, associated with Kippure Holiday Village. It is considered as there is a significant area of lands, the use therefore can be considered as part of the overall maintenance of these agricultural areas not dedicated to the Kippure Holiday Village, and would therefore come within the remit of Limitation 1.

2.The gross floor space of such structures together with any other such structures situated within the same farmyard complex or complex of such structures or within 100 metres of that complex shall not exceed 900 square metres gross floor space in aggregate.

Structures 2 and Structure 6 were completed prior to Structure 5, are within 100m of this structure, and have an overall area of 1134sqm. Therefore, given that Structure 2 and 6 were built in advance of this structure, and were considered to come within Class 9 at date of construction of Structure 5, the limitation of 900sqm was already exceeded.

3.No such structure shall be situated within 10 metres of any public road.

Structure is in excess of 10m from the public road

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

Structure is in excess of 10m from the public road.

5. No such structure shall be situated 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.

Structure is not within 100m of any house.

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

Metal sheeting on structure is painted.

The structure would not come within the provisions of Class 9 and therefore is not exempted development.

## Structure No. 6 – Former Agricultural Building, now used to accommodate 'protected 'persons'

### *Submission*

*Unit first constructed as exempted development pursuant to Class 9 of Part 3, Schedule 2 of the Planning Regulations. The gross floor area of this structure is less than 300 square metres, and satisfies the conditions and limitation in the second column of the class, including for distance from public roads etc. It has since been converted to provide accommodation for protected persons. Such works as were necessary for the conversion are exempted development under section 4(1)(h) of the Planning Acts, comprising an improvement of the structure. The use to provide accommodation is exempted development pursuant to the provisions of Class 14(h) and/or Class 20F of Part 1 of Schedule 2 of the Planning Regulations.*

Structure No. 6 is attached to Structure No. 2 on site. This a large cladded structure. This unit similar to Unit 2 is 8.577m in height, has an internal stairwell and an external fire escape. The overall size of this unit is 500sqm ( this excludes the external stairwell).

This structure would appear from aerial photography to have been constructed between January 2020 and March 2022.

The construction of Structure No. 6 : Former Agricultural Storage Shed would come within the meaning of works given that works is defined as including any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal.

The construction of the Former Agricultural Storage Shed would therefore be development as provided for under Section 3 (1) , which defines "development" as the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land.

The Planning and Development Regulations 2001(as amended) provide for exemptions for Agricultural Structures under Schedule 2: Part 3 , Class 9 is the relevant class of development. Class 9 provides the following is exempt -

Works consisting of the provision of any store, barn, shed, glass-house or other structure, not being of a type specified in class 6, 7 or 8 of this Part of this Schedule, and having a gross floor space not exceeding 300 square metres.

The structure in question has a gross floor area of c. 500 sqm. Note the definition of gross floor area as defined in Article 3 of the Regulations includes the floor area on each floor of a building (including internal walls and partitions). Therefore the structure would not come within the description set out in Class 9.

### Limitations

1. No such structure shall be used for any purpose other than the purpose of agriculture or forestry, but excluding the housing of animals or the storing of effluent.

The structure is indicated to have been in use for agricultural purposes, however there is no evidence of any such usage.

2. The gross floor space of such structures together with any other such structures situated within the same farmyard complex or complex of such structures or within 100 metres of that complex shall not exceed 900 square metres gross floor space in aggregate.

Taking into account the overall floor area of this structure coupled with Structure 6 i.e. 1134sqm, the total aggregate of such structures within this complex would exceed 900 sqm.

3. No such structure shall be situated within 10 metres of any public road.

Structure is in excess of 10m from the public road

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

Structure is in excess of 10m from the public road.

5. No such structure shall be situated 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.

Structure is not within 100m of any house.

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

Metal sheeting on structure is painted.

The structure would not come within the provisions of Class 9, and therefore is not exempted development.

#### Structure 7 and Structure 8 Pavillion and Kitchen Building

*Submission : These units are labelled on the ABBD plans as 2No. units. In fact, these are connected and there is in fact one building. The building was granted permission under Planning Register Reference 17/1335. Such works as were necessary for the replacement of the permitted development are exempted development under section 4(1)(h) of the Planning Acts, comprising an improvement of the structure.*

Structure 7 and Structure 8 as identified on the drawings, form an overall structure of c. 622sqm, which is interconnected by a narrow access way between the two structures. The unit is identified as in use as Kitchen facilities, toilet facilities, canteen, office, bar, and event room.

The reference in the submission to this building being permitted under PRR 17/1335 is incorrect, as this permission was refused on appeal on the 3<sup>rd</sup> September 2018 by references to Appeal Reference ABP-300834-18 for one reason i.e.

Having regard to the planning history of the site and to the ongoing concerns of the planning authority in respect of the adequacy of the on-site wastewater treatment and disposal system, the Board cannot be satisfied that the proposed development to be retained either individually, or in combination with other plans or projects, would not be likely to have a significant effect on the Designated European sites in proximity to the proposed development, in view of the sites' conservation objectives. In such circumstances the Board is precluded from granting permission.

Therefore the question is whether the construction of Structure 7 and 8 is development and is exempted development.

The construction of Structures 7 and 8 would come within the meaning of works given that works is defined as including any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal. The structures would therefore be development by reference Section 3(1) of the Act which defines "development" as the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land, or

There are no exemptions under the Planning and Development Regulations 2001(as amended) that would apply to the construction of Structures 7 and Structure 8.

SI. 306 of 2022 EU ( Planning and Development) (Displaced Persons from Ukraine Temporary Protection) Regulations 2022 relates to proposed development carried out by, or on behalf of , a State Authority for the purposes of providing temporary protection to displaced persons.

It is noted that there is no evidence that the structures were at that date of construction being provided on behalf of a "State authority" i.e. a Minister of the Government, or the Commissioners of Public Works in Ireland, In addition there is no evidence that the units are for displaced persons, given the definition of such persons set out in Annex 2 of the Council Implementing Decision (EU) 2022/382).

There are no other exemptions available for these Structures, and therefore they are development and they are not exempted development.

#### Structure 10 – Former Belfry Building

*Submission – This structure, labelled the "Belfry Building", was constructed before 1 October 1964, in or about 1830, so pre-dates the Planning Acts and modern planning law. It is thereby excluded from the definitions of unauthorised structure, and unauthorised development.*

*The structure has been upgraded and renovated for use as a reception and recreation facility for residents of the estate. Such works as were necessary for the upgrade and renovation of the pre-1964 structure are exempted development under section 4(1)(h) of the Planning Acts, comprising an improvement of the structure.*

Structure 10 - Belfry Structure is an 8.7m high two storey structure , 27m in length, and 8.7m wide, with a gross floor area of c. 424sqm. Permission was granted by reference to PRR 05/2792 for the refurbishment of the Belfry Building and use as backup facility for outdoor facilities. The details in that application indicate that this structure was 6.65m in width, and 18.15m in length, and 8.1m in height, with a gross floor area of c. 197sqm. Photographs below show the Belfry building before and after the works undertaken to it.

*Photos – Prior to Works c. 2011/2012*







#### Current Status



It is evident from the above details that Structure 10 : Former Belfry Building has been subject to operations of construction, demolition, extension, alteration and repair , particularly as the structure has been extended in terms of height , width and length. Therefore the operations would come within the definition of works having regard to Section 2 of the Planning and Development Act 2000(as amended), and would therefore be development which is defined under Section 3 (1) i.e. as the

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

Section 4(1)(h) of the Planning and Development Act 2000(as amended) provides that the following shall be exempted developments for the purposes of this Act :

(h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;

Structure 10 has been extended/ altered by reference to changes in height of c. .5 m , length increased by 8.85m, and width which has been increased by 2.05m . The nature of the works would not be works of maintenance, improvement or other alteration, as the works include the extension of the structure on site, and would result in the structure being materially different to the Former Structure at this point. The works have significantly altered the the external appearance of the structure such that it is inconsistent with the character of the structure.

There are no exemptions available within the Planning and Development Regulations 2001(as amended) for this development .

Sl. 306 of 2022 EU ( Planning and Development) (Displaced Persons from Ukraine Temporary Protection) Regulations 2022 relates to proposed development carried out by, or on behalf of , a State Authority for the purposes of providing temporary protection to displaced persons.

It is noted that there is no evidence that the works to the Former Belfry Structure were at that date of construction being provided on behalf of a "State authority" i.e. a Minister of the Government, or the Commissioners of Public Works in Ireland. In addition there is no evidence that the units are for displaced persons, given the definition of such persons set out in Annex 2 of the Council Implementing Decision (EU) 2022/382).

There are no other exemptions available for the works to the Former Belfry Structure, and therefore the works are development and they are not exempted development.

#### Structure No.11 Concrete paved area adjacent to Structure Nos. 10 and 12.

*Submission ; This area is development for amenity or recreation purposes. It has been laid out and used as a recreational facility for the protected persons resident at the estate. This is exempted development pursuant to Class 33 of Part 1, Schedule 2 of the Planning Regulations.*

The laying out and paving out of the area with concrete adjacent to Structures 10 and Structure 12 would be works having regard to the definition under Section 2 of the Planning and Development Act 2000(as amended), and would therefore be development as defined in Section 3 (1) which identifies "development" as the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land, or

The Planning and Development Regulations 2001 (as amended) provide under Class 33 that the following is exempted development i.e.

Development consisting of the laying out and use of land—  
(a) as a park, private open space or ornamental garden,

Note parts (b) and (c) of that Class 33 are not relevant in this instance.

The area in question subsists between Structure 10 : Former Belfry Structure to the north, Structure 12: Accommodation Block 1 and extends to Structure 13.







The area in question allows for access to and from the accommodation units to the south, and between Structure 10 and to Structure 13 when completed. The area is provided with a basketball hoop and some exercise equipment, as is evident from the photographs.

The description set out under Class 33 relates to three types of areas i.e. Park, Private Space or ornamental garden.

The definition of Park as provided for under the Collins English Dictionary is a large area of open land for recreational use by the public, a piece of recreation in a town. Given the nature of the area, which is a concreted area, an area which is not solely for recreation but also for access, and is not open to the public, the area cannot be considered to come within the definition of Park.

The 'Sustainable Residential Development and Compact Growth Settlements : Guidelines for Planning Authorities' 2024 define Private Open space as ,

An outdoor open area that is exclusively for use by the occupants of a residential unit (and their visitors). Does not include areas used exclusively for access (e.g. side passages) or storage (including car parking).

