

Comhairle Contae Chill Mhantáin Wicklow County Council

Forbairt Pleanála agus Comhshaol
Planning Development and Environment

Áras An Chontae / County Buildings
Cill Mhantáin / Wicklow
Guthán / Tel: (0404) 20148
Faics / Fax: (0404) 69462
Rphost / Email: plandev@wicklowcoc
Suíomh / Website: www.wicklow.ie

Stephen Barry
Enniskerry Youth Club AFC
Berryfield Park, Berryfield Lane
Fassaroe
Bray
Co. Wicklow
A98 E8P2

31st August 2023

RE: Declaration in accordance with Section 5 of the Planning & Development Acts
2000 (As Amended) – EX55/2023

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

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

Is mise, le meas,

ADMINISTRATIVE OFFICER
PLANNING DEVELOPMENT & ENVIRONMENT.





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

Applicant: Stephen Barry for Enniskerry Youth Club AFC

Location: Berryfield Park, Berryfield Lane, Fassaroe, Bray, Co. Wicklow A98 E8P2

CHIEF EXECUTIVE ORDER NO. CE/PDE/1548/2023

A question has arisen as to whether "replacement of existing all weather astro surface with a new all-weather astro surface" at Berryfield Park, Berryfield Lane, Fassaroe, Bray, Co. Wicklow A98 E8P2 is or is not exempted development.


Having regard to:

- a) The details submitted with this Section 5 Application on the 04/08/2023.
- b) Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended).
- c) Class 33(c) of Part 1 Schedule 2 of the Planning and Development Regulations, 2001 (as amended).
- d) Articles 6 of the Planning and Development Regulations 2001, as amended.

Main Reasons with respect to Section 5 Declaration:

The works are considered to be works which comprises of "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" and would therefore come with the provisions of Class 33(c) of Part 1 Schedule 2 of the Planning and Development Regulations, 2001 (as amended).

The Planning Authority considers that "replacement of existing all weather astro surface with a new all-weather astro surface" at Berryfield Park, Berryfield Lane, Fassaroe, Bray, Co. Wicklow A98 E8P2 "is development and is exempted development.

Signed: 
PP ADMINISTRATIVE OFFICER
PLANNING DEVELOPMENT & ENVIRONMENT

Dated 31st August 2023



WICKLOW COUNTY COUNCIL

PLANNING & DEVELOPMENT ACTS 2000 (As Amended)
SECTION 5

CHIEF EXECUTIVE ORDER NO. CE/PDE/1548/2023

Reference Number: EX 55/2023

Name of Applicant: Stephen Barry for Enniskerry Youth Club AFC

Nature of Application: Section 5 Referral as to whether "replacement of existing all weather astro surface with a new all-weather astro surface" is or is not exempted development

Location of Subject Site: Berryfield Park, Berryfield Lane, Fassaroe, Bray, Co. Wicklow A98 E8P2

Report from Patrice Ryan, EP & Suzanne White, SEP

With respect to the query under Section 5 of the Planning & Development Act 2000 as to whether "replacement of existing all weather astro surface with a new all-weather astro surface" at Berryfield Park, Berryfield Lane, Fassaroe, Bray, Co. Wicklow A98 E8P2 is or is not exempted development within the meaning of the Planning & Development Act 2000 (as amended)

Having regard to:

- a) The details submitted with this Section 5 Application on the 04/08/2023.
- b) Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended).
- c) Class 33(c) of Part 1 Schedule 2 of the Planning and Development Regulations, 2001 (as amended).
- d) Articles 6 of the Planning and Development Regulations 2001, as amended.

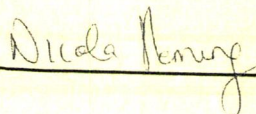
Main Reason with respect to Section 5 Declaration:

The works are considered to be works which comprises of "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" and would therefore come with the provisions of **Class 33(c) of Part 1 Schedule 2 of the Planning and Development Regulations, 2001 (as amended).**

Recommendation

The Planning Authority considers that "replacement of existing all weather astro surface with a new all-weather astro surface" at Berryfield Park, Berryfield Lane, Fassaroe, Bray, Co. Wicklow A98 E8P2 is development and is exempted development. as recommended in the report by the SEP.

