



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Registered Post**

**Ballina Killaloe Community Sports Facilities Development Company CLG**  
C/o Ronan Gilmartin  
Dairbhre Garrynatineel  
Ballina  
Co. Tipperary  
V94 F8WY

**15th October, 2024**

**Section 5 referral Reference R24-70 – Ballina Killaloe Community Sports Facilities Development Company CLG**

Is the replacement of an existing natural grass playing pitch with an artificial grass playing surface development and if so, is it exempted development?

A Chara,

I refer to your application received on 4th September 2024 and by way of further on 3rd October 2024 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 [www.pleanala.ie](http://www.pleanala.ie)

Mise, le meas

**Anne O'Gorman**  
Staff Officer  
Planning Department  
Economic Development Directorate

**An Roinn Pleanála**  
**An Stiúirthóireacht 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



**CLARE COUNTY COUNCIL**

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

**DECLARATION ON DEVELOPMENT AND/OR EXEMPTED DEVELOPMENT**

Chief Executive's Order No: 84316

Reference Number: R24-70

Date Referral Received: 4th September 2024

Further Information Received: 3rd October 2024

Name of Applicant: Ballina Killaloe Community Sports Facilities  
Development Company CLG

Location of works in question: Clarisford Park, Moys, Killaloe, Co. Clare

**Section 5 referral Reference R24-70 – Ballina Killaloe Community Sports Facilities  
Development Company CLG**

Is the replacement of an existing natural grass playing pitch with an artificial grass playing surface 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) The works as indicated in submitted documents from the referrer as received on 04<sup>th</sup> September 2024 and further information received on 03<sup>rd</sup> October 2024.
- (c) The forms of exempted development as set out in Schedule 2, Part 1, Class 33 of the Planning and Development Regulations 2001 (as amended) and the conditions and limitations therein.
- (d) Article 9 'Restrictions on Exempted Development' of the Planning and Development Regulations 2001 (as amended).

**AND WHEREAS** Clare County Council has concluded:

- (a) The proposed replacement of an existing Natural Grass playing pitch with an artificial grass playing surface at Clarisford Park is not exempted development as it does not meet the conditions and limitations as set out in Schedule 2, Part 1, Class 33 of the Planning and Development Regulations 2001 (as amended), as from the further information received on 03 October 2024 it is apparent that a charge is made for use of the proposed facility by members of the public.

**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 Gareth Ruane, Senior Executive Planner, 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, Gareth Ruane, Senior Executive Planner, hereby declare that the replacement of an existing natural grass playing pitch with an artificial grass playing surface at Clarisford Park, Moys, Killaloe, Co. Clare is considered development which is not exempted development.

The stated development is not exempted development and requires the benefit of Planning Permission.

Signed:

  
\_\_\_\_\_  
GARETH RUANE  
SENIOR EXECUTIVE PLANNER 

Date: 15th October, 2024



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

Reference No.: R24-70



Comhairle Contae an Chláir  
Clare County Council

**Section 5 referral Reference R24-70**

**Is the replacement of an existing natural grass playing pitch with an artificial grass playing surface development and if so, is it exempted development?**

**AND WHEREAS, Ballina Killaloe Community Sports Facilities Development Company CLG** 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) The works as indicated in submitted documents from the referrer as received on 04<sup>th</sup> September 2024 and further information received on 03<sup>rd</sup> October 2024.
- (c) The forms of exempted development as set out in Schedule 2, Part 1, Class 33 of the Planning and Development Regulations 2001 (as amended) and the conditions and limitations therein.
- (d) Article 9 'Restrictions on Exempted Development' of the Planning and Development Regulations 2001 (as amended).

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

- (a) The proposed replacement of an existing Natural Grass playing pitch with an artificial grass playing surface at Clarisford Park is not exempted development as it does not meet the conditions and limitations as set out in Schedule 2, Part 1, Class 33 of the Planning and Development Regulations 2001 (as amended), as from the further information received on 03 October 2024 it is apparent that a charge is made for use of the proposed facility by members of the public.

**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 replacement of an existing natural grass playing pitch with an artificial grass playing surface at Clarisford Park, Moys, Killaloe, Co. Clare **constitutes development** which is **not exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.

The stated development is **not exempted development** and **requires the benefit of Planning Permission.**





Anne O'Gorman  
Staff Officer  
Planning Department  
Economic Development Directorate

15th October, 2024

**CLARE COUNTY COUNCIL  
SECTION 5 DECLARATION OF EXEMPTION APPLICATION  
PLANNERS REPORT**

**FILE REF:** R24-70

**APPLICANT(S):** Ballina Killaloe Community Sports Facilities Development Company CLG

**REFERENCE:** Is the replacement of an existing Natural Grass playing pitch with an artificial grass playing surface development, and if so, is it exempted development?