This hard surfaced area is an outdoor open area but its use is not exclusive to an individual unit, it is an open area, forms part of the thoroughfares through the overall development undertaken on the lands, and is therefore not considered to form a private open space, but is both a communal area, and an access area.

The area is clearly not an ornamental garden. It is therefore considered that the concreted area would not come within the provisions of Class 33.

It is further contended that the laying out of an area would not include works which would involve the raising or lowering of levels to any significant degree. In this regard it is evident from photographs c. 2011 that the concreted area at that time was undulating. The submitted drawing PL1011KE : Site Layout Plan identifies that the finished floor level of the recreation building, no longer in place ( PP99/1150) was 297.059 and the lands to the north of Structure 12 at c. 300. These level changes would have required the build-up of levels to a significant degree and cannot be considered to come within the description of laying out.



The concrete paved area between Structure 10 and Structure 12 is therefore development and is not exempted development.

#### Structure No.12 -Accommodation Block No.1

*This structure, sometimes labelled the "Long Barn", was constructed before 1 October 1964, in or about 1830, so pre-dates the Planning Acts and modern planning law. It is thereby excluded from the definitions of unauthorised structure, and unauthorised development.*

*On 12 June 2000, the Council granted planning permission Reg. Ref. No. 99/1150 to retain the conversion of part of this structure to a 2-storey recreation building.*

*Since the current owners purchased the estate in 2020, they have been implementing a programme of refurbishment and improvement works to the extensive building complexes and infrastructure at Kippure. This programme of works included Structure No.12, a part-accommodation building, including toilets, recreation area, "tuck" shop or visiting students, boot room and other utility compartments, some of which had fallen into a state of disrepair. This building complex was known on the estate as the "long barn" and had various uses, renovations and alterations down the years.*

*As part of ABBD's work, all lands and buildings were surveyed and mapped. Each building was evaluated as to its structural condition, and a schedule of works prepared. Structure No.12 was identified to accommodate the above-described uses, and its walls acted as retaining structures against the much higher ground to its Northern side. The building was a storey and a half, viewed from the South, and nearly one storey as viewed from the North. The lands at Kippure fall steeply from the main road (R759) the Northern boundary, down to the river Liffey which forms the Southern boundary, meaning that nearly all buildings on the estate are built with varying floor levels, in other words, providing a terraced effect.*

*ABBD concluded that Structure No. 12 was in need of major stabilisation work as the old stone walls were over-stressed and were showing signs of excessive movement. This had been a gradual process over a long period of time. The building had to undergo a programme of sequential stabilisation, including replacement of some walls with a specially designed reinforced concrete cantilever retaining structure,*

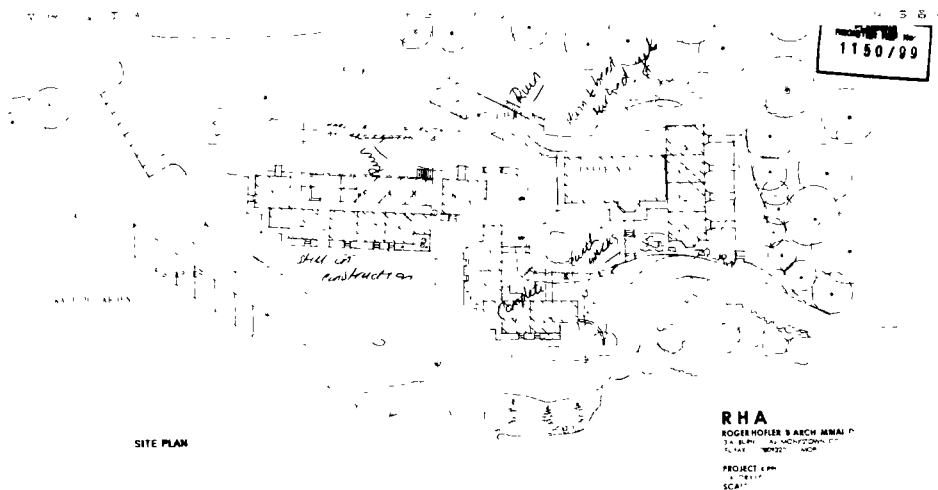
and the rebuilding of other areas. A steel frame was introduced, with precast slab divides, to aid the stabilisation process and refurbishment works, while reducing the loading on the existing foundations.

Structure No.12 is now a 27No. bedroom accommodation block, with associated plant rooms. Each bedroom has ensuite facilities. This building is fully occupied by protected persons.

Such works as were necessary for the upgrade and renovation of the pre-1964 structure, and the development permitted under planning permission Reg. Ref. No. 99/1150, are exempted development under section 4(1)(h) of the Planning Acts, comprising an improvement of the structure

Structure No. 12 is a two storey building set into the ground such that its northern elevation reads as single storey, and its southern elevation as 2 storey. Centrally within this structure is a covered set of stairs, which allows access from the higher northern lands to the lower southern lands. The structure is located to the north of existing holiday home units ( PRR 94/1113). The structure has an overall length of 62.933m , width of 5.8m and height of 8m.

PRR 99/1150 permitted the retention of the farm building to be converted into 2 storey recreation building. This structure had a width of 5.2m, with an overall length of 19.3m, and height of c. 6.375m. The location and character of this structure is as identified in the site layout extract below from PRR 99/1150.





Aerial Photography 2020 shows the Holiday Units permitted by reference to PRR 94/1113, and the structure the subject to retention under PRR 99/1150 , which is positioned between Unit No. 1 and Unit No. 6 of the holiday units.



Structure retained c. 2011



It is clearly evident from the details extracted from PRR 99/1150, from the aerial photograph, and from the 2011/2012 photographs that the 'Long Barn' structure is not Structure 12. Structure 12 sits outside this envelope being located to the north of the holiday units (PRR 94/1113). Furthermore the aerial photograph from 2020 clearly shows that there is no structure within the location to the north of the holiday homes and retained structure ( PRR 99/1150) , and Structure 10 : The Belfry. Therefore it is concluded that Structure No. 12 is a newly constructed accommodation unit.

The construction of Structure 12 would come within the definition of works as defined under Section 2 of the Planning and Development Act 2000(as amended). These works would be development having regard to the definition set out in Section 3 (1) which identifies "development" as the carrying out

of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land.

Section 4(1)(h) of the Planning and Development Act 2000(as amended) would not be applicable as Structure 12 is a new structure which is significantly different in terms of size, scale and location, and therefore the works would not consist of works of maintenance, improvement or other alteration of the original retained farm structure.

There are no exemptions available within the Planning and Development Regulations 2001(as amended) for this development .

Sl. 306 of 2022 EU ( Planning and Development) (Displaced Persons from Ukraine Temporary Protection) Regulations 2022 relates to proposed development carried out by, or on behalf of , a State Authority for the purposes of providing temporary protection to displaced persons.

It is noted that there is no evidence that the construction of Structure 12 was at that date of construction being provided on behalf of a "State authority" i.e. a Minister of the Government, or the Commissioners of Public Works in Ireland. In addition there is no evidence that the units are for displaced persons, given the definition of such persons set out in Annex 2 of the Council Implementing Decision (EU) 2022/382).

Structure 12 therefore is development and is not exempted development.

#### Structure 13 - Art O'Neill's Building".

*Submission : This structure, sometimes labelled "Art O'Neill's Building", was constructed before 1 October 1964, in or about 1830, so pre-dates the Planning Acts and modern planning law. It is thereby excluded from the definitions of unauthorised structure, and unauthorised development.*

*It was damaged by fire on or about 29 June 2016 .*

*On 9 February 2018, the Council granted planning permission Reg. Ref. No. 17 /352 as follows:*

*Replacement dormer style building in place of the section of the original building which was burnt down in June 29th 2016. Permission is also sought for alterations to the original design layout of the section of the overall building, elevational alterations, the construction of a single storey kitchen extension to the rear, the construction of an open canopy above the existing entrance doors over the eastern facade of the existing two storey section which was undamaged in the fire, relocating the front entrance door to the existing two storey building, minor internal and external elevational alterations to all the existing building and for new upgraded wastewater treatment plant and additional polishing filter."*

*Such works as were necessary for the upgrade and renovation of the pre-1964 structure, and the development permitted under planning permission Reg. Ref. No. 17 /352, are exempted development under section 4(1)(h) of the Planning Acts, comprising an improvement of the structure.*

*There is external cladding on this building, but all of that cladding will be removed in the coming weeks.*

The planning history of the structure indicates that permission was granted for replacement of the original building at this point under PRR 94/1113, furthermore PRR 05/2468 permitted the retention of this existing building (94/1113) and change of use from self-catering area to common room/ dining

room and wine bar. Therefore this structure would not have been in existence on the 1<sup>st</sup> October 1964.

The most recent planning permission with respect to Structure 13 is PRR 17/352. This decision permitted the replacement of the section of the building which was burnt down in June 29th 2016, and alterations to design of the overall building, elevational alterations, the construction of a single storey kitchen extension to the rear, the construction of an open canopy above the existing entrance doors over the eastern facade of the existing two storey section which was undamaged in the fire. The final grant issued on the 9th February 2018, and permission therefore ceased on the 20th May 2023. From the Commencement details set out on eplanning works commenced on the 16th September 2023, which would have been after that permission had ceased.

Photographs taken c. 2017 show the structure at the time PRR 17/352 was being assessed.







The structure as currently exists on site is identified in the photos below





As is evident the structure has been clad fully in timber, and there is an extended area provided to the front which has been roofed over but not fully enclosed.

It is considered that the re-cladding of the structure with timber, the provisions of a covered area to the front of Structure and upgrade of Structure No. 13 would come within the definition of works set out in the Planning and Development Act 2000(as amended), being operation of construction, extension and repair. Therefore, such works would be development as provided for under Section 3 (1) of the Act which defines development as the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land.

Section 4(1)(h) of the Act provides that

(1)The following shall be exempted developments for the purposes of this Act—

(h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;

From review of the structure the external cladding of the structure in timber would materially affect the external appearance of it when reviewed in relation to its status in 2017 i.e. as a white plastered structure, and it would therefore be inconsistent with the character of the structure. The reference in the submitted documentation that the cladding will be removed cannot be considered as part of this assessment, as the structure as exists on site is the relevant works to be assessed, and not future alterations.

The provision of an extended covered area to Structure 13, would it is considered not come within the exempted development definition set out under Section 4(1)(h), as this is a material addition to the structure. There are no exemptions under the Planning and Development Regulations 2001(as amended) in respect of the covered extension to Structure 13.

