

COMHAIRLE CONTAE AN CHLÁIR CLARE COUNTY COUNCIL

**Registered Post** 

O'Callaghan's Mills GAA Club c/o Patrick Hogan (Club Secretary) Kilkishen Co. Clare

#### 5th September 2023

## Section 5 referral Reference R23-68 - O'Callaghan's Mills GAA Club

Is the resurfacing of an area of GAA grounds from gravel to astroturf playing area development, and if so is it exempted development?

A Chara,

I refer to your application received on 25th August 2023 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

The Planning Authority has considered the matter and I attach herewith the Council's findings in this matter.

Where a declaration is issued by the Planning Authority, any person issued with a declaration, may on payment to an Bord Pleanála of the required fee, refer a declaration for review by An Bord Pleanála within 4 weeks of the date of the issuing of the declaration. Details on making such appeal are available on the Board's website at <u>www.pleanala.ie</u>

Mise, le meas

Anne O'Gorman Staff Officer Planning Department Economic Development Directorate

An Roinn Pleanála An Stiúrthóireacht Forbairt Gheilleagrach Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2 Planning Department Economic Development Directorate Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2



### DECLARATION ISSUED UNDER SECTION 5 OF THE PLANNING & DEVELOPMENT ACT 2000 (AS AMENDED)

Reference No.: R23-68



Comhairle Contae an Chláir Clare County Council

#### Section 5 referral Reference R23-68

Is the resurfacing of an area of GAA grounds from gravel to astroturf playing area development, and if so is it exempted development?

**AND WHEREAS, O'Callaghan's Mills GAA Club** has requested a declaration from Clare County Council on the said question.

# AND WHEREAS Clare County Council, in considering this referral, had regard in particular to –

- (a)Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended;
- (b)Articles 6 and 9 of the Planning and Development Regulations 2001, as amended;
- (c)Class 33, of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended;
- (d)The works as indicated in submitted documents from the referrer.

#### And whereas Clare County Council has concluded:

- (a)The resurfacing of an area of GAA grounds from gravel to astroturf playing area constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended;
- (b)The said works constitute "development" which comes within the scope of section 3(1) of the Planning and Development Act 2000, as amended;
- (c)The said resurfacing of an area of GAA grounds from gravel to astroturf playing area is exempted development having regard to Class 33 of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended.

**THEREFORE**: The Planning Authority in exercise of the powers conferred on it by Section 5 of the Planning and Development Act, 2000 (as amended), hereby decides that:

The proposed development consisting of the resurfacing of an area of GAA grounds from gravel to astroturf playing area at Hamilton Park, Kilkishen, Co. Clare <u>constitutes</u> <u>development</u> which is <u>exempted development</u> as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.

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Anne O'Gorman Staff Officer Planning Department Economic Development Directorate

5th September 2023



# **CLARE COUNTY COUNCIL**

# SECTION 5 OF THE PLANNING AND DEVELOPMENT ACT 2000 AS AMENDED

87237

25th August 2023

# DECLARATION ON DEVELOPMENT AND/OR EXEMPTED DEVELOPMENT

R23-68

Chief Executive's Order No:

**Reference Number:** 

**Date Referral Received:** 

Name of Applicant:

Hamilton Park, Kilkishen, Co. Clare

O'Callaghan's Mills GAA Club

f,

Location of works in question:

Section 5 referral Reference R23-68 – O'Callaghan's Mills GAA Club

Is the resurfacing of an area of GAA grounds from gravel to astroturf playing area development, and if so is it exempted development?

# AND WHEREAS Clare County Council, in considering this referral, had regard in particular to –

- (a)Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended;
- (b)Articles 6 and 9 of the Planning and Development Regulations 2001, as amended;
- (c)Class 33, of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended;
- (d)The works as indicated in submitted documents from the referrer.