**LOCATION:** Clarisford Park, Moys, Killaloe, Co Clare

**DUE DATE:** 23-10-24

**Further Information ( FI)**

FI was sought from the referrer on 27-09-24 and the agent for the applicant responded to this on 03-10-24. The following is the FI as was sought ( in italics)

*You are advised that the proposed development is being considered in terms of potentially being exempted development in accordance with the form of Exempted Development set out under Schedule 2, Part 1, Class 33 of the Planning and Development Regulations 2001 (as amended), which provides that development for amenity or recreational purposes, consisting of the laying out and use of land for athletics or sports (other than golf, or pitch and putt, or sports involving the use of motor vehicles, aircraft or fire arms) where no charge is made for admission of the public to the land, is exempted development.*

*It is noted from the website ([www.clarisfordpark.ie](http://www.clarisfordpark.ie)) that a charge is payable for many of the existing sports facilities at this location by members of the public.*

*Please submit details as to whether or not a charge is to be made for admission of members of the public to the proposed facility in order to allow for further consideration of this Section 5 Referral.*

*In the event that it is intended to charge for use of the facility by the public you are advised that the above provision of the Regulations would not apply and permission would be required for the subject development.*

## **Applicants response**

In response to the request for further information, the agent for the applicant states ( in summary) ;

- Clarisford Park is run by a nonprofit volunteer led group with facilities and amenities developed for the benefit of all in the local community.
- There has never been and will not be a general admission fee for members of the public to use Clarisford park.
- Clarisford park employ a pay per use model on some facilities to ensure sustainable operations , this includes a contribution towards utilities ( heat and light) insurance and maintenance.
- Financial matters are not a barrier to the usage of the facilities at Clarisford park and all facilities are provided free to school going children and members of minority, disadvantaged and vulnerable groups.

## **Assessment**

The details submitted in response to the request for FI are noted. From the details as submitted it can be seen that a pay per use model is used for some facilities at this development/ park. From the details as submitted it can be determined that there may potentially be a charge for use of the proposed artificial grass playing surface.

The form of Exempted Development as is set out under Schedule 2, Part 1, Class 33 of the Planning and Development Regulations 2001 (as amended), provides that development for amenity or recreational purposes, consisting of the layout and use of land for athletics or sports (other than golf, or pitch and putt, or sports involving the use of motor vehicles, aircraft or fire arms) where no charge is made for admission of the public to the land, is exempted development.

In this case a charge may be put in place for the use of the proposed artificial grass playing pitch, It is determined that the proposed development is not exempted development in accordance with Schedule 2, Part 1, Class 33 of the Planning and Development Regulations 2001 (as amended), and it is noted that there is no other class of exempted development under which the stated development can fall.



**Recommendation**

**The following question has been referred to the Planning Authority:**

Is the replacement of an existing Natural Grass playing pitch with an artificial grass playing surface development, and if so, is it 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) The works as indicated in submitted documents from the referrer as received on 04<sup>th</sup> September 2024 and further information received on 03<sup>rd</sup> October 2024.
- (c) The forms of exempted development as set out in Schedule 2, Part 1, Class 33 of the Planning and Development Regulations 2001 (as amended) *and the conditions + limitations therein*
- (d) *Article* Part 9 'Restrictions on Exempted Development' of the Planning and Development Regulations 2001 (as amended).

**And whereas Clare County Council (Planning Authority) has concluded as follows;**

*as it does not meet the conditions + limitations*

The proposed replacement of an existing Natural Grass playing pitch with an artificial grass playing surface at Clarisford Park is not exempted development ~~and does not meet the criteria as set out for the form of exempted development as is set out in Schedule 2, Part 1, Class 33 of the Planning and Development Regulations 2001 (as amended), as from the further information received on 03 October 2024 it is apparent that a charge ~~may be~~ is made for use of the proposed facility by members of the public.~~

**The stated development is not exempted development and requires the benefit of Planning Permission.**

*A. McCarty* 14-10-24  
 \_\_\_\_\_  
 Annemarie Hennelly  
 Executive Planner  
 Date: 14-10-24

*G. Ruane*  
 \_\_\_\_\_  
 Garreth Ruane  
 Senior Executive Planner  
 Date: 15/10/24



### 3G Pitch Half B (32m x 32m)

3G SYNTHETIC GRASS PITCH

CAMOGIE, FOOTBALL, GAELIC FOOTBALL, RUGBY, TAG RUGBY, ATHLETICS / TRACK & FIELD, RUNNING



### Field Bookings

⏪
⏩
Oct 15, 2024
⏪
⏩

More search options

| Tue<br>15/10/24 | Wed<br>16/10/24 | Thu<br>17/10/24 | Fri<br>18/10/24 | Sat<br>19/10/24 | Sun<br>20/10/24 | Mon<br>21/10/24 |
|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|
| Unavailable     | 09:00 €84.00    | 09:00 €84.00    | 09:00 €84.00    | 09:00 €84.00    | 09:00 €84.00    | 09:00 €84.00    |
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| 12:00 €84.00    | 12:00 €84.00    | 12:00 €84.00    | 12:00 €84.00    | 12:00 €84.00    | 12:00 €84.00    | 12:00 €84.00    |
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| 15:00 €84.00    | Booked          | 15:00 €84.00    | 15:00 €84.00    | 15:00 €84.00    | 15:00 €84.00    | 15:00 €84.00    |
| 16:00 €84.00    | Booked          | 16:00 €84.00    | 16:00 €84.00    | 16:00 €84.00    | 16:00 €84.00    | 16:00 €84.00    |
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| 18:00 €84.00    | 18:00 €84.00    | 18:00 €84.00    | 18:00 €84.00    | 18:00 €84.00    | 18:00 €84.00    | 18:00 €84.00    |
| 19:00 €84.00    | Booked          | Booked          | 19:00 €84.00    | 19:00 €84.00    | 19:00 €84.00    | 19:00 €84.00    |
| Booked          | Booked          | Booked          | 20:00 €84.00    | 20:00 €84.00    | 20:00 €84.00    | 20:00 €84.00    |
| 21:00 €84.00    | 21:00 €84.00    | 21:00 €84.00    | 21:00 €84.00    | 21:00 €84.00    | 21:00 €84.00    | 21:00 €84.00    |