SI. 306 of 2022 EU ( Planning and Development) (Displaced Persons from Ukraine Temporary Protection) Regulations 2022 relates to proposed development carried out by, or on behalf of, a State Authority for the purposes of providing temporary protection to displaced persons.

It is noted that there is no evidence that the works to Structure 13 at that date of construction were being provided on behalf of a "State authority" i.e. a Minister of the Government, or the



Commissioners of Public Works in Ireland. In addition there is no evidence that the units are for displaced persons, given the definition of such persons set out in Annex 2 of the Council Implementing Decision (EU) 2022/382).

Structure 13 therefore is development and is not exempted development

Structure 14 Carpark adjacent to the former "Belfry Building".

*Submission : This is a temporary carpark to facilitate construction personnel and administrative staff. This is exempted development pursuant to Class 16 of Part 1, Schedule 2 of the Planning Regulations. The car park will be reinstated after the development is carried out, save to such extent as may be authorised or required by a permission under the Planning Acts.*

It is indicated in the submission that Structure 14 is a temporary carpark area. The carpark area as from the photograph would appear to have been hard cored and surfaced, to allow for the parking of both construction personnel and administrative vehicles. This area appears from Google Earth to have been provided at some date after March 2022.



Section 3(1) of the Planning and Development Act 2000 (as amended) defines development as the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land. It is considered that the construction of the carpark area is would have involved both works ( construction) and a material change of use given that this area would have been rural/ agricultural lands.

The Planning and Development Regulations 2001(as amended) provides under Class 16 : Part 1 :Schedule 2 that

The erection, construction or placing on land on, in, over or under which, or on land adjoining which, development consisting of works (other than mining) is being or is about to be, carried out pursuant to a permission under the Act or as exempted development, of structures, works,

plant or machinery needed temporarily in connection with that development during the period in which it is being carried out.

Class 16 would not be applicable to the works in this instance as the carpark is not solely for construction staff but also for administrative staff related to the residential facilities on site. In addition such works are only permissible in relation to developments which have planning permission or are exempted development, having regard to the overall assessment of the construction works that have taken place since March 2022 there is no evidence that such developments are exempted development. Therefore, Class 16 is not applicable in this instance and there are no other exemptions available for such works under the Regulations.

Sl. 306 of 2022 EU (Planning and Development) (Displaced Persons from Ukraine Temporary Protection) Regulations 2022 relates to proposed development carried out by, or on behalf of, a State Authority for the purposes of providing temporary protection to displaced persons.

It is noted that there is no evidence that the carpark at that date of construction was being provided on behalf of a "State authority" i.e. a Minister of the Government, or the Commissioners of Public Works in Ireland. In addition there is no evidence that the carparks relate to development for displaced persons, given the definition of such persons set out in Annex 2 of the Council Implementing Decision (EU) 2022/382).

Structure 14 therefore is development and is not exempted development

#### Structure 15 Large gravelled area to the Northeast of the Holiday Village.

*Submission : This is a temporary carpark to facilitate construction personnel. This is exempted development pursuant to Class 16 of Part 1, Schedule 2 of the Planning Regulations. The car park will be reinstated after the development is carried out, save to such extent as may be authorised or required by a permission under the Planning Acts.*

Structure 15 is located to the north of the main core complex of structures at Kippure Holiday Village. As can be seen below this area was rural / agricultural lands in 2019.

Google Earth July 2019





Google Earth January 2020



Google Earth March 2022



At some time between July 2019 and January 2020 works commenced in this general area providing a roadway and also it would appear some vegetation removal. The area was gravelled and laid out at some stage between 2020 and 2022. This area of land is located to the west of the Wicklow Mountains SAC (Natura 2000 Site), with Cransillagh ( Brook) forming the boundary of the SAC at this point, and Structure 15 would intersect with the Natura 2000 site on its southeastern corner. The area would also be c. 365m from the boundary of the Wicklow Mountains SPA (Natura 2000 Site). The area in question is c. 1.3 hectares, and has been used both as a carpark and for the storage of materials, as can be seen in the photographs.



Section 3(1) of the Planning and Development Act 2000 (as amended) defines development as the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land. It is considered that the laying of hardcore to provide a carpark is both works ( ie. operation of construction ) and a material change of use given that this area would have been rural/ agricultural lands.

The Planning and Development Regulations 2001(as amended) provides under Class 16 : Part 1 :Schedule 2 that

The erection, construction or placing on land on, in, over or under which, or on land adjoining which, development consisting of works (other than mining) is being or is about to be, carried out pursuant to a permission under the Act or as exempted development, of structures, works, plant or machinery needed temporarily in connection with that development during the period in which it is being carried out.

Class 16 would not be applicable to the works in this instance as the works that have taken place on the lands are not in connection with development that is either permitted or exempted development. In addition Article 9 of the Planning and Development Regulations 2001 (as amended) provides that

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

(a) 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,

The works to provide this gravelled area and the use of the gravelled area would it is considered give rise to impacts on the Wicklow Mountains SAC that cannot be screened out, and would have required mitigation measures to ensure that works did not damage the qualifying interests of this Natura 2000 site by virtue of the impact of

- Removal of vegetation
- Tracking of vehicles in proximity to SAC/ Stream
- Construction spillages
- Petrol/ Diesel spillages from construction and usage of the area in question.

Furthermore, given the qualifying interest of the Wicklow Mountains SPA i.e. peregrine, falcon it cannot be ruled out that impacts on these Birds could arise as part of the gravelling of this area.

It is therefore concluded that a Stage 2 : Appropriate Assessment would have been required for the works, and therefore the works would not be exempted development by reference to Class 16 having regard to the provisions of Article 9(1)(a)(viiB).

Therefore, Structure 15 is development and is not exempted development.

#### Addendum

Map No. 17.09B of the Wicklow County Development Plan identifies this landscape as an Area of Outstanding Natural Beauty, given the extensive area that has been gravelled, and the impact of this alteration in this sensitive landscape it is considered that the works have clearly interfered with the character of the landscape, from natural vegetated rugged landscape to a semi industrial character. Whilst Article 9(1)(a) (vi) does provide that works which

(vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

would not be exempted development. As the County Development Plan objectives are not considered to provide a specific objective for the preservation of the landscape as would met the legislative criteria, Article 9(1)(a)(vi) was not included in the recommendation conclusion.

## Structure 16 – Accommodation Block No. 2

*Submission : This structure, sometimes labelled "the Stables and Grain Stores", was constructed before 1 October 1964, in or about 1830, so pre-dates the Planning Acts and modern planning law. It is thereby excluded from the definitions of unauthorised structure, and unauthorised development.*

*Structure No.16 is now a 51 No. bedroom accommodation block, with associated plant rooms. Each bedroom has ensuite facilities. When complete, this structure will be occupied by protected persons.*

*Structure No.16 is a modular building, and its principal components were manufactured off site. These components include:*

- Insulated steel roofing panels and associated flashings.*
- Steel Frame Structure.*
- Pre-cast concrete wall and floor panels.*
- External windows and doors.*

*The building was assembled on site and fixed with bolts to a pre-constructed reinforced concrete retaining-wall. Final fit-out of the structure will be carried out on site, as will connections to services etc.*

*Such works as were necessary for the upgrade and renovation of the pre-1964 structure are exempted development under section 4(1)(h) of the Planning Acts, comprising an improvement of the structure.*

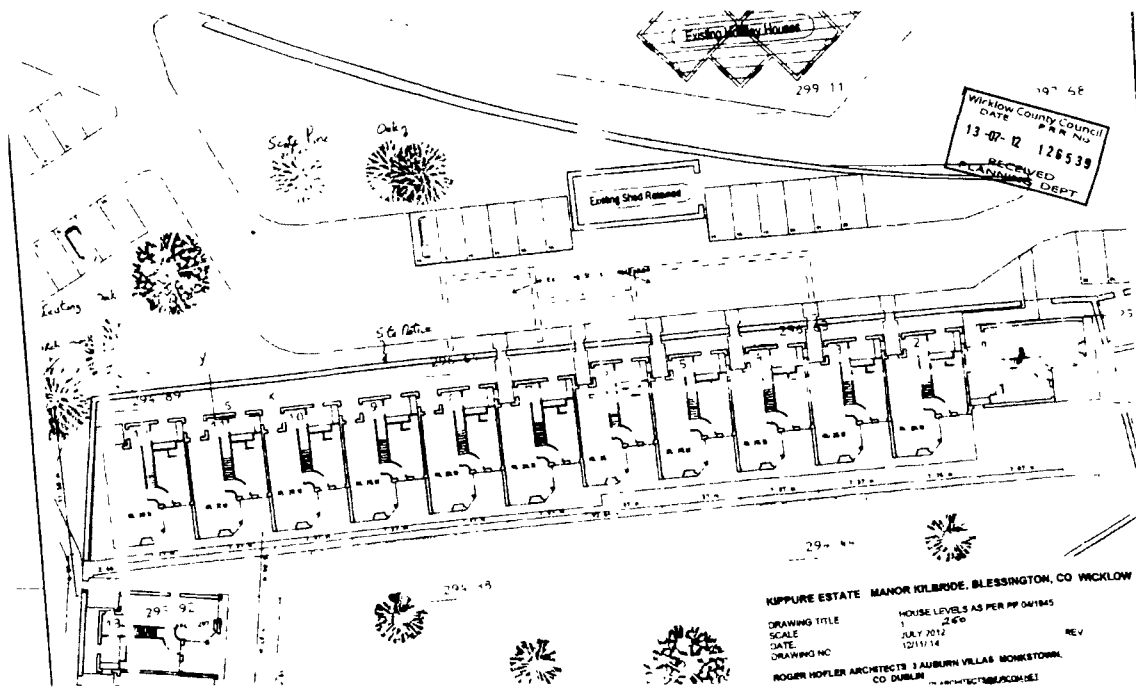
*Without prejudice to the foregoing, it is highlighted that the Structure 16 would be exempted by reference to the provisions of the European Union (Planning and Development) (Displaced Persons From Ukraine Temporary Protection) Regulations 2022 (SI No. 306 of 2022) as it be a 'Temporary New Build Accommodation and Structures to address the urgent need to provide emergency accommodation and support to displaced persons from the conflict in Ukraine.'*

*Highlighted that the construction of this temporary building is necessitated by the on-going urgent need by Government to provide accommodation for displaced persons caused by the war in Ukraine.*

*The Minister for Children, Equality, Disability, Integration and Youth is a "state authority". This means that the provisions of Part XI of the Planning Acts applies to development carried out on his behalf which was done under the European Union (Planning and Development) (Displaced Persons From Ukraine Temporary Protection) Regulations 2022 (SI No. 306 of 2022) (the "2022 Regulations"), so that the Planning Acts do not apply to certain development required for the purposes of providing temporary protection to displaced persons from Ukraine.*

*See letter for full submission details*

*Structure 16 is located to the north of the holiday units originally permitted by reference to PRR 04/1945. This structure has a length of 141m , and width of c. 7.2m. As is evident from the extract from PRR 12/6539 the ' Existing shed retained' was a minor structure being limited in scale.*



The details provided with the submission indicate that Structure 16 is formed by a modular building, and its principal components manufactured off site, with the building assembled on site and fixed with bolts to a pre-constructed reinforced concrete retaining-wall.

