

## Comhairle Contae Chill Mhantáin Ulicklow 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<sup>\*</sup> (0404) 69462 Rphost / Email<sup>\*</sup> plandev@wicklowcoco ie Suíomh / Website www wicklow.ie

November 2024

**David Whitty** 

RE: Declaration in accordance with Section 5 of the Planning & Development Acts 2000 (As Amended) – EX96/2024 for Annacurra GAA Club

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 Pleanala 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 ECONOMIC & RUPAL DEVELOPMENT







## Comhairle Contae Chill Mhantáin Ulicklow County Council

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

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

Applicant: Annacurra GAA Club

Location: Kilpipe, Kilballyowen, Aughrim, Co. Wicklow

Reference Number: EX96/2024

CHIEF EXECUTIVE ORDER NO. CE/PERD/2024/1350

Section 5 Declaration as to whether "the level and fill of grass area to the rear of pitch for use by nursery kids as a grass training area" at Kilpipe, Kilballyowen, Aughrim, Co. Wicklow constitutes exempted development within the meaning of the Planning and Development Act, 2000(as amended).

#### Having regard to:

- a) Details submitted with the Section 5 Declaration application,
- b) Section 2,3 and 4 of the Planning and Development Act 2000(as amended)
- c) Article 6, 9 and Class 33 (c):Part 1: Schedule 2 of the Planning and Development Regulations 2001(as amended)

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

- 1) The construction of a grass training area by raising levels is development having regard to the definition of works, and the definition of development as set out in Section 2 and Section 3 of the Planning and Development Act 2000(as amended).
- 2) The construction of the grass training area would come within the description and limitations set out under Class 33 (c) Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended) which identifies that 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 ore firearms), where no charge is made for admission of the public in the land is exempted development.
- 3) Nothing within Article 9 of the Planning and Development Regulations 2001 (as amended) would be applicable.

The Planning Authority considers that "the level and fill of grass area to the rear of pitch for use by nursery kids as a grass training area" at Kilpipe, Kilballyowen, Aughrim, Co. Wicklow is development and is exempted development within the meaning of the Planning & Development Act 2000 (as amended).

Signed:

ADMINISTRATIVE OFFICER

PLANNING ECONOMIC & RURAL DEVELOPMENT

Dated November 2024





## WICKLOW COUNTY COUNCIL PLANNING & DEVELOPMENT ACTS 2000 (As Amended)

#### **SECTION 5**

#### CHIEF EXECUTIVE ORDER NO. CE/PERD/2024/1350

Reference Number:

EX96/2024

Name of Applicant:

Annacurra GAA Club

Nature of Application:

Section 5 Declaration request as to whether or not: "the level and fill of grass area to the rear of pitch for
use by nursery kids as a grass training area" is or is
not development and is or is not exempted

development.

Location of Subject Site:

Kilpipe, Kilballyowen, Aughrim, Co. Wicklow

Report from Edel Bermingham, SEP

With respect to the query under section 5 of the Planning & Development Act 2000 as to whether "the level and fill of grass area to the rear of pitch for use by nursery kids as a grass training area" at Kilpipe, Kilballyowen, Aughrim, Co. Wicklow is or is not exempted development within the meaning of the Planning & Development Act 2000 (as amended).

#### Having regard to:

(a) Details submitted with the Section 5 Declaration application,

(b) Section 2,3 and 4 of the Planning and Development Act 2000(as amended)

(c) Article 6, 9 and Class 33 (c):Part 1: Schedule 2 of the Planning and Development Regulations 2001(as amended)

#### Main Reason with respect to Section 5 Declaration:

- 1. The construction of a grass training area by raising levels is development having regard to the definition of works, and the definition of development as set out in Section 2 and Section 3 of the Planning and Development Act 2000(as amended).
- 2. The construction of the grass training area would come within the description and limitations set out under Class 33 (c) Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended) which identifies that 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 ore firearms), where no charge is made for admission of the public in the land is exempted development.
- 3. Nothing within Article 9 of the Planning and Development Regulations 2001 (as amended) would be applicable.