### Athletic Training Facility

SYNTHETIC RUNNING TRACK

ATHLETICS / TRACK & FIELD, RUNNING



Screenshot from Clarisford Park website in respect of the charges for the subject playing field



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Ballina Killaloe Community Sports Facilities Development Company CLG**  
**C/o Ronan Gilmartin**  
**Dairbhre Garrynatineel**  
**Ballina**  
**Co. Tipperary**  
**V94 F8WY**

**27/09/2024**

**Section 5 referral Reference R24-70 – Ballina Killaloe Community Sports Facilities Development Company CLG**

**Is the replacement of an existing natural grass playing pitch with an artificial grass playing surface development and if so, is it exempted development?**

A Chara,

I refer to your application received on 4th September 2024 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

I wish to advise that in accordance with Section 5 (2) (b) of the Planning & Development Act, 2000, as amended, the following further information is required:

Having regard to the details as submitted with this Section 5 Referral application, the following further information is required to allow for a full assessment of this referral:

You are advised that the proposed development is being considered in terms of potentially being exempted development in accordance with the form of Exempted Development set out under Schedule 2, Part 1, Class 33 of the Planning and Development Regulations 2001 (as amended), which provides that development for amenity or recreational purposes, consisting of the laying out and use of land for athletics or sports (other than golf, or pitch and putt, or sports involving the use of motor vehicles, aircraft or fire arms) where no charge is made for admission of the public to the land, is exempted development.

It is noted from the website ([www.clarispark.ie](http://www.clarispark.ie)) that a charge is payable for many of the existing sports facilities at this location by members of the public.

Please submit details as to whether or not a charge is to be made for admission of members of the public to the proposed facility in order to allow for further consideration of this Section 5 Referral.

In the event that it is intended to charge for use of the facility by the public you are advised that the above provision of the Regulations would not apply and permission would be required for the subject development.

**An Roinn Pleanála**

**An Stiúthóireacht 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





Mise, le meas

A handwritten signature in blue ink, reading "Anne O'Gorman". The signature is written in a cursive style with a long horizontal flourish extending to the right.

**Anne O'Gorman**  
**Staff Officer**  
**Planning Department**  
**Economic Development Directorate**

## Brian Fahy

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**From:** Planning Office  
**Sent:** Friday 4 October 2024 08:51  
**To:** Brian Fahy  
**Subject:** FW: Section 5 Referral Ref R24/70 - Ballina Killaloe Community Sport Facilities Development Company CLG



**From:** >  
**Sent:** Thursday 3 October 2024 17:49  
**To:** Planning Office <planoff@clarecoco.ie>  
**Subject:** Section 5 Referral Ref R24/70 - Ballina Killaloe Community Sport Facilities Development Company CLG

### Section 5 Referral Ref R24/70 – Ballina Killaloe Community Sport Facilities Development Company CLG

To whom it concerns,

Thank you for your letter dated 27/09/2024 on the Section 5 Request to determine if the replacement of an existing sand based all-weather pitch to a synthetic all-weather playing pitch is development, and if so, is it exempted development.

Clarisford Park is operated by a non-profit volunteer led group with facilities and amenities developed for the benefit of all in the local community.

In response to your query 'whether or not a charge is to be made for admission of members of the public to the proposed facility'; there has never been and will not be a general admission fee for members of the public to use Clarisford Park.

Clarisford Park employ a pay per use model on some facilities to ensure sustainable operations, this includes a contribution towards utilities [light & heat], insurance and maintenance. However, financial encumbrance is never a barrier to usage and all facilities are provided free to school-going children and members of minority, disadvantaged and vulnerable groups

Kind regards.  
Ronan Gilmartin

Kind regards.  
Ronan Gilmartin

**CLARE COUNTY COUNCIL**  
**SECTION 5 DECLARATION OF EXEMPTION APPLICATION**  
**PLANNERS REPORT**

|                      |  |
|----------------------|--|
| <b>FILE REF:</b>     | R24-70   |
| <b>APPLICANT(S):</b> | Ballina Killaloe Community Sports Facilities Development Company CLG   |
| <b>REFERENCE:</b>    | Is the replacement of an existing Natural Grass playing pitch with an artificial grass playing surface development, and if so, is it exempted development? |
| <b>LOCATION:</b>     | Clarisford Park, Moys, Killaloe, Co Clare  |
| <b>DUE DATE:</b>     | 30 <sup>th</sup> September 2024  |

**Site Location**

The proposal site is located within Clarisford Park on the south side of the town of Killaloe. There are numerous existing sports and recreation facilities on site, including playing pitches, walkways and a sports building.

**Recent Planning History**

P17-99 – GRANTED - to develop rugby and athletic training facilities, floodlighting and associated site works. A Natura Impact Statement will be submitted to the Planning Authority with the application.

P13/664 – GRANTED - to (i) Relocate community sports building onsite to replace that as granted under P12/291, (ii) amend car park layout to replace that as granted under P11/438 and associated site works

P11/438 – GRANTED - to construct 2 no. full-size playing pitches, 1 no. all weather floodlit pitch with fenced enclosure, partially floodlit training areas, walking/cycling trails, temporary changing facilities, an onsite wastewater treatment system, new entrance gateways, site fencing, car parking, along with ancillary site works

R23-20 – Clare County Council decided that the installation of universally accessible permeable geogrid material on carpark and walkways at Clarisford Park is development and is not exempted development.