The construction of Structure 16 would come within the definition of works as set out in Section 2 of the Planning and Development Act 2000 (as amended), and would therefore be development as provided for under Section 3 (1) which defines development as the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land, or

Section 4(1)(h) of the Planning and Development Act 2000(as amended) would not be applicable as Structure 16 is a new structure as evidenced in the submitted details confirming its construction, therefore the works would not consist of works of maintenance, improvement or other alteration of the original retained structure but are effectively a new structure.

There are no exemptions available within the Planning and Development Regulations 2001(as amended) for this development .

SI. 306 of 2022 EU ( Planning and Development) (Displaced Persons from Ukraine Temporary Protection) Regulations 2022 relates to proposed development carried out by, or on behalf of , a State Authority for the purposes of providing temporary protection to displaced persons.

It is noted that there is no evidence that Structure 16 at that date of construction was being provided on behalf of a "State authority" i.e. a Minister of the Government, or the Commissioners of Public Works in Ireland. In addition there is no evidence that the accommodation is for displaced persons, given the definition of such persons set out in Annex 2 of the Council Implementing Decision (EU) 2022/382).

Structure 16 is therefore development, and is not exempted development.



On-site storage of soil/stone, boulders, machinery and building materials.

*Submission : Part of the estate is used for the storage of soil/stone and or boulders, machinery and building materials as necessary and incidental to the development of Kippure. This is exempted development pursuant to Class 16 of Part 1, Schedule 2 of the Planning Regulations.*

This is an extremely wide ranging query, given that from site inspection soil/stone, boulders, machinery and building materials are deposited in various locations within the Kippure lands. Google Earth imagery from 2022 shows the extent of such areas.



Section 3(1) of the Planning and Development Act 2000 (as amended) defines development the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land. It is considered that the placing of materials on lands is a material change of use given that this area would have been rural/ agricultural lands.

The Planning and Development Regulations 2001(as amended) provides under Class 16 : Part 1 :Schedule 2 that

The erection, construction or placing on land on, in, over or under which, or on land adjoining which, development consisting of works (other than mining) is being or is about to be, carried out pursuant to a permission under the Act or as exempted development, of structures, works, plant or machinery needed temporarily in connection with that development during the period in which it is being carried out.

Class 16 would not it is considered be applicable to the works as the works that have taken place on the lands are not in connection with works that are either permitted or exempted development. In addition Article 9 of the Planning and Development Regulations 2001 (as amended) provides that

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

(a) 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.

In addition given that the movement of soil/stone, boulders, machinery and building materials in areas which are proximate to the Wicklow Mountains SAC and the Wicklow Mountains SPA, impacts on these Natura 2000 sites cannot be ruled out, given the potential for petrol,diesel and oil spillages,

loss vegetation, construction spillages, dust, and movement of vehicles in sensitive locations. Therefore, impacts on the qualifying interests of the Natura 2000 site cannot be ruled out and a Stage 2 : Appropriate Assessment would be required.

It is therefore concluded that a Stage 2 : Appropriate Assessment would have been required for the works, and therefore the works would not be exempted development by reference to Class 16 having regard to the provisions of Article 9(1)(a)(viiB).

#### Addendum

Map No. 17.09B of the Wicklow County Development Plan identifies this landscape as an Area of Outstanding Natural Beauty, given the areas impacted as evidenced in the aerial photography, and the impact of this alteration in this sensitive landscape it is considered that the works have clearly interfered with the character of the landscape, from natural vegetated rugged landscape to a semi industrial character. ~~While~~ Article 9(1)(vi) does provide that works which

(vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

would not be exempted development. As the County Development Plan objectives are not considered to provide a specific objective for the preservation of the landscape as would meet the legislative criteria, Article 9(1)(a)(vi) was not included in the recommendation conclusion.

#### **Appropriate Assessment :**

Historically there have been issues in respect to the existing wastewater treatment system serving the overall Kippure development. This treatment system has not been operating effectively, and the Environment Section have indicated that the system has exceeded the permitted discharge to groundwater limit for 80% of 2023. This overloaded system has resulted in the pollution of the groundwater and impacted on the quality of spring and land drainage down gradient of the percolation area.

The Structures the subject of this Section 5 Declaration Application include a number which would / will result in loading on this treatment plant, and further potential pollution to groundwater ie. Structures 1,6,7,8,10,12 and 16. Accordingly significant impacts on the Liffey River, and groundwater discharging to this River as a result of the overall developments at Kippure Holiday Village cannot be ruled out.

As the River Liffey forms part of the Wicklow Mountains SAC, it is concluded that the developments would have required a Stage 2 : Appropriate Assessment.

Therefore the works would not accord with the provisions of the Planning and Development Act 2000(as amended) or the Habitats Directive.

### Recommendation :

With respect to the query under Section 5 of the Planning and Development Act 2000(as amended), as to whether

- (a) Structure No.1 -Gate Lodge A and Gate Lodge B
- (b) Structure No. 2- Semi-Detached Agricultural Storage Facility
- (c) Structure No. 3-Detached Agricultural Maintenance/ Storage Facility
- (d) Structure No.4- Electricity Distribution Building
- (e) Structure No. 5-Open Fronted Agricultural Storage Shed
- (f) Structure No. 6-Former Agricultural Building, now used to accommodate protected persons
- (g) Structure No. 7 and 8 – Pavilion and Kitchen Building
- (h) Structure No. 10 – Former Belfry Building
- (i) Structure No. 11- Concrete Paved Area adjacent to Structure No. 10 and 12.
- (j) Structure No. 12-Accommodation Block No.1
- (k) Structure No.13- Art O’Neills Building
- (l) Structure No.14 - Carpark adjacent to the Former ‘Belfry Building’
- (m) Structure No.15-Large Gravelled Area to the Northeast of the Holiday Village
- (n) Structure No.16 –Accommodation Block No. 2
- (o) On-site storage of soil/stone, boulders, machinery and building materials

constitutes exempted development within the meaning of the Planning and Development Acts, 2000(as amended).

The Planning Authority considers that :

- (a)Structure No.1 -Gate Lodge A and Gate Lodge B **is Development and is Not Exempted Development.**
- (b)Structure No. 2- Semi-Detached Agricultural Storage Facility **is Development and is Not Exempted Development.**
- (c)Structure No. 3-Detached Agricultural Maintenance/ Storage Facility **is Development and is Not Exempted development.**
- (d)Structure No.4- Electricity Distribution Building **is Development and is Not Exempted Development.**
- (e)Structure No. 5-Open Fronted Agricultural Storage Shed **is Development and is Not Exempted development.**
- (f)Structure No. 6-Former Agricultural Building, now used to accommodate protected persons **is Development and is Not Exempted Development.**
- (g)Structure No. 7 and 8 – Pavilion and Kitchen Building **is Development and is Not Exempted Development.**
- (h)Structure No. 10 – Former Belfry Building **is development and is Not Exempted Development.**
- (i)Structure No. 11- Concrete Paved Area adjacent to Structure No. 10 and 12 **is Development and is Not Exempted development.**
- (j)Structure No. 12-Accommodation Block No.1 **is Development and is Not Exempted Development.**
- (k)Structure No.13- Art O’Neills Building **is Development and is Not Exempted development.**
- (l)Structure No.14 - Carpark adjacent to the Former ‘Belfry Building’ **is Development and is Not Exempted Development.**
- (m)Structure No.15-Large Gravelled Area to the Northeast of the Holiday Village **is Development and is Not Exempted Development.**
- (n)Structure No.16 –Accommodation Block No. 2 **is Development and is Not Exempted Development.**

(o) On-site storage of soil/stone, boulders, machinery and building materials **is development and is Not Exempted Development.**

### **Main Considerations**

1. The Section 5 Declaration Application documentation.
2. Planning History i.e. PRR ABP-300834-18 (PRR 17/1335) , PRR 17/352, PRR 12/6761, PRR 12/6539 , PRR 12/6455, PRR 11/4773, PRR 05/2792, PRR 05/2468, PRR 04/1945, PRR 99/1150, PRR 98/9461, PRR 94/1113.
3. County Development Plan 2022-2028- Landscape Designation – Area of Outstanding Natural Beauty Mountain Uplands.
4. Natura 2000 Sites – Wicklow Mountains SAC , Wicklow Mountains SPA
5. Section 2,3, 4 of the Planning and Development Act 2000(as amended)
6. Planning and Development Regulations 2001 (as amended) Article 2,3, 5,6, 9 and Schedule 2 : Part 1, Class 14, Class 16, Class 17, Class 20F, Class 33
7. European Union ( Planning and Development) (Displaced Persons from Ukraine Temporary Protection) Regulations 2022.
8. Council Implementing Decision (EU) 2022/382 of 4 March 2022
9. Habitats Directive
10. Electricity Regulation Act 1999
11. Sustainable Residential Development and Compact Growth Settlements : Guidelines for Planning Authorities
12. Google Earth Photography, Aerial Photography , and previous photographs related to Kippure Holiday Village.

### **Main Reasons with respect to Section 5 Declaration:**

- A. The acts of construction, excavation, demolition, extension, alteration, repair and renewal , which were undertaken in respect of Structures labelled No. 1, No.2, No.3 No.4, No.5, No.6, No.7 and No.8, No.10, No.12, No.13, and No. 16 and the laying out of Structures labelled No.11, No. 14, and No. 15 would come within the definition of works set out in Section 2 of the Planning and Development Act 2000 (as amended).
- B. Having regard to the definition of development set out in Section 3 of the Planning and Development Act 2000(as amended) which identifies "development" as the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land, it is considered that Structures labelled No. 1, No.2, No.3 No.4, No.5, No.6, No.7 and No.8, No.10, No. 11, No.12, No.13, No.14, No.15 would come within the definition of development, ~~and~~ Structures labelled No. 14, No. 15 and No. 16 and the on-site storage of soil/stone, boulders, machinery and building materials would result in a material change of use of the lands from use as agriculture.
- C. Structures Labelled No. 1 – Gate Lodge A and Gate Lodge B ~~these structures~~ would not come within the description set out in Class 17 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) as the occupiers are not for those persons carrying on the construction works, and neither are they in respect of development which has the necessary permission, consent, approval or confirmation granted under the Planning and Development Act 2000(as amended) or any other enactment or exempted development.