# AND WHEREAS Clare County Council has concluded:

- (a) The resurfacing of an area of GAA grounds from gravel to astroturf playing area constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended;
- (b)The said works constitute "development" which comes within the scope of section 3(1) of the Planning and Development Act 2000, as amended;
- (c)The said resurfacing of an area of GAA grounds from gravel to astroturf playing area is exempted development having regard to Class 33 of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended.
- **ORDER:** Whereas by Chief Executive's Order No. HR 152 dated 9<sup>th</sup> April 2021, Pat Dowling, Chief Executive for Clare County Council, did, pursuant to the powers conferred on him by Section 154 of the Local Government Act 2001, delegate to Kieran O'Donnell, Administrative Officer, the powers, functions and duties as set out herein,





NOW THEREFORE pursuant to the delegation of the said powers, functions and duties and under Section 5(2)(a) of the Planning & Development Act 2000 (as amended) and having considered the various submissions and reports in connection with the referral described above, I, Kieran O'Donnell, Administrative Officer, hereby declare that the resurfacing of an area of GAA grounds from gravel to astroturf playing area at Hamilton Park, Kilkishen, Co. Clare is <u>considered</u> <u>development</u> which is <u>exempted development</u>.

Signed:

KIERAN O'DONNELL

Date:

5th September 2023

# CLARE COUNTY COUNCIL

# SECTION 5 DECLARATION OF EXEMPTION APPLICATION

PLANNERS REPORT

FILE REF:	R23-68	
APPLICANT(S):	O' Callaghan's Mills GAA Club	
REFERENCE:	Whether the resurfacing of an area of GAA grounds from gravel to astroturf playir is or is not development and is or is not exempted development.	
LOCATION:	Hamilton Park, Kilkishen, Co Clare	
DUE DATE:	21 <sup>st</sup> September 2023	

# **Site Location**

The proposal site is located in the village of Kilkishen on lands zoned Recreation. The proposed development location is part of the village GAA grounds and is located close to the roadside boundary of the site. The proposed astroturf surface will be associated with the existing ball wall.

There is also a large club-house building, playing pitches and carparking area within the overall GAA grounds.

# **Recent Planning History**

P14/80 O' Callaghan's Mills GAA Club granted permission to demolish the existing single storey clubhouse section of the existing facility and infill with new two storey development consisting of new ground floor clubhouse, new first floor weights room and a new entrance lobby and all other ancillary site works.

P17/653 O' Callaghan's Mills GAA Club granted permission to demolish the existing single storey dressing room section of the existing facility and replace with a new dressing room section including shower areas and toilet areas and all other ancillary site works at O'Callaghan's Mills GAA Club

# **Background to Referral**

This referral under Section 5(1) of the Planning and Development Act 2000 (as amended) has been made Patrick Hogan, Club Secretary of O' Callaghan's Mills GAA. The club are the stated owners of the proposal site.

The applicants are seeking a Section 5 Declaration as to whether the resurfacing of an area of GAA grounds from gravel to astroturf playing area is or is not development and is or is not exempted development.

The applicants propose to replace the gravel surface on the ground of the existing ball wall area with astroturf.

#### **Statutory Provisions**

# Planning and Development Act, 2000 (as amended)

In order to assess this proposal, regard has to be had to the Planning and Development Act 2000, as amended.

S.3.(1) In this Act, "development" means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.

'Works' are defined in Section 2 of the Planning and Development Act 2000, as amended as follows:

"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.

# Planning & Development Regulations, 2001, as amended

Article 6 refers to Exempted Development and states that 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.

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, 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.

<u>Under Article 9 (1) of the same Regulations</u>, 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

(ii) consist of or compromise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,

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

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

(iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which 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, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area 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,

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

(vii) 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.

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

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

(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,

(viiC) 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,

(ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area 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,

(x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,

(xi) obstruct any public right of way,

(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area 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 and the development would materially affect the character of the area.

### **Basis of Referral**

The applicants are seeking a Section 5 Declaration as to whether the resurfacing of an area of GAA grounds from gravel to astroturf playing area at Hamilton Park, Kilkishen, Co. Clare is or is no development and is or is not exempted development.

- The proposal involves alteration and renewal of the existing ball wall playing area and thereby constitutes works, having regard to Section 2 of the Planning and Act, 2000, as amended.
- The works constitute *development* as also defined in Section 2 of the Act.
- The development is assessed in the context of Schedule 2, Part 1, Class 33 of the Planning and Development Regulations 2001 (as amended)

# Development consisting of the laying out and use of land-

(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.

 The applicants intend to replace an existing gravel playing area associated with the ball wall with an Astroturf surface. No changes are proposed to the size of the playing area or the use of the area. The proposed works constitute the laying out of land for athletics or sports and the proposal does not exceed the limitations of Class 33.

The resurfacing of an area of GAA grounds from gravel to astroturf playing area is development which is exempted development.

<u>Article 9 of the Planning and Development Regulations 2001</u>, as amended outlines restrictions on exempted development, and these are assessed below:

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

The proposal does not contravene a condition of any previous permission.