R23-28 Whether (a) the use of an area of hard-standing for the purposes of accessible carparking and (b) the installation of geogrid in the existing carpark for the purposes of accessible parking is or is not development and is or is not exempted development. Further information was sought from the Referrer in relation to this Section V Referral.

R20-17 – Clare County Council decided that the installation of custom designed wheelchair accessible outdoor fitness equipment and installation of 2 areas of 275m<sup>2</sup> each with tartan surface is development and is exempted development.

R19-64 – Clare County Council decided that the installation of low level bollard lighting is development and is exempted development.

R17-02 – Clare County Council decided that the development of a bike pump track is development and is exempted development.

R16-80 - Clare County Council decided that the installation of a new all-weather long jump facility is development and is exempted development

R16-40 – Clare County Council sought Further Information as to whether the new all-weather athletic facilities & natural grass surfacing was development and was exempted development. The referrer did not respond to the request for Further Information.



R15-20 – Clare County Council decided that the installation of a new all-weather long jump facility is development and is exempted development.

### **Background to Referral**

This Referral under Section 5(1) of the Planning and Development Act 2000 (as amended) has been made by Ballina Killaloe Community Sports Facilities Development Company CLG.

The applicant is seeking a Section 5 Declaration as to whether;

The replacement of an existing Natural Grass playing pitch with an artificial grass playing surface is or is not development and is or is not exempted development.

The referral form indicates that the location of the installation is as per the map attached to the referral. The map and drawings submitted with the referral show the overall Clarisford site.

### **Statutory Provisions**

#### **(1) 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.*

Having regard to the details submitted, the proposed changes at this site are considered to be both development and works as per the Planning and Development Act 2000 ( as amended) .

**(2) Planning & Development Regulations, 2001, as amended**

Regard has been had to the following class of exempted development as are set out in Schedule 2, Part 1, Class 33 of the Planning and Development Regulations 2001 ( as amended) :

|  |  |
|--|--|
| <p><i>Development for amenity or recreational purposes</i></p> <p><b>CLASS 33</b></p> <p>Development consisting of the laying out and use of land—</p> <p>(a) as a park, private open space or ornamental garden,</p> <p>(b) as a roadside shrine, or</p> <p>(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.</p> | <p>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.</p> |
|--|--|

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.

Under Article 9 (1) of the same Regulations, 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 or the draft development plan or draft 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.*~~



Having considered the nature of the proposed work and the characteristics of the site, it is considered that none of the above listed restrictions on exempted development apply in this case.

## **Assessment**

### Basis of Referral

The applicant is seeking a Section 5 Declaration as to whether the replacement of an existing natural grass playing pitch with an artificial grass playing surface is or is not development and is or is not exempted development.

The following information is submitted with this referral:

- The applicant wishes to improve sport and recreation facilities at Clarisford Park by providing a year round all weather playing pitch and wishes to establish if the proposed works constitute development or exempted development under the Planning and Development Act, 2000.
- The proposed works consist of the replacement of the existing grass playing surface with an artificial grass playing pitch .
- The proposed works will include site preparation and earthworks consisting of stripping excess top soil from the site and to use the top soil elsewhere on the site, cut and fill and laser regrading of the pitch.
- Installation of new artificial grass surface – Installation of new geo textile layer , stone layer, shock pad and synthetic 60mm dual fibre carpet.
- There is no requirement for associated drainage, subbase , fencing or lighting all these elements are already in situ.
- It is intended that the works will take place in 2024/2025.

The referral form indicates that the location of the installation is as per the map attached to the referral. The map and drawings submitted with the referral include the overall Clarisford site.

Regard has been had to the following class of exempted development as are set out in Schedule 2, Part 1, Class 33 of the Planning and Development Regulations 2001 ( as amended) :

|  |  |
|--|--|
| <p><i>Development for amenity or recreational purposes</i></p> <p><b>CLASS 33</b></p> <p>Development consisting of the laying out and use of land—</p> <p>(a) as a park, private open space or ornamental garden,</p> <p>(b) as a roadside shrine, or</p> <p>(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.</p> | <p>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.</p> |
|--|--|

I note that the subject lands are already in use for athletics of sports. I have consulted the Clarisford Park Website and I note that Pitches, Sports Halls, Dressing rooms and other facilities at this location are available for booking by members of the public on a fee per booking basis. It is unclear from the details as submitted if a charge is to be made for admission to the proposed facility by members of the Public, Further Information shall be sought from the referrer in relation to this matter.

Article 9 of the Planning and Development Regulations 2001, as amended, outlines restrictions on exempted developments. Having regard to the nature of the development as proposed, it is considered that none of the restrictions on exempted development apply in this case.

|                       |
|-----------------------|
| <b>Recommendation</b> |
|-----------------------|

I recommend that **Further Information** be sought from the Referrer as follows;

You are advised that the proposed development is being considered in terms of potentially being exempted development in accordance with the form of Exempted Development set out under Schedule 2, Part 1, Class 33 of the Planning and Development Regulations 2001 (as amended), which provides that development for amenity or recreational purposes, consisting of the laying out and use of land for athletics or sports (other than golf, or pitch and putt, or sports involving the use of motor vehicles, aircraft or fire arms) where no charge is made for admission of the public to the land, is exempted development.