- D. Structures labelled No. 2 and No. 6, semi-detached structures constructed for Agricultural purposes would not come within the description set out in Class 9 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001 (as amended), as the structures are 634sqm and 500sqm respectively, and it has not been demonstrated that they are in use or were in use for agricultural<sup>5</sup>, and cumulatively they would exceed the 900sqm aggregate floor space permissible.
- E. Structures labelled No. 3, and No. 5 constructed for agricultural purposes would not come within the provisions set out in Class 9 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001 (as amended), as the structures would not accord with the limitations thereunder, as both were constructed after Structures 2 and 6, and therefore the cumulative area of similar structures would exceed 900sqm, and it is not evident that Structure No. 3 is in use for agriculture.
- F. Structure Labelled No. 4, constructed for electricity distribution would not come within the description set out in Class 29 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) as the applicant would not come within the definition of electricity as defined under in Article 3 of the Regulations, and the Electricity Regulation Act 1999. *Under the King*
- G. Structures Labelled No. 7 and No. 8 are new buildings which were not permitted by reference to Appeal Reference ABP-300834-18 ( PRR 17/1335). There are no exemptions in the Planning and Development Regulations 2001 (as amended) available for such structures.
- H. Structure Labelled No. 10, the former Belfry building, has been altered significantly in terms of its height, length and size, with a doubling in size of the structure from the details set out in PRR 05/2792. The works therefore are not works of maintenance, improvement or alteration which only affect the interior, but are works such that the structure is not the same structure as that identified in PRR05/2792, and therefore would not come within the provisions of Section 4(1)(h) of the Planning and Development Act 2000(as amended). There are no exemptions available within the Planning and Development Regulations 2001 (as amended) for this structure.
- I. Structure Labelled No. 11, the concrete paved area adjacent to Structures 10 and 12 would not come within the description set out in Class 33 (a) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended). The area which is used in part as a thoroughfare / access area within the development, would not come within the definition of Park as identified in Collins Dictionary i.e. a large area of open land for recreational use by the public, and neither would it be Private Open Space as defined by the Sustainable Residential Development and Compact Growth Guidelines, as it is not a private area solely for use by the occupants of a residential unit and their visitors, and it would not be an ornamental garden. The installation of the concrete paved area would have required the alteration of levels to a material degree to accommodate this flat area, and therefore such works, which would have involved raising/ lowering of levels, would not come within the description of laying out.
- J. Structure Labelled No. 12 is a newly built accommodation structure, and there are no exemptions in the Planning and Development Regulations 2001 (as amended) available for such structures.



K. Structure Labelled No. 13 the external cladding of the structure in timber would materially affect the external appearance of it when reviewed in relation to its status in 2017 i.e. as a white plastered structure, and it would therefore be inconsistent with the character of the structure. The provision of an extended covered area to Structure 13 which is an external addition would also materially affect the external appearance. There are no exemptions under the Planning and Development Regulations 2001(as amended) in respect of the works undertaken on Structure 13.

and would not come within the scope of S4(2)(b)

L. Structure Labelled No. 14, carpark, would not come within the description set out in Class 16 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) as carpark is not solely for construction workers but is also for administrative persons related to the facilities on site, and neither is the carpark provided on foot of development which has the necessary permission, consent, approval or confirmation granted under the Planning and Development Act 2000(as amended) or any other enactment or exempted development.

M. Structure Labelled No. 15, large gravelled area located proximate to the Wicklow Mountains SAC and Wicklow Mountains SPA, would not come within the description set out in Class 16 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) as the provision of this area was not on foot of development which has the necessary permission, consent, approval or confirmation granted under the Planning and Development Act 2000(as amended) or any other enactment or exempted development, and the development would have required a Stage 2 Appropriate Assessment, and therefore the restrictions set out in Article 9 (1) (a) (viiB) would apply to this development.

N. Given the extensive nature of the on-site storage of soil/stone, boulders, machinery and building materials, and location proximate to the Wicklow Mountains SAC and Wicklow Mountains SPA, the works would not come within the description set out in Class 16 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) as such deposition was not on foot of development which has the necessary permission, consent, approval or confirmation granted under the Planning and Development Act 2000(as amended) or any other enactment or exempted development, and the development would have required a Stage 2 Appropriate Assessment, and therefore the restrictions set out in Article 9(1) (a) (viiB) would apply to this development.

O. There is no evidence that the Structure Labelled No. 1, No.2, No.3 No.4, No.5, No.6, No.7 and No.8, No.10, No. 11, No.12, No.13, No.14, No.15, No. 16 were being provided for/on behalf of a State Authority or evidence that the units are accommodation or are related to accommodation for displaced persons, given the definition of such persons set out in Annex 2 of the Council Implementing Decision (EU) 2022/382), therefore the provisions of SI. 306 of 2022 EU ( Planning and Development) (Displaced Persons from Ukraine Temporary Protection) Regulations 2022 are not applicable.

- P. The discharge of waste from Structures labelled No. 1, No.6, No.7, ~~and~~ No.8, No.10, No.12, and No. 16, the subject of this Section 5 Declaration, would discharge to an existing wastewater treatment system serving the overall Kippure Village development. This waste water treatment system is operating below standard and is overloaded. The occupation of these structures would result in further increased loadings to this wastewater treatment system which is located c. 70m from the River Liffey and the Wicklow Mountains SPC a Natura 2000 site. Significant impacts on the River Liffey, on groundwater and consequently on the Wicklow Mountains SAC, cannot be ruled out, and therefore these development would have required a Stage 2 : Appropriate Assessment.

Seán Cunningham SR

2/7/2024

Noted. I concur with the reasons and considerations contained in this detailed analysis.

I consider the SS Request to be unusually structured, in that the Request specifically relates to works only, yet includes references to use in submitted documentation to support an exempted status.

Having regard to the limited information provided in relation to the actual physical works carried out, and the construction methods used, and the proximity and connectivity of the overall site to the Wicklow Mountains SAC and SPA, and the conservation objectives of the SAC and SPA, I consider it is not possible to screen out the need for Appropriate Assessment in relation to all developments the subject of this SS Request.

Therefore, the provisions of s4(4) of the Planning & Development Act 2000, as amended, apply, such that no exemptions under the Planning and Development Regulations 2001, as amended, can be availed of. On this basis, I consider Reason Q should be attached as detailed below.

Q. An Appropriate Assessment of the developments the subject of this SS Declaration request is required. Therefore, the provisions of s4(4) of the Planning and Development Act 2000 as amended, apply, and hence, no exemptions contained in the Planning and Development Regulations 2001, as amended, can be availed of.

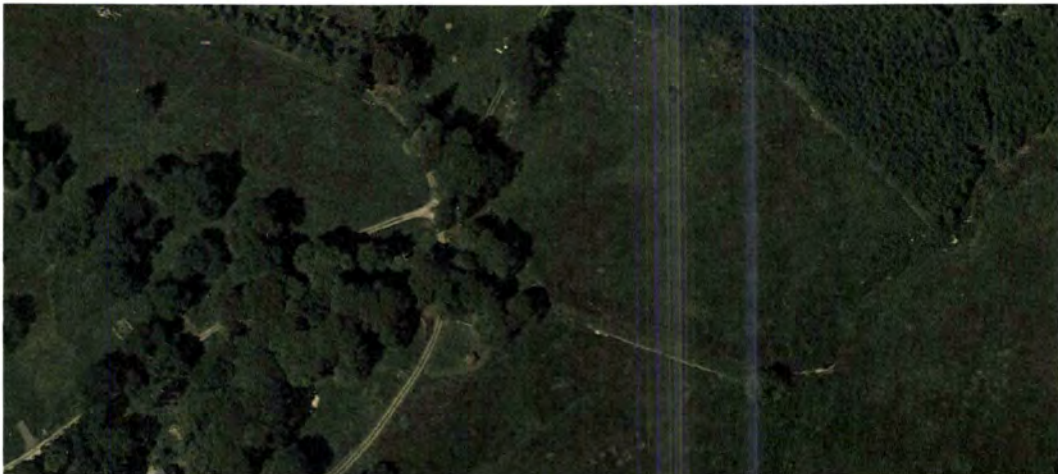
Declaration is modified to issue.