(ii) consist of or compromise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,

Not applicable – the site is located within existing GAA grounds. No alterations to parking or access are proposed.

# (iii) endanger public safety by reason of traffic hazard or obstruction of road users,

Not applicable – the site is located within existing GAA grounds and no alterations to parking or access are proposed.

(iv) 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.

The site is located on zoned land within a settlement. There is limited visibility of the surface material in the ball wall area from the public road. The development will not have a negative impact on the visual amenities of the area.

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

Not applicable in this instance.

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

Not applicable in this instance

(vii)

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

This is not applicable in this instance.

b. comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,

Having regard to the nature and scale of the proposed development (existing ball wall area, no extension of facilities, additional lighting etc proposed), the location on zoned land within a village and the established use of the site, no Appropriate Assessment issues arise and I do not consider that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects, on a European Site.

Appropriate assessment is not therefore required.

c. 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."

This is not applicable in this instance.

(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,

This is not applicable in this instance.

(ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area 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,

This is not applicable in this instance.

 (x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,

This is not applicable in this instance.

(xi) obstruct any public right of way,

This is not applicable in this instance.

(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area 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 and the development would materially affect the character of the area.

This is not applicable in this instance. The site is not within an ACA.

#### Recommendation

#### The following questions have been referred to the Planning Authority:

Whether the resurfacing of an area of GAA grounds from gravel to astroturf playing area at Hamilton Park, Kilkishen, Co. Clare is or is not development and is or is not exempted development.

#### The Planning Authority in considering this referral had regard to:

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended;
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended;
- (c) Class 33, of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended;
- (d) The works as indicated in submitted documents from the referrer.

#### And whereas Clare County Council (Planning Authority) has concluded:

- (a) The resurfacing of an area of GAA grounds from gravel to astroturf playing area constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended;
- (b) The said works constitute "development" which comes within the scope of section 3(1) of the Planning and Development Act 2000, as amended;
- (c) The said resurfacing of an area of GAA grounds from gravel to astroturf playing area is exempted development having regard to Class 33 of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended.

Now therefore Clare County Council (Planning Authority), hereby decides that:

 The resurfacing of an area of GAA grounds from gravel to astroturf playing area is development and is exempted development.

Executive Planner Date: 05 67 2023

A/Senior Planner Date: OS ~09 - 73,

# R23-68





#### COMHAIRLE CLARE CONTAE AN CHLÁIR COUNTY COUNCIL

O'Callaghan's Mills GAA Club c/o Patrick Hogan (Club Secretary) Kilkishen Co. Clare

#### 25/08/2023

#### Section 5 referral Reference R23-68 - O'Callaghan's Mills GAA Club

Is the resurfacing of an area of GAA grounds from gravel to astroturf playing area development, and if so is it exempted development?

A Chara,

I refer to your application received on 25th August 2023 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

Please note that the Planning Authority is considering the matter and a reply will issue to you in due course.

Mise, le meas

Brian Fahy Planning Department Economic Development Directorate

An Roinn Pleanála An Stiúrthóireacht Forbairt Gheilleagrach Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2 Planning Department Economic Development Directorate Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2



# AN CHLÁIR

Clare County Council Aras Contae an Chlair New Road Ennis Co Clare

25/08/2023 13:48 34

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Receipt No. L1CASH/0/353711

O'CALLAGHAN'S MILLS GAA c/o Patrick Hogan (Club Secretary) KILKISHEN, CO CLARE REF. R23-68 n Oidhie

SECTION 5 REFERENCES R [ 80.00 GOODS 80.00 VAT Exempt/Non-vatable

Total :



AN CHLÁIR

Tendered : CREDIT CARDS

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Issued By : L1CASH - Colm Murphy From : MAIN CASH OFFICE LODGEMENT AF Vat reg No.0033043E



Planning Department, Economic Development Directorate, Clare County Council, New Road, Ennis, Co. Clare, *V95DXP2* 

Fax No. (065) 6892071 Email: planoff@clarecoco.ie Websile: when char caco ie



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R23-68

#### REQUEST FOR A DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT (Section 5 of the Planning & Development Act 2000 (as amended))

FEE: €80

This following form is a non-statutory form which has been prepared by Clare County Council for the purpose of obtaining the necessary information required for a declaration to be made under Section 5 by the Planning Authority

1.	1. CORRESPONDENCE DETAILS.		
(a)	Name and Address of person seeking the declaration	PATRICLE HOGAN CLUB SECRETARY KILICISHEN CO CLARE	D'CALLPOYAN'S MULCYM
(b)	Telephone No.:		
(c)	Email Address:		
(d)	Agent's Name and address:		
	*		

P07 Request for a Declaration on Development and Exempted Development (March 2017)

See.