It is noted from the website ([www.clarisfordpark.ie](http://www.clarisfordpark.ie)) that a charge is payable for many of the existing sports facilities at this location by members of the public.

Please submit details as to whether or not a charge is to be made for admission of members of the public to the proposed facility in order to allow for further consideration of this Section 5 Referral.

In the event that it is intended to charge for use of the facility by the public you are advised that the above provision of the Regulations would not apply and permission would be required for the subject development.

Amccarthy 27-09-24  
Annemarie McCarthy  
Executive Planner  
Date: 23-09-24

Gar  
Garreth Ruane  
Senior Executive Planner  
27/09/24



Appropriate Assessment & Determination

| STEP 1. Description of the project/proposal and local site characteristics: |   |
|---|---|
| (a) File Reference No:  | R24/70  |
| (b) Brief description of the project or plan:                               | It is intended to change a grass playing pitch into an artificial surface playing pitch |
| (c) Brief description of site characteristics:                              | The site is in an established park and recreational area.                               |
| (d) Relevant prescribed bodies consulted:<br>e.g. DHLGH (NPWS), EPA, OPW    | N/A   |
| (e) Response to consultation:   | N/A   |

| STEP 2. Identification of relevant Natura 2000 sites using Source-Pathway-Receptor model and compilation of information on Qualifying Interests and conservation objectives. |   |  |   |                                     |
|--|---|--|---|-------------------------------------|
| European Site (code)   | List of Qualifying Interest/Special Conservation Interest <sup>1</sup>  | Distance from proposed development <sup>2</sup> (km) | Connections (Source-Pathway-Receptor)                   | Considered further in screening Y/N |
| Lower River Shannon SAC  | <p><u>Annex I habitats:</u></p> <ul style="list-style-type: none"> <li>• Sandbanks which are slightly covered by sea water all the time [1110]</li> <li>• Estuaries [1130]</li> <li>• Mudflats and sandflats not covered by seawater at low tide [1140]</li> <li>• *Coastal lagoons [1150]</li> <li>• Large shallow inlets and bays [1160]</li> <li>• Reefs [1170]</li> <li>• Perennial vegetation of stony banks [1220]</li> <li>• Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</li> <li>• <i>Salicornia</i> and other annuals colonizing mud and sand [1310]</li> <li>• Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330]</li> </ul> | <p>0.0km</p> <p>Site is partially within the SAC</p> | <p>Direct connectivity.</p> <p>Site adjoins the SAC</p> | Yes                                 |

|  |  |  |  |  |
|--|--|--|--|--|
| <ul style="list-style-type: none"> <li>• Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</li> <li>• Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitricho-Batrachion</i> vegetation [3260]</li> <li>• <i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) [6410]</li> <li>• *Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0]</li> </ul> <p><u>Annex II species:</u></p> <ul style="list-style-type: none"> <li>• Freshwater Pearl Mussel <i>Margaritifera margaritifera</i> [1029]</li> <li>• Sea Lamprey <i>Petromyzon marinus</i> [1095]</li> <li>• Brook Lamprey <i>Lampetra planeri</i> [1096]</li> <li>• River Lamprey <i>Lampetra fluviatilis</i> [1099]</li> <li>• Atlantic Salmon <i>Salmo salar</i> (only in fresh water) [1106]</li> <li>• Bottlenose Dolphin <i>Tursiops truncatus</i> [1349]</li> <li>• Otter <i>Lutra lutra</i> [1355]</li> </ul> |  |  |  |  |
|--|--|--|--|--|

<sup>1</sup> Short paraphrasing and/or cross reference to NPWS is acceptable – it is not necessary to reproduce the full text on the QI/SCI.

<sup>2</sup> If the site or part thereof is within the European site or adjacent to the European site, state here.

### STEP 3. Assessment of Likely Significant Effects

(a) Identify all potential direct and indirect impacts that may influence the conservation objectives of a European site, taking into account the size and scale of the project under the following headings:

| Impacts:   | Possible Significance of Impacts: (duration/magnitude etc.)   |
|--|---|
| Construction phase e.g. <ul style="list-style-type: none"> <li>• Vegetation clearance</li> <li>• Demolition</li> <li>• Surface water runoff from soil</li> </ul> | None. The site has been developed as playing pitches in the past and the proposal is to change a natural grass playing pitch into a synthetic grass |



|   |   |
|---|---|
| <p>excavation/infill/landscaping (including borrow pits)</p> <ul style="list-style-type: none"> <li>• Dust, noise, vibration</li> <li>• Lighting disturbance</li> <li>• Impact on groundwater/dewatering</li> <li>• Storage of excavated/construction materials</li> <li>• Access to site</li> <li>• Pests</li> </ul>   | <p>playing pitch. No new drainage works, sub-base, fencing or lighting is proposed.</p> |
| <p>Operational phase e.g.</p> <ul style="list-style-type: none"> <li>• Direct emission to air and water</li> <li>• Surface water runoff containing contaminant or sediment</li> <li>• Lighting disturbance</li> <li>• Noise/vibration</li> <li>• Changes to water/groundwater due to drainage or abstraction</li> <li>• Presence of people, vehicles, and activities</li> <li>• Physical presence of structures (e.g. collision risks)</li> <li>• Potential for accidents or incidents</li> </ul> | <p>None. The site is already in use for recreational purposes.</p>                      |
| <p>In-combination/Other</p>   |   |