Fogel T. Hogg

03/7/24



Aerial 2014





Aerial 2020





Google Earth 2016



Google Earth 2019





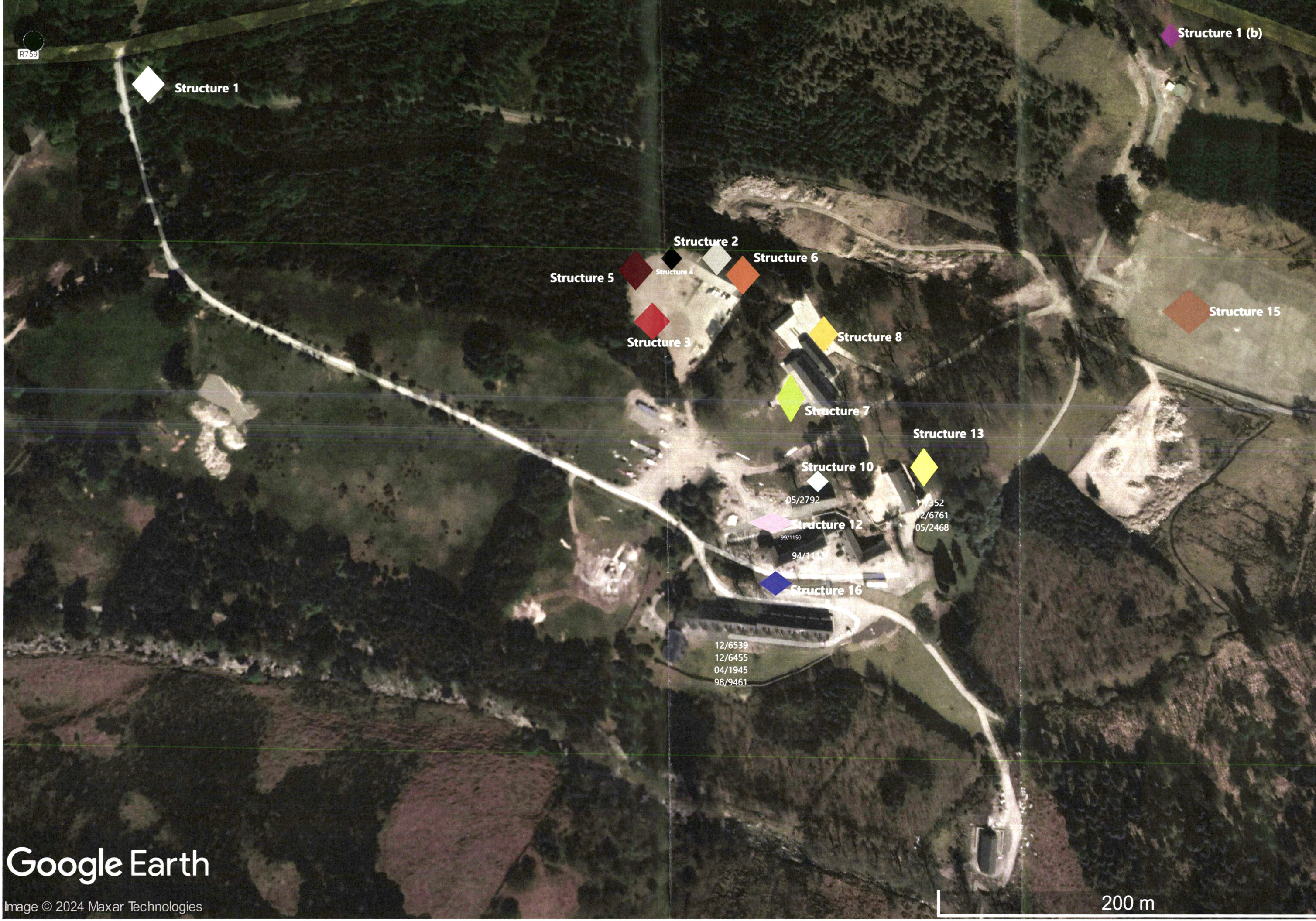
Google Earth 2020



Google Earth 2022







R759



Structure 1



Structure 1 (b)

Structure 2

Structure 6

Structure 5

Structure 4

Structure 3

Structure 8

Structure 7

Structure 13

Structure 10

05/2792

17/352

Structure 12

12/6761

99/1150

05/2468

94/113

Structure 16

12/6539

12/6455

04/1945

98/9461

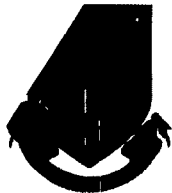
Structure 15

Google Earth

Image © 2024 Maxar Technologies

200 m





**Comhairle Contae Chill Mhantáin**  
**Wicklow County Council**

**Pleanáil, Forbairt Eacnamaíochta agus Tuaithe**  
**Planning, Economic and Rural Development**

Áras An Chontae / County Buildings  
Cill Mhantáin / Wicklow  
Guthán / Tel: (0404) 20148  
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Rphost / Email: [plandev@wicklowcoco.ie](mailto:plandev@wicklowcoco.ie)  
Suíomh / Website: [www.wicklow.ie](http://www.wicklow.ie)

**MEMORANDUM**

**WICKLOW COUNTY COUNCIL**

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**TO: Edel Bermingham**  
**Senior Executive Planner**

**FROM: Nicola Fleming**  
**Staff Officer**

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**RE:- Application for Certificate of Exemption under Section 5 of the**  
**Planning and Development Acts 2000 (as amended).**  
**EX53/2024**

I enclose herewith application for Section 5 Declaration received 12<sup>th</sup> June 2024.

The due date on this declaration is 9<sup>th</sup> July 2024.

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**Staff Officer**  
**Planning Development & Environment**





# Comhairle Contae Chill Mhantáin Wicklow County Council

Pleanáil, Forbairt Eacnamaíochta agus Tuaithe  
Planning, Economic and Rural Development

Áras An Chontae / County Buildings  
Cill Mhantáin / Wicklow  
Guthán / Tel: (0404) 20148  
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Rphost / Email: [plandev@wicklowcoco.ie](mailto:plandev@wicklowcoco.ie)  
Suíomh / Website: [www.wicklow.ie](http://www.wicklow.ie)

ABBD  
Clonshanny  
Clara  
Co. Offaly

31<sup>st</sup> May 2024

RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). – EX53/2024 for Seefin Events Unlimited Company

A Chara

I wish to acknowledge receipt on 12/06/2024 details supplied by you in respect of the above Section 5 application. A decision is due in respect of this application by 09/07/2024.

Mise, le meas

Nicola Fleming  
Staff Officer  
Planning, Economic & Rural Development







Civil Engineering | Building Design and Planning Advisors | Land and Property Surveyors  
Building Consultants | Environmental Engineers | Project Managers  
Civil and Building Contractors

Planning Department  
Wicklow County Council  
County Buildings  
Whitegates  
Wicklow Town

11<sup>th</sup> June 2024

Dear Sir or Madam,

**RE: REQUEST FOR A DECLARATION UNDER SECTION 5 OF THE PLANNING AND DEVELOPMENT ACT 2000 (AS AMENDED) REGARDING EXEMPTED DEVELOPMENT AT THE KIPPURE ESTATE, MANOR KILBRIDE, CO. WICKLOW.**

## **1.0 INTRODUCTION**

We, ABBD (Aidan Bracken Building Design), acting on the authorisation of Seefin Events Unlimited Company being the leaseholder of the land who has the consent of the Goldstein Property ICAV, the registered owner of the property, wish to make a request for declaration under Section 5 of the Planning and Development Act 2000 (as amended) (the "Planning Acts").

## **2.0 CONTEXT**

For the past two years there has been an urgent call by the Irish State to procure accommodation across Ireland to ensure secure shelter for displaced persons seeking protection in our Country. This call for accommodation has been unprecedented and has required a substantial collective effort from public and private bodies.

As recorded in the State's Comprehensive Accommodation Strategy for International Protection Applicants (March 2024), between those fleeing the war in Ukraine and the increasing numbers of people seeking International Protection ("IP") in Ireland, the State has mobilised to provide accommodation to over 100,000 "additional and unexpected" people in 24 months, or 2% of the State's population. This has, of

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necessity, required “a reactive, crisis-led approach” in response to the fundamental human rights of those affected.

Further, this urgent need for accommodation was coupled with an acute domestic shortage of accommodation. All this was shrouded by the pressing need to safely accommodate displaced persons living on the streets where they were frequently targeted by anti-immigrant groups. In addition, families were in vulnerable positions and children in particular urgently required a safe haven to grow. At the core of all pleas for accommodation is the importance of facilitating a safe and warm environment in a timely manner. At the forefront of the minds of all stakeholders is the protection of life, and respect for human rights. Public and private bodies alike share in this duty of care.

Our clients responded to this government appeal for suitable properties to house protected persons. Wicklow County Council (the “Council”) approached Seefin Events ULC (operator of the site) in March 2022 to explore the feasibility of meeting this urgent requirement for good quality accommodation.

Kippure Lodge and Holiday Village (“Kippure”) has a long history of providing accommodation, including as a popular destination for weddings and corporate events. At that time, in March 2022, Kippure had been closed to the public for a number of years. The estate was undergoing renovations, and the accommodation was available for use. The location and facilities at Kippure were ideally suited for the purpose of providing urgent accommodation for these protected persons. It is noteworthy, that Kippure with its extensive parkland proved an ideal setting to assist in the rehabilitation and integration, in particular, of vulnerable families in the Irish Community. Kippure has been an undoubted and acknowledged success, in this regard. A highly competent team were on site with the requisite experience, knowledge and skills to constructively deliver on the Government agenda of protecting these persons. The communities of Blessington and Manor Kilbride, together with the statutory authorities, were also steadfast in this task.

We are all alert to the challenges presented to the Government in meeting its international obligations and supporting those most in need. Kippure was capable of ensuring a large cohort of people could be respected, accommodated and nourished effectively. The management team have extensive experience in the operation of such a centre were fully aware of the pressing concerns being experienced by displaced families on the streets, including from dangerous anti-immigrant sentiment. Given the emergency legislation in place to allow buildings to be supplied quickly, Kippure was in position to meet the pressing demand.

At all times, this team acted on the clear and unambiguous understanding that these buildings are exempted development. It is acknowledged that once the emergency measures end, the use can only continue with the benefit of a successful grant of planning permission.

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The team at Kippure who have employed over 150 persons throughout the group fully understand the demand placed on Government and the critical need to preserve and protect lives and to also ensure children coming into our care have the best chance in life. The Kippure Estate and community has been exemplary in this regard.

### 3.0 DESCRIPTION OF BUILDINGS FOR WHICH A SECTION 5 DECLARATION IS REQUESTED.

The attached site location map (Scale: 1/2500), A<sup>0</sup><sub>1</sub> size, details the extent of the entire of the lands known as the Kippure Estate. The entirety of the estate is shown outlined with the blue delineation. The area of the Holiday Village site is outlined in red ink. The buildings the subject of this declaration application are shown as **Structure No.1** to **No.16** respectively, on the larger scale Site Layout Plan, scale 1/1000 (Drawing No.PL1010KE-A0-1000), and all save Structure No.1 is shown on a plan at scale 1/500 (Drawing No.PL1010KE-A0-500).

Each of the 16No. structures is described below, including the basis for the exempted development.

This request does not invite the Council to give a declaration regarding the use of these structures. Their lawful use under Class 14(h) and/or Class 20F of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) (the "Planning Regulations") is not the subject of this request. The nature and extent of these uses has been helpfully clarified by the High Court, so that use for these purposes is not in doubt: see *Leitrim County Council v. Dromaprop Ltd* [2024] IEHC 233 and *Dromaprop Ltd v. Leitrim County Council* [2024] IEHC 234. In those judgments, the complaints of the local planning authority were dismissed. The judgment recognised that "national policy regarding the need for additional residential provision for international protection seekers and displaced persons", and the regulations that mean use as accommodation for such persons is exempted development.

#### 3.1 Structure No.1

##### New Gate Lodges, pre-fabricated buildings:

Two no. Gate Lodges are shown on the 1/1000 plan at the northwest and northeast entrances to Kippure. These are marked orange, as proposed buildings.