#### Recommendation:

The Planning Authority considers that the level and fill of grass area to the rear of pitch for use by nursery kids as a grass training area" at Kilpipe, Kilballyowen, Aughrim, Co. Wicklow is development and is exempted development as recommended in the report by the SEP.

Signeulz

Dated day of November 2024

ORDER:

I HEREBY DECLARE THAT "the level and fill of grass area to the rear of pitch for use by nursery kids as a grass training area" at Kilpipe, Kilballyowen, Aughrim, Co. Wicklow is development and is exempted development within the meaning of the Planning & Development Act 2000 (as amended).

Signed:

Senior Engineer

Planning, Economic & Rural Development

Dated/7 day of November 2024

## Comhairle Contae Chill Mhantáin Uicklow County Council

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Date:

4<sup>th</sup> November 2024

Applicant:

Annacurra GAA Club.

Address:

Kilpipe, Killballyowen, Aughrim, Co.Wicklow

Exemption

Whether or not:

Level and fill of grass area to the rear of pitch for use by Nursery Kilds as a Grass Training Area

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

#### **Planning History**

PRR 22/223 Application withdrawn at FI stage for the erection of an extension to Annacurra GAA Club dressing rooms and the erection of a ball wall to the North West of the existing playing pitch all with associated site works and servcies

PRR 92/8736

Development

Upper storey extension

Decision

Grant/refuse

PRR

88/4317 Permission granted for Proposed

Dressing rooms and septic tank

#### Flood Zone -

Flood Zone A and Flood Zone B

#### An Bord Pleanal Referrals;

RL 2076 - An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the 2000 Act, hereby decides that the laying out and use of the said field as a hard surface area for sports and recreational use is development and is not exempted development having regard to

- (a) the extent of works,
- (b) the raising and lowering of ground levels, and
- (c) the importation of large quantities of fill material:





#### **Relevant Legislation**

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

Section 2 of the Planning and Development Act 2000:

"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, (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

#### Section 4

- **4.** Section 4(2) provides that the Minister may by regulations provide any class of development to be exempted development. The Regulations which are applicable in this case are the Planning and Development Regulations 2001 (as amended).
- (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.

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

#### 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—
- (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

#### Schedule 2: Part 1: General

#### Class 33

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 ore firearms), where no charge is made for admission of the public in the land

#### **Assessment**

The querists seeks confirmation as to whether the Level and fill of grass area to the rear of pitch for use by Nursery Kids as a Grass Training Area is or is not development and is or is not exempted development.

The submitted drawings identify an area to the rear of the existing main pitch which is to be filled. The submitted documentation indicate that the works will involve the raising of levels of this rear area and will be finished in Flat 8 Seeded Grass. The final level is to be  $\pm 100$ , with the existing levels ranging from 99.05 at lowest point along northeastern boundary to an existing level of  $\pm 100$  to northwestern boundary.

The first assessment must be whether or not the works outlined above constitute development within the remit of Section 3 of the Planning and Development Act 2000 (as amended). In this regard, Section 3 of the Planning and Development Act provides that:

"development" means, except where the context otherwise requires 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 should be noted that Section 2 of the Act defines works as:

"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.

Therefore the bringing in of soils to level an existing grassed area to rear of main pitch involves works of alteration and construction, and would come within the definition of development.

Class 33: Part 1 : Schedule 2 of the Planning and Development Regulations 2001 (as amended) provides that the following is exempted development :

Development 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 firearms), where no charge is made for admission of the public to the land.

From the submission the works are for the laying out of the lands for a training area for gaelic games, where no admission charge is made to the public. The area the subject to levelling is c. .7 of an acre. The top of the lands i.e. northwestern end are currently at a level of +100 which is to be the final finished level of the area, with the extent of the level change varying by .15m to .95m to raise the level to reach a finish level of +100m. The greatest amount of fill would be at the southeastern extremity which would require an increase in levels by .95m. The extent of the area to be filled and the scale of the filling are not considered significant, and would come within the general meaning attached to laying out as envisioned under Class 33, therefore it is considered that the levelling works to provide for a training area for nursery children would come within the provisions of Class 33.