**(b) Describe any changes to the European site:**

|   |  |
|---|--|
| <p>Examples of the type of changes to give consideration to include:</p> <ul style="list-style-type: none"> <li>• Reduction or fragmentation of habitat area</li> <li>• Disturbance to QI species</li> <li>• Habitat or species fragmentation</li> <li>• Reduction or fragmentation in species density</li> <li>• Changes in key indicators of conservation status value (water or air quality etc.)</li> <li>• Changes to areas of sensitivity or threats to QI</li> <li>• Interference with the key relationships that define the structure or ecological function of the site</li> </ul> | <p>None envisaged. The site is in active use as a park and the required planning permissions are in place.</p> <p>While the boundary of the Lower River Shannon SAC does encroach on part of the developed area which is the subject of this application there are no known or mapped Qualifying Interest habitats or species within this area as per the site-specific conservation objectives<sup>1</sup>. Therefore, there is no potential for direct effects. With regards to in-direct effects given the current use on site, the absence of any requirement for additional drainage, lighting or construction elements outside of the change in substrate there is no risk of in-direct effects on the Qualifying Interest Features which are located downstream of this site.</p> |
|---|--|

<sup>1</sup> [npws.ie/sites/default/files/protected-sites/conservation\\_objectives/CO002165.pdf](http://npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002165.pdf)

(c) Are 'mitigation' measures necessary to reach a conclusion that likely significant effects can be ruled out at screening?

Yes  No

N/A

### Step 4. Screening Determination Statement

**The assessment of significance of effects:**

Describe how the proposed development (alone or in-combination) is/is **not likely** to have **significant** effects on European site(s) in view of its conservation objectives.

**No impacts envisaged.**

**Conclusion:**

|   | Tick as Appropriate:                           | Recommendation:  |
|---|--|--|
| (i) It is clear that there is <b>no likelihood</b> of significant effects on a European site. | <input checked="" type="checkbox"/>            | The proposal can be screened out: Appropriate assessment not required. |
| <b>Signature and Date of Recommending Officer:</b>  | Annemarie McCarthy, Executive Planner 23-09-24 |  |
| <b>Signature and Date of the Decision Maker:</b>  | A McCarthy<br>27-09-24                         |  |















COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Ballina Killaloe Community Sports Facilities Development Company CLG**  
C/o Ronan Gilmartin  
Dairbhre Garrynatineel  
Ballina  
Co. Tipperary  
V94 F8WY

06/09/2024

**Section 5 referral Reference R24-70 – Ballina Killaloe Community Sports Facilities Development Company CLG**

is the replacement of an existing natural grass playing pitch with an artificial grass playing surface development and if so, is it exempted development?

A Chara,

I refer to your application received on 4th September 2024 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 Stiúthóireacht 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





P07

**CLARE COUNTY COUNCIL  
COMHAIRLE CONTAE AN CHLÁIR**

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

Telephone No. (065) 6821616  
Fax No. (065) 6892071  
Email: [planoff@clarecoco.ie](mailto:planoff@clarecoco.ie)  
Website: [www.clarecoco.ie](http://www.clarecoco.ie)



R24-70

**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. CORRESPONDENCE DETAILS.                             |  |
|--|--|
| (a) Name and Address of person seeking the declaration | <p><i>BALLINA KILLALOE COMMUNITY SPORT RECREATION FACILITIES<br/>DEVELOPMENT COMPANY [CLARISFORD] CLG<br/>CLARISFORD PARK<br/>KILLALOE<br/>CO. CLARE</i></p> |
| (b) Telephone No.:                                     | _____  |
| (c) Email Address:                                     | _____  |
| (d) Agent's Name and address:                          | <p><i>Ronan Gilmartin</i> _____<br/><i>Dairbhre Garrynatieel.</i> _____<br/><i>Ballina</i> _____<br/><i>Co Tipperary</i> _____<br/><i>V94F8WY</i> _____</p>  |



**2. DETAILS REGARDING DECLARATION BEING SOUGHT**

(a) PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT  
*Note: only works listed and described under this section will be assessed.*

**Sample Question:** *Is the construction of a shed at 1 Main St., Ennis development and if so is it exempted development?*

IS THE REPLACEMENT OF AN EXISTING NATURAL GRASS PLAYING PITCH WITH AN ARTIFICIAL GRASS PLAYING SURFACE DEVELOPMENT AND IF IT CONSTITUTES DEVELOPMENT, IS SUCH DEVELOPMENT EXEMPTED DEVELOPMENT

(b) Provide a full description of the question/matter/subject which arises wherein a declaration of the question is sought.

THE APPLICANT WISHES TO IMPROVE SPORT AND RECREATION FACILITIES AT CLARISFORD PARK BY PROVIDING A YEAR ROUND ALL WEATHER PLAYING PITCH AND WISHES TO ESTABLISH IF THE PROPOSED WORKS CONSTITUTE DEVELOPMENT OR EXEMPTED DEVELOPMENT UNDER THE PLANNING AND DEVELOPMENT ACT 2000.