These will be temporary demountable residential buildings used by security personnel on site during the period of use of the lands for those seeking protection, under the temporary exemptions for that use. While security is not always required to protect the carrying out of development, the unique circumstances of the use of Kippure for those seeking protection means that 24/7 security is necessary.

This is exempted development pursuant to Class 17 of Part 1, Schedule 2 of the Planning Regulations.



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### **3.2 Structure No.2**

#### Semi-detached agricultural storage facility.

This is exempted development pursuant to Class 9 of Part 3, Schedule 2 of the Planning Regulations. The gross floor area of this structure is less than 300 square metres, and satisfies the conditions and limitations in the second column of the class, including for distance from public roads etc.

### **3.3 Structure No.3**

#### Detached agricultural maintenance/storage shed.

This is exempted development pursuant to Class 9 of Part 3, Schedule 2 of the Planning Regulations. The gross floor area of this structure is less than 300 square metres, and satisfies the conditions and limitation in the second column of the class, including for distance from public roads etc.

In fact, the structure is used for the same purpose as Structure No.6 had been used, before its conversion to use for protected persons. The conversion of Structure No.6 is addressed in turn below.

### **3.4 Structure No.4**

#### Electricity distribution building.

The distribution building is part of the infrastructure ancillary to the holiday village development. This is exempted development pursuant to Class 29 of Part 1, Schedule 2 of the Planning Regulations.

### **3.5 Structure No.5**

#### Open - Fronted agricultural storage shed.

This is exempted development pursuant to Class 9 of Part 3, Schedule 2 of the Planning Regulations. The gross floor area of this structure is less than 300 square metres, and satisfies the conditions and limitation in the second column of the class, including for distance from public roads etc.

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### **3.6 Structure No.6**

Former agricultural building, now used to accommodate “protected persons”.

This was first constructed as exempted development pursuant to Class 9 of Part 3, Schedule 2 of the Planning Regulations. The gross floor area of this structure is less than 300 square metres, and satisfies the conditions and limitation in the second column of the class, including for distance from public roads etc.

It has since been converted to provide accommodation for protected persons. Such works as were necessary for the conversion are exempted development under section 4(1)(h) of the Planning Acts, comprising an improvement of the structure. The use to provide accommodation is exempted development pursuant to the provisions of Class 14(h) and/or Class 20F of Part 1 of Schedule 2 of the Planning Regulations.

### **3.7 and 3.8 Structure Nos.7 and 8**

Pavilion and Kitchen Building.

These units are labelled on the ABBD plans as 2No. units. In fact, these are connected and there is in fact one building. The building was granted permission under Planning Register Reference No. 17/1335. Such works as were necessary for the replacement of the permitted development are exempted development under section 4(1)(h) of the Planning Acts, comprising an improvement of the structure.

### **3.9 Structure No.9**

There is no Structure No.9 labelled on the plans.

### **3.10 Structure No.10**

This is the former “Belfry Building”.

This structure, labelled the “Belfry Building”, was constructed before 1 October 1964, in or about 1830, so pre-dates the Planning Acts and modern planning law. It is thereby excluded from the definitions of unauthorised structure, and unauthorised development.

The structure has been upgraded and renovated for use as a reception and recreation facility for residents of the estate. Such works as were necessary for the upgrade and renovation of the pre-1964 structure are exempted development under section 4(1)(h) of the Planning Acts, comprising an improvement of the structure.

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### **3.11 Structure No.11**

#### Concrete paved area adjacent to Structure Nos. 10 and 12.

This area is development for amenity or recreation purposes. It has been laid out and used as a recreational facility for the protected persons resident at the estate. This is exempted development pursuant to Class 33 of Part 1, Schedule 2 of the Planning Regulations.

### **3.12 Structure No.12**

#### Accommodation Block No.1

This structure, sometimes labelled the “Long Barn”, was constructed before 1 October 1964, in or about 1830, so pre-dates the Planning Acts and modern planning law. It is thereby excluded from the definitions of unauthorised structure, and unauthorised development.

On 12 June 2000, the Council granted planning permission Reg. Ref. No. 99/1150 to retain the conversion of part of this structure to a 2-storey recreation building.

Since the current owners purchased the estate in 2020, they have been implementing a programme of refurbishment and improvement works to the extensive building complexes and infrastructure at Kippure. This programme of works included Structure No.12, a part-accommodation building, including toilets, recreation area, “tuck” shop for visiting students, boot room and other utility compartments, some of which had fallen into a state of disrepair. This building complex was known on the estate as the “long barn” and had various uses, renovations and alterations down the years.

As part of ABBD’s work, all lands and buildings were surveyed and mapped. Each building was evaluated as to its structural condition, and a schedule of works prepared. Structure No.12 was identified to accommodate the above-described uses, and its walls acted as retaining structures against the much higher ground to its Northern side. The building was a storey and a half, viewed from the South, and nearly one storey as viewed from the North. The lands at Kippure fall steeply from the main road (R759) the Northern boundary, down to the river Liffey which forms the Southern boundary, meaning that nearly all buildings on the estate are built with varying floor levels, in other words, providing a terraced effect.

ABBD concluded that Structure No. 12 was in need of major stabilisation work as the old stone walls were over-stressed and were showing signs of excessive movement. This had been a gradual process over a long period of time. The building had to undergo a programme of sequential stabilisation, including replacement of some walls with a specially designed reinforced concrete cantilever retaining structure, and the rebuilding of other areas. A steel frame was introduced, with precast slab divides, to aid the stabilisation process and refurbishment works, while reducing the loading on the existing foundations.



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Structure No.12 is now a 27No. bedroom accommodation block, with associated plant rooms. Each bedroom has ensuite facilities. This building is fully occupied by protected persons.

Such works as were necessary for the upgrade and renovation of the pre-1964 structure, and the development permitted under planning permission Reg. Ref. No. 99/1150, are exempted development under section 4(1)(h) of the Planning Acts, comprising an improvement of the structure.

### **3.13 Structure No.13**

#### "Art O'Neill's Building".

This structure, sometimes labelled "Art O'Neill's Building", was constructed before 1 October 1964, in or about 1830, so pre-dates the Planning Acts and modern planning law. It is thereby excluded from the definitions of unauthorised structure, and unauthorised development.

It was damaged by fire on or about 29 June 2016.

On 9 February 2018, the Council granted planning permission Reg. Ref. No. 17/352 as follows:

"Replacement dormer style building in place of the section of the original building which was burnt down in June 29th 2016. Permission is also sought for alterations to the original design layout of the section of the overall building, elevational alterations, the construction of a single storey kitchen extension to the rear, the construction of an open canopy above the existing entrance doors over the eastern facade of the existing two storey section which was undamaged in the fire, relocating the front entrance door to the existing two storey building, minor internal and external elevational alterations to all the existing building and for new upgraded wastewater treatment plant and additional polishing filter."

Such works as were necessary for the upgrade and renovation of the pre-1964 structure, and the development permitted under planning permission Reg. Ref. No. 17/352, are exempted development under section 4(1)(h) of the Planning Acts, comprising an improvement of the structure.

There is external cladding on this building, but all of that cladding will be removed in the coming weeks.

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### **3.14 Structure No.14**

#### Carpark adjacent to the former “Belfry Building”.

This is a temporary carpark to facilitate construction personnel and administrative staff. This is exempted development pursuant to Class 16 of Part 1, Schedule 2 of the Planning Regulations. The car park will be reinstated after the development is carried out, save to such extent as may be authorised or required by a permission under the Planning Acts.

### **3.15 Structure No.15**

#### Large gravelled area to the Northeast of the Holiday Village.

This is a temporary carpark to facilitate construction personnel. This is exempted development pursuant to Class 16 of Part 1, Schedule 2 of the Planning Regulations. The car park will be reinstated after the development is carried out, save to such extent as may be authorised or required by a permission under the Planning Acts.

### **3.16 Structure No.16**

#### Accommodation Block No.2

This structure, sometimes labelled “the Stables and Grain Stores”, was constructed before 1 October 1964, in or about 1830, so pre-dates the Planning Acts and modern planning law. It is thereby excluded from the definitions of unauthorised structure, and unauthorised development.

Structure No.16 is now a 51No. bedroom accommodation block, with associated plant rooms. Each bedroom has ensuite facilities. When complete, this structure will be occupied by protected persons.

Structure No.16 is a modular building, and its principal components were manufactured off site. These components include:

- Insulated steel roofing panels and associated flashings.
- Steel Frame Structure.
- Pre-cast concrete wall and floor panels.
- External windows and doors.

The building was assembled on site and fixed with bolts to a pre-constructed reinforced concrete retaining-wall. Final fit-out of the structure will be carried out on site, as will connections to services etc.

Such works as were necessary for the upgrade and renovation of the pre-1964 structure are exempted development under section 4(1)(h) of the Planning Acts, comprising an improvement of the structure.

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Without prejudice to the foregoing, the construction of this temporary building is necessitated by the on-going urgent need by Government to provide accommodation for displaced persons caused by the war in Ukraine.

The Minister for Children, Equality, Disability, Integration and Youth is a “state authority”. This means that the provisions of Part XI of the Planning Acts applies to development carried out on his behalf. Part XI gave to the Minister for Housing, Local Government and Heritage a limited, but clear and unambiguous power to set aside the Planning Acts for certain state authority development.

This was done in the European Union (Planning and Development) (Displaced Persons From Ukraine Temporary Protection) Regulations 2022 (SI No. 306 of 2022) (the “2022 Regulations”), so that the Planning Acts do not apply to certain development required for the purposes of providing temporary protection to displaced persons from Ukraine.

The entire of the Planning Acts is set aside, save sections 181A to 181C, for “the classes of development specified in the Schedule carried out by, or on behalf of, a State authority during the relevant period for the purposes of providing temporary protection to displaced persons”. These classes of development include:

“Residential accommodation, including ancillary recreational and sporting facilities” (at § 2 of the Schedule), ancillary structures or facilities (at § 6), and infrastructure (at § 7).

The “relevant period” will remain in place until March 2025, at least.

It is submitted that Structure No.16 exempted under the 2022 Regulations, as a *‘Temporary New Build Accommodation and Structures to address the urgent need to provide emergency accommodation and support to displaced persons from the conflict in Ukraine.’*

### **3.17 General**

#### On-site storage of soil/stone, boulders, machinery and building materials.

Part of the estate is used for the storage of soil/stone and or boulders, machinery and building materials as necessary and incidental to the development of Kippure. This is exempted development pursuant to Class 16 of Part 1, Schedule 2 of the Planning Regulations.