Nothing within Article 9 would clawback this exemption. In particular it is noted that the site would not impact on any listed prospect. The site is not within or connected to any Natura 2000 site, and there is no link to any Natura 2000 site, therefore the need for a Stage 2 Appropriate Assessment can be ruled out. In addition the site would not be within or adjoining any Natural Heritage Area or connected to any Natural Heritage Site .

In light of the above assessment the works are considered exempted development.

#### Recommendation:

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

the Level and fill of grass area to the rear of pitch for use by Nursery Kids as a Grass Training Area at Kilpipe, Killballyowen, Aughrim, Co.Wicklow constitutes exempted development within the meaning of the Planning and Development Acts, 2000(as amended).

The Planning Authority considers, the level and fill of grass area to the rear of pitch for use by Nursery Kids as a Grass Training Area is development and is exempted development.

Main Considerations with respect to Section 5 Declaration:

- (a) Details submitted with the Section 5 Declaration application,
- (b) Section 2,3 and 4 of the Planning and Development Act 2000(as amended)
- (c) Article 6, 9 and Class 33 (c):Part 1: Schedule 2 of the Planning and Development Regulations 2001(as amended)

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

- The construction of a grass training area by raising levels is development having regard to the definition of works, and the definition of development as set out in Section 2 and Section 3 of the Planning and Development Act 2000(as amended).
- The construction of the grass training area would come within the description and limitations set out under Class 33 (c) Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended) which identifies that 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 ore firearms), where no charge is made for admission of the public in the land is exempted development.
- Nothing within Article 9 of the Planning and Development Regulations 2001 ( as amended) would be applicable.

. E. Proposition of 4/11/2024

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## **MEMORANDUM**

#### WICKLOW COUNTY COUNCIL

TO: Edel Bermingham FROM: Nicola Fleming Senior Executive Planner Staff Officer

RE:- Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). EX96/2024

I enclose herewith application for Section 5 Declaration received completed on 25/10/2024

The due date on this declaration is 21st November 2024.

Staff Officer

lanning, Economic & Rural Development





#### Nicola Fleming

From:

Nicola Fleming

Sent:

Tuesday 29 October 2024 14:43 -

To:

'David Whitty'

Subject:

RE: Section 5 Exempted Development Application - Annacurra GAA Club, Kilpipe,

Kilballyowen, Aughrim, Co. Wicklow.

HI David,

I acknowledge receipt of your application and advise that a decision is due on 21/11/2024

Regards,

#### Nicola Fleming

#### Staff Officer

Planning, Economic & Rural Development

WICKLOW COUNTY COUNCIL, COUNTY BUILDINGS, WICKLOW TOWN, A67 FW96

Ph**☎**: +353 (0404) 20148 | ∑: <u>nfleming@wicklowcoco.ie</u>

Website: http://www.wicklow.ie





From: David Whitty

Sent: Friday 25 October 2024 12:31

To: Planning - Planning and Development Secretariat

Cc: Niamh Graham; Jon Hynes; Secretary Annacurra Wicklow

Subject: Section 5 Exempted Development Application - Annacurra GAA Club, Kilpipe, Kilballyowen, Aughrim, Co.

Wicklow.

External Sender - From: (David Whitty - \_\_\_\_\_

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FAO: Nicola Fleming

Hi Nicola,

Please see attached completed Section 5 Exempted Development application form with accompanying documents for proposed works at Annacurra GAA Club as discussed with your office just now.

We currently have an uneven rough grass surface area on a slope to the rear of our goal which is not in use. It is not suitable/safe for persons to use/play on at the moment in its current state.

We propose to fill this area to match the adjoining ground level with good quality clean subsoil from a licensed haulier (with all the necessary paperwork) and level the area off with topsoil which will be seeded with grass for use as a playing/training area.

This playing/training area will be a particular great addition to our underage children as we are currently lacking in space to conduct their training sessions.

Overall it will be of great benefit to the Club and surrounding community in general as a free use area.

We have paid the €80.00 fee over the phone with your accounts department and the receipt number is 336342.