1. THE REPLACEMENT OF AN EXISTING NATURAL GRASS PLAYING PITCH WITH AN ARTIFICIAL GRASS PLAYING PITCH

PROPOSED WORKS FOR THE REPLACEMENT OF EXISTING GRASS PLAYING SURFACE WITH SYNTHETIC SURFACE INCLUDE THE FOLLOWING:

**SITE PREPARATION & EARTHWORKS:** STRIP EXCESS TOPSOIL [2600m<sup>2</sup>, 200mm] FOR UTILISATION ELSEWHERE ON SITE FOR LANDSCAPING. CUT & FILL AND LASER REGRADE PITCH

**INSTALLATION OF NEW ARTIFICIAL GRASS SURFACE –** INSTALLATION OF GEOTEXILE LAYER, STONE LAYER, SHOCKPAD AND SYNTHETIC 60MM DUAL FIBRE CARPET

THERE IS NO REQUIREMENT FOR ASSOCIATED DRAINAGE, SUBBASE, FENCING OR LIGHTING AS ALREADY IN SITU [11/438, 12/291, 13664]

(c) List 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 map for the areas, to identify the lands in question)*

- Site Location Map

- Site Assessment Report/Costings from Tony Patterson Sportsground Ltd

| 3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT   |  |
|---|--|
| (a) Postal Address of the Property/Site/Building for which the declaration sought:  | CLARISFORD PARK<br>MOYS<br>KILLALOE<br>CO. CLARE |
| (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  |
| (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:<br><br><i>Note: Observations in relation to a referral may be requested from the owner/occupier where appropriate.</i>                        | _____<br>_____<br>_____                          |
| (e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:   |  |
| (f) Are you aware of any enforcement proceedings connected to this site? <i>If so please supply details:</i>  | NO   |
| (g) Were there previous planning application/s on this site? <i>If so please supply details:</i>  | 11438<br>12291<br>13664<br>1799                  |
| (h) Date on which 'works' in question were completed/are likely to take place:  | 2024/2025  |

SIGNED:



DATE: 04/09/2025

**GUIDANCE NOTES**

*This following are non-statutory advice notes prepared by Clare County Council for the purpose of advising people what information is required for a decision to be made under Section 5 by the Planning Authority*

- (i) The request for a declaration under Section 5 must be accompanied by 2 copies of site location map based on the Ordnance Survey map for the area of a scale not less than 1:1000 in urban areas and 1:2500 in rural areas and should clearly identify the site in question.
- (ii) The request for a declaration under Section 5 must be accompanied by the required fee of €80.00.
- (iii) If submitting any additional plans/reports etc. as part of the request for a declaration, please submit 2 copies.
- (iv) The request for a declaration should be sent to the following address:

Planning Department,  
Economic Development Directorate,  
Clare County Council  
Aras Contae an Chlair,  
New Road,  
Ennis,  
Co. Clare  
V95DXP2

- (v) Notwithstanding the completion of the above form, the Planning Authority may require the submission of further information with regard to the request in order to enable the Authority to issue a declaration on the question.
- (vi) The Planning Authority may also request other persons to submit information on the question which has arisen and on which the declaration is sought

**FOR OFFICE USE ONLY**

|                              |                      |
|------------------------------|----------------------|
| Date Received: .....         | Fee Paid: .....      |
| Date Acknowledged: .....     | Reference No.: ..... |
| Date Declaration made: ..... | CEO No.: .....       |
| Decision:.....               |                      |

# Clariford Park



## 3G Synthetic Pitch

Dimensions 65m x 40m =

### Site establishment

|   | QTY | unit | unit cost | amount £  |
|---|-----|------|-----------|-----------|
| Mobilisation of all necessary plant and equipment   |     | inc  | inc       | €900.00   |
| Insurance of works                                  |     | inc  | inc       | €2,000.00 |
| Setting out of works                                |     | inc  | inc       | €1,200.00 |
| Employment of a competent foreman                   |     | inc  | inc       | €0.00     |
| Keep access clear                                   |     | inc  | inc       | €0.00     |
| Provide contractors compound, site huts, and toilet |     | Item |           | €2,850.00 |
| Temporary fencing if required                       |     | Item |           | €1,820.00 |
| Complete all H&S duties throughout                  |     | item |           | €500.00   |

### Site Preparation & Earthworks

|   |      |    |       |           |
|---|------|----|-------|-----------|
| Spray off surface                       | 2600 | m2 | €0.20 | €520.00   |
| Strip exs topsoil and stockpile on site | 2600 | m2 | €1.50 | €3,900.00 |
| Cut and fill pitch to desired levels    | 1040 | m3 | €3.20 | €3,328.00 |
| Laser regrade pitch                     | 2600 | m2 |       | €1,000.00 |

### Drainage and sub-base

|                          |   |   |        |       |
|--------------------------|---|---|--------|-------|
| Drainage already present | 0 | m | €10.00 | €0.00 |
|--------------------------|---|---|--------|-------|

### Surface construction

|  |      |      |        |            |
|--|------|------|--------|------------|
| Geotextile layer   | 2600 | m2   | €0.50  | €1,300.00  |
| supply and lay 250mm deep type 3 stone spread using fully automatic laser grading machinery  | 2600 | m2   | €10.00 | €26,000.00 |
| Supply and lay on the prepared area 50mm average depth crushed stone (804 spec) to a tolerance of +/- 5mm using fully automatic laser controlled machinery | 2600 | m2   | €3.50  | €9,100.00  |
| Roll, compact and cross roll pitch area  |      | Item |        | €1,000.00  |
| 150x75mm precast concrete flat top kerbs   | 210  | m    | €17.50 | €3,675.00  |