## **4.0 CONCLUSION**

Kippure has provided a safe and secure location for the housing of protected persons. The facility provides a much wider service to the Irish State than accommodation, for example, the Operator arranges counselling and social care treatments, assists with community integration, school and university placement together with providing



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orientation and help to individuals with *administrative forms* etc., and the associated liaison with Department of Children, Equality, Disability, Integration and Youth and all other statutory bodies involved in the care of displaced persons. The facilities are regularly inspected by state bodies.

It is noteworthy, that Kippure has operated to a high standard and was not subject to protests. Residents, their families and children have integrated successfully into the Blessington and Manor Kilbride communities through engagement, employment and community wellness. The local population has been very supportive of the Centre and compassion has been shown towards the displaced families.

It is noteworthy that Kippure has operated peacefully for over two years prior to the recent election.

We wish to reiterate that the team at all times acted in accordance with the regulations in place to ensure protected persons were accommodated safely.

We enclose a completed Section 5 Application Form together with the required fee and required drawings. If you require any additional information, please contact the under signed. We look forward to a decision on the application.



**Aidan M. Bracken** HNC (Civil Eng.), T. Eng. IEI., M.Eng., Adv. Dip. (Planning and Environmental) Law.

For and on behalf of **ABBD**

Wicklow County Council  
County Buildings  
Wicklow  
0404-20100

12/06/2024 16 44 41

Receipt No 11/0/330491

MAHBD BUILDING DESIGN LTD  
T/A ABBD

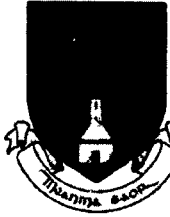
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Tendered	
Cheque	80 00

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Fee Received \_\_\_\_\_

**APPLICATION FORM FOR A  
DECLARATION IN ACCORDANCE WITH SECTION 5 OF THE PLANNING &  
DEVELOPMENT ACTS 2000(AS AMENDED) AS TO WHAT IS OR IS NOT  
DEVELOPMENT OR IS OR IS NOT EXEMPTED DEVELOPMENT**

**1. Applicant Details**

(a) Name of applicant: **SEEFIN EVENTS UNLIMITED COMPANY**

Address of applicant: **KIPPURE LODGE & HOLIDAY VILLAGE,**  
**KIPPURE ESTATE,**  
**MANOR KILBRIDE, BLESSINGTON,**  
**CO. WICKLOW**

Note: Phone number and email to be filled in on separate page.

**2. Agents Details (Where Applicable)**

(b) Name of Agent (where applicable) **ABBD (AIDAN BRACKEN BUILDING -  
DESIGN)**

Address of Agent: **CLONSHANNY, CLARA, CO. OFFALY**

Note: Phone number and email to be filled in on separate page.

RECEIVED 12 JUN 2024



### **3. Declaration Details**

- i. Location of Development subject of Declaration - **KIPPURE LODGE AND HOLIDAY VILLAGE, KIPPURE ESTATE, MANOR KILBRIDE, BLESSINGTON, CO. WICKLOW.**
- ii. Are you the owner and/or occupier of these lands at the location under i. above?  
**No**
- iii. If 'No' to ii above, please supply the Name and Address of the Owner, and or occupier: **GOLDSTEIN PROPERTY ICAV**  
**88 HARCOURT STREET,**  
**DUBLIN2.**

Section 5 of the Planning and Development Act provides that: If any question arises as to what, in any particular case, is or is not development and is or is not exempted development, within the meaning of this act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question. You should therefore set out the query for which you seek the Section 5 Declaration:

- (a) Whether ***Structure No.1*** is exempt development pursuant to Class 17 of Part 1, Schedule 2 of the Planning Regulations.
- (b) Whether ***Structure No.2*** is exempt development pursuant to Class 9 of Part 3, Schedule 2 of the Planning Regulations.
- (c) Whether ***Structure No.3*** is exempt development pursuant to Class 9 of Part 3, Schedule 2 of the Planning Regulations.
- (d) Whether ***Structure No.4*** is exempt development pursuant to Class 29 of Part1, Schedule 2 of the Planning Regulations.
- (e) Whether ***Structure No.5*** is exempt development pursuant to Class 9 of Part 3, Schedule 2 of the Planning Regulations.
- (f) Whether ***Structure No.6*** is exempt development pursuant to Section 14(1)(h) of the Planning Acts.
- (g) Whether ***Structures No's.7 and 8*** are exempt development pursuant to Section 14(1)(h) of the Planning Acts.
- (h) Whether ***Structure No 10*** is exempt development pursuant to Section 14(1)(h) of the Planning Acts.
- (i) Whether ***Structure No.11*** is exempt development pursuant to Class 33 of Part1, Schedule 2 of the Planning Regulations.
- (j) Whether ***Structure No.12*** is exempt development pursuant to Section 14(1)(h) of the Planning Acts and or S.I. No. 582 of 2015., Planning and Development (Amendment)(No.4) Regulations 2015.

- (k) Whether **Structure No.13** is exempt development pursuant to Section 14(1)(h) of the Planning Acts.
- (l) Whether **Structure No.14** is exempt development pursuant to Class 16 of Part 3, Schedule 2 of the Planning Regulations.
- (m) Whether **Structure No.15** is exempt development pursuant to Class 16 of Part 3, Schedule 2 of the Planning Regulations.
- (n) Whether **Structure No.16** is exempt development pursuant to Section 14(1)(h) of the Planning Acts. and or S.I. No.306 EUROPEAN UNION (PLANNING AND DEVELOPMENT) (DISPLACED PERSONS FROM UKRAINE TEMPORARY PROTECTION) REGULATIONS 2022

*Additional details may be submitted by way of separate submission.*

**NOTE: SEE COVER LETTER ENCLOSED FOR ADDITIONAL DETAILS**

- vi. Does the Declaration relate to a Protected Structure or is it within the curtilage of a Protected Structure (or proposed protected structure)? **NO**
- vii. List of Plans, Drawings submitted with this Declaration Application

**SITE LOCATION MAP**

**SITE LAYOUT PLAN** - Dwg no: PL1010KE (*Scale 1:1000*)

**SITE LAYOUT PLAN** - Dwg no: PL1011KE (*Scale 1:500*)

**STRUCTURES NO's.** (1,2,3,4,5,6,7,8,10,11,12,13,14,15 and 16), Plans  
Elevations and Sections

- viii. Fee of € 80 Attached? **YES** **CHEQUE FOR 80 EURO ATTACHED**

Signed: Adrian M. Brennan

Dated: 13/6/2024

**Additional Notes:**

As a guide to the minimum information requirements for the most common types of referrals under Section 5 are listed below:

A. Extension to dwelling - Class 1 Part 1 of Schedule 2

- Site Location Map
- Floor area of structure in question - whether proposed or existing.
- Floor area of all relevant structures e.g. previous extensions.
- Floor plans and elevations of relevant structures.
- Site Layout Plan showing distance to boundaries, rear garden area, adjoining dwellings/structures etc.

B. Land Reclamation -

The provisions of Article 8 of the Planning and Development Regulations 2001 (as amended) now applies to land reclamation, other than works to wetlands which are still governed by Schedule 2, Part 3, Class 11. Note in addition to confirmation of exemption status under the Planning and Development Act 2000 (as amended) there is a certification process with respect to land reclamation works as set out under the European Communities (Environmental Impact Assessment) (Agriculture) Regulations 2011 S.I. 456 of 2011. You should therefore seek advice from the Department of Agriculture, Fisheries and Food.

Any Section 5 Declaration should include a location map delineating the location of and exact area of lands to be reclaimed, and an indication of the character of the land.

C. Farm Structures - Class 6 -Class 10 Part 3 of Schedule 2.

- Site layout plan showing location of structure and any adjoining farm structures and any dwellings within 100m of the farm structure.
- Gross floor area of the farm structure
- Floor plan and elevational details of Farm Structure and Full details of the gross floor area of the proposed structure.
- Details of gross floor area of structures of similar type within the same farmyard complex or within 100metres of that complex.



Tipper 24/6/2024.











































































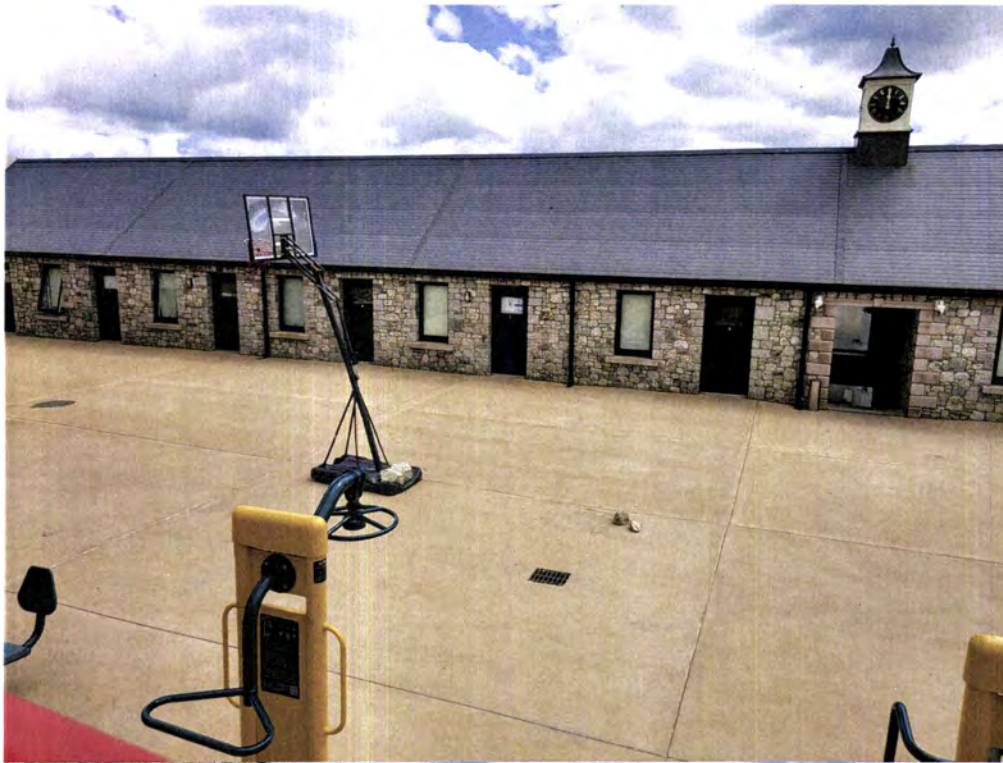


















































Photos 2011/ 2012











Shed Structure 2011