Ξ.

(a)	PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGH Note: only works listed and described under this section will be assessed.
Samp	le Question: Is the construction of a shed at 1 Main St., Ennis development and if so is it exempted development?
ls t	he resurfacing of an area of gaa grounds from gravel to astroturf playing area a
de	velopment and if so it expemted development?
	rovide a full description of the question/matter/subject which arises wherein a declaration of the question s sought.
orepa	are site and lay astro turf playing surface on a section of the gaa grounds
	×
(I	st of plans, drawings etc. submitted with this request for a declaration: Note: Please provide a site location map to a scale of not less than 1:2500 based on Ordnance Survey tap for the areas, to identify the lands in question)
Ball V	Vall Surface Upgrade jpeg.

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1	3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT					
(a)	Postal Address of the Property/Site/Building for which the declaration sought:	Hamilton Park Kilkuhen Co. Clare V95 HX95				
(b)	Do the works in question affect a Protected Structure or are within the curtilage of a Protected Structure? If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 (as amended) been requested or issued for the property by the Planning Authority?	· NO				
(c)	Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	Owner Jocupier				
(d)	If the person in (c) above is not the owner and/or occupier, state the name and address of the owner of the property in question: Note: Observations in relation to a referral may be requested from the owner/occupier where appropriate.					
(e)	Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	yes				
(f)	Are you aware of any enforcement proceedings connected to this site? If so please supply details:	ño .				
(g)	Were there previous planning application/s on this site? If so please supply details:	YES RER 1480 REF 17653				
(h)	Date on which 'works' in question were completed/are likely to take place:	JULY 2024.				

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SIGNED: Retrick Horan

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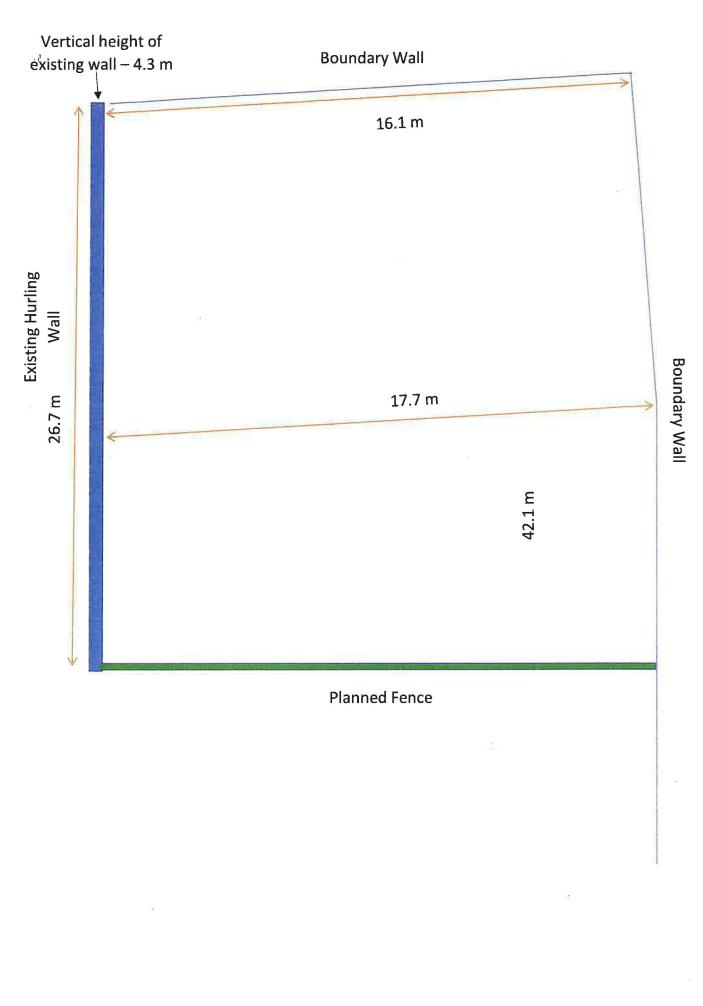
DATE: 23-08-2023

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