### Synthetic Playing Surface

|  |      |      |        |            |
|--|------|------|--------|------------|
| Fieldturf top spec, 200,000 Lisport cycle 60mm dual fibre carpet. World Rugby approved on prefabricated shockpad | 2600 | m2   | €37.95 | €98,670.00 |
| Testing requirements to FIFA/World Rugby   |      | item |        | €2,500.00  |
| Maintenance requirements by client   | 0    |      |        | €0.00      |

### Pitch Furnishing and equipment

TBC

### Fencing

|   |     |    |           |            |
|---|-----|----|-----------|------------|
| 3m high weldmesh fence to perimeter of 3G area with netting above | 210 | m  | €90.00    | €18,900.00 |
| Vehicular gates   | 1   | nr | €1,900.00 | €1,900.00  |
| Pedestrian gates  | 2   | nr | €950.00   | €1,900.00  |

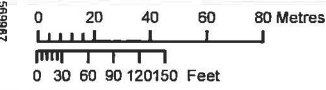
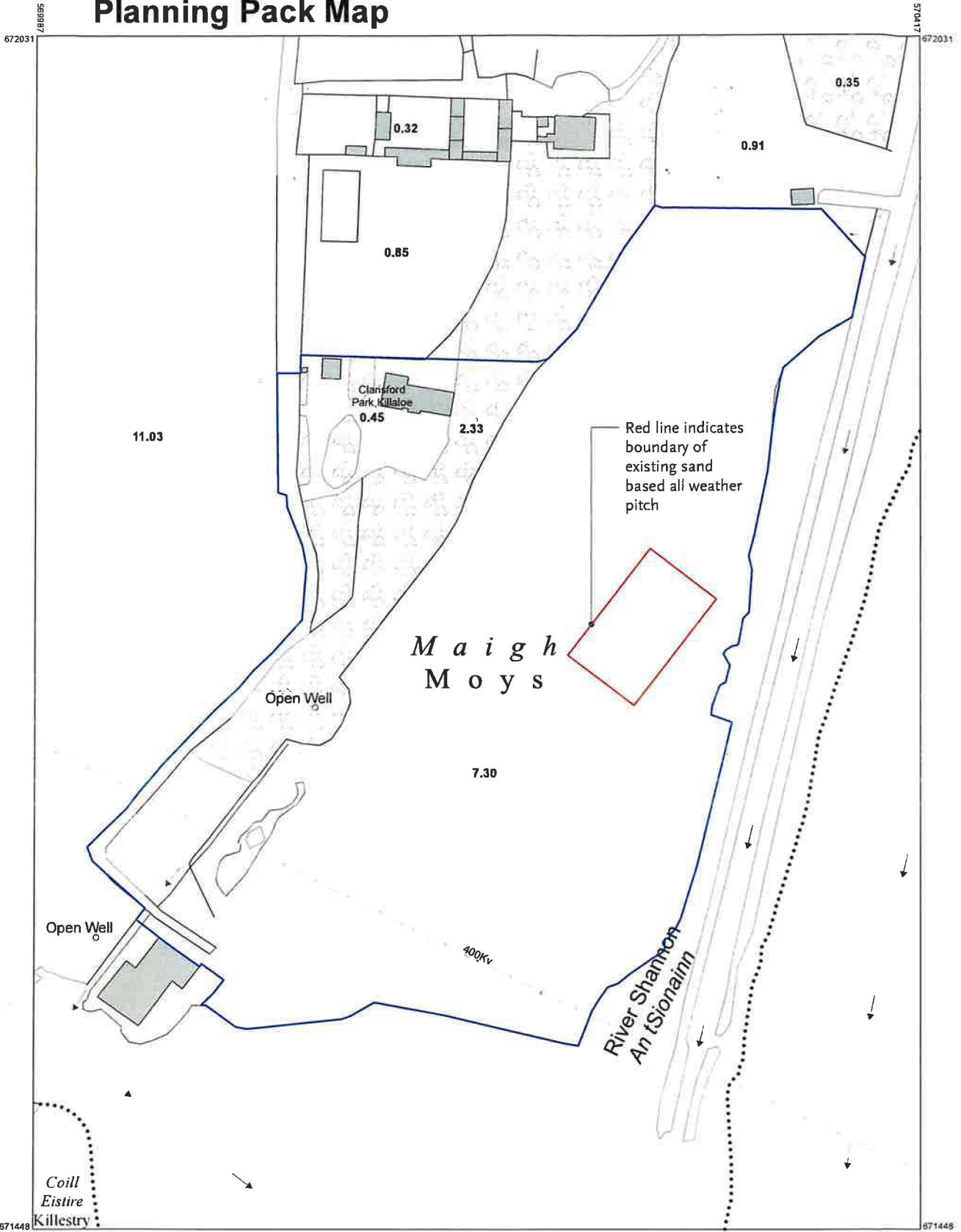
**FULL BUILD TOTAL EXCLUDING VAT**

**€182,963.00**

*at the heart  
of great sport...*



# Planning Pack Map



OUTPUT SCALE: 1:2,500



**CENTRE COORDINATES:**  
ITM 570202,671740

**PUBLISHED:** 27/06/2024  
**MAP SERIES:** 1:2,500  
**ORDER NO.:** 50407027\_1  
**MAP SHEETS:** 4447-B

**CAPTURE RESOLUTION:**  
The map objects are only accurate to the resolution at which they were captured. Output scale is not indicative of data capture scale. Further information is available at [www.tailte.ie](http://www.tailte.ie); search 'Capture Resolution'  
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