We would appreciate a swift response as we would like to commence works immediately to have the area ready for the children to use in time for the coming season.

Best regards,		
David Whitty.		
Mob:		

#### **Nicola Fleming**

From:

David Whitty

Sent:

Friday 25 October 2024 12:31

To:

Planning - Planning and Development Secretariat

Cc:

Niamh Graham; Jon Hynes; Secretary Annacurra Wicklow

Subject:

Section 5 Exempted Development Application - Annacurra GAA Club, Kilpipe,

Kilballyowen, Aughrim, Co. Wicklow.

Attachments:

SKM\_C36824102512380.pdf; SKM\_C36824102512580.pdf

#### External Sender - From: (David Whitt)

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We would appreciate a swift response as we would like to commence works immediately to have the area ready for the children to use in time for the coming season.

Best regards,

David Whitty.

WicPlow County Council Cou Buildings ✓ → Wicklow 0404-20100

25/10/2024 12 03 53

Receipt No L1/0/336342

ANNACURRA GAA CLUB ANNACURRA CO WICKLOW

EXEMPTION CERTIFICATES
GOODS 80 00
VAT Exempt/Non-vatable

Total 80 00 EUR

80.00

Tendered
Credit Card 80 00
DAVID WHITTY

Change 0.00

Issued By VANESSA PORTER From Customer Service Hub Vat reg No 0015233H



# Wicklow County Council County Buildings Wicklow Co Wicklow Telephone 0404 20148 Fax 0404 69462

#### Office Use Only

	Date Received	-			
8	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

(a)	Name of applicant: ANYACURA GAA CLUB
	Address of applicant: KLEPIPE, KILBALHOHEN, AUGHRIM
	CO. WICKIOW.
Note	Phone number and email to be filled in on separate page.
	gents Details (Where Applicable)
2. As	Name of Agent (where applicable)
	gents Details (Where Applicable)

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

RECEIVED 25 OCT 2024

## 3. Declaration Details

i.	Location of Development subject of Declaration ANNACURRA GAA CLUB, KILPIPE, KILBALUDWEN, AUGHRIM, CO. WICKLOW.
ii.	Are you the owner and/or occupier of these lands at the location under i. above? Yes/No.  YE5
iii.	If 'No' to ii above, please supply the Name and Address of the Owner, and or occupier
iv,	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, an 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 NE NOULO LIKE TO LEVEL & FILL A GARS AREA TO THEREAR OF ONR PITCH FOR USE BY OUR NURSERY KIOS AS A GRASS TRAINING AREA. THE LEVELS WILL NOT ABOVE OR ADDINING RECOND BY MORE THAN 1.00M ADDIE OR BECOME THE ADDINING RECOND. THE CURRENT GRASS FINISH IS TOO KONGH TO TRAIN I PLAY ON. THE NEW LEVEL WILL BE FLAT & SEADED WINI GRASS
v.	Additional details may be submitted by way of separate submission.  GOOD QUALITY SUBSOIL & TOPSOIC WILL BE USED TO CREATE THE AREA.  THE OFFILL RANGES FROM APPROX. ISOME TO APPROX. 950mm TO  FORM THE FINISHED PLAY AREA LEVEL WITH THE ADJUNING GROWNO.  Indication of the Sections of the Planning and Development Act or Planning  Regulations you consider relevant to the Declaration  **ELMANING REGULATIONS 2001 - PART I - CLASS 6 (a) - THE LEVEL OF THE  GROWNO SHALL NOT BE ALTORED BY MORE THAN I METHE ABOUT OR BELOW  LEVEL OF ADJUNING ERWAND  **PLANNING REGULATIONS 2001 - PART I - CLASS 33 (c) - DEVELOPMENT CONSISTING  OF THE LATING DUT AND USE OF LAND (C) FOR ATHLETICS OR SPORTS NHERE  Additional details may be submitted by way of separate submission.
	NO CHARGE IS MADE FOR ADMISSION OF THE PUBLIC TO THE UND.

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1	C - RECEIP

#### **Additional Notes:**

As a guide 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.