Signed



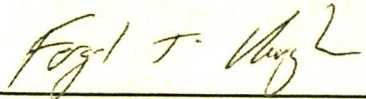
Dated 31st day of August 2023

ORDER:

I HEREBY DECLARE:

That "replacement of existing all weather astro surface with a new all-weather astro surface" at Berryfield Park, Berryfield Lane, Fassaroe, Bray, Co. Wicklow A98 E8P2 is **development and is exempted development** within the meaning of the Planning & Development Act 2000 (as amended).

Signed

: 

**Senior Engineer
Planning Development & Environment**

Dated 31st day of August 2023



WICKLOW COUNTY COUNCIL
Planning Department

Section 5 – Application for declaration of Exemption Certificate

Ref:	EX 55/2023
Name:	Stephen Barry for Enniskerry Youth Club AFC
Development:	Replace the existing all weather astro surface with a new all-weather astro surface.
Location:	Enniskerry Youth Club AFC, Berryfield Park, Berryfield Lane, Fassaroe, Bray, Co. Wicklow. A98E8P2.

Application Site

The site comprises of 2 pitches, one all-weather pitch and 1 grass main pitch. The all-weather pitch measures 106 metres by 66 metres with a surface area of 6996sq.m.

Planning History

20/506 - ABP-310288-21: Planning permission GRANTED to Enniskerry Youth Club for 245sqm single storey shed with pitched roof over for recreational use and to include ancillary works.

09/1074: Planning permission GRANTED to Enniskerry Youth Club for modifications to permitted development under PRR 07/2236 for the provision of new playing pitches, clubhouse and ancillary development. The modifications will comprise changes to the clubhouse including new profiles, finishes and minor extension to roof, revised walls and cladding, and minor revision to pitch sizes; provision of a fuel storage tank; and all ancillary site works all on a site of 2.2ha.

07/2236: Planning permission GRANTED to Enniskerry youth Club for new playing pitches and ancillary facilities comprising: 3 no playing pitches (1 no main pitch, 1 no all-weather pitch and 1 no practice pitch), a clubhouse of 246sqm gross floor space and measuring 3.15m in height, floodlights serving the all-weather pitch, 29 car parking spaces plus 1 no bus space, access from Berryfield Lane, on-site sewage treatment system and percolation area, ancillary services, boundary treatment, and all site development works on a site of 2.2 hectares.

Enforcement: None found in relation to the application site.

Question

The applicant has applied to see whether or not the following is or is not development; and is or is not exempted development:

- Replace the existing all weather astro surface with a new all-weather astro surface.

Legislative Context:

Planning and Development Act 2000 (as amended)

Section 3(1) of the Act states the following in respect of 'development':

"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."

Section 2(1) of the Act states the following in respect of the following:

'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 4 sets out the types of works that while considered 'development', can be considered 'exempted development' for the purposes of the Act.

Section 4(1) (h): *"Development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures."*

Planning and Development Regulations 2001 (as amended).

Article 6(1) states that certain classes of development which are specified in Schedule 2 shall be exempted development for the purposes of the Act, subject to compliance with any associated conditions and limitations;

Article 9(1) (a) and (b) details a number of circumstances under which the development to which Article 6 relates shall not be exempted development for the purposes of the Act.

Assessment:

The Section 5 declaration application seeks an answer with respect to the following question i.e. whether or not:

- Replace the existing all weather astro surface with a new all-weather astro surface.

The first assessment must be whether or not the proposal outlined above constitutes development within the remit of Section 3 of the Planning and Development Act 2001. 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 on, in, over or under land or the making of any material change in the use of any structures or other 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.

I am satisfied that the proposal involves works to the existing land and therefore constitutes development.

The works would come within the description of Class 33 (c) of Article 6, Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended) which refers to:

Class33(c)

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.*

Conditions and Limitations - None

These exemptions however are subject to the restriction set out under Article 9 of the Planning and Development Regulations 2001 (as amended) which provides that development to which article 6 relates shall not be exempted development for the purposes of the Act;

“(b) in an area to which a special amenity area order relates, if such development would be development:— (i) of class 1, 3, 11, 16, 21, 22, 27, 28, 29, 31, (other than paragraph (a) thereof), 33 (c) (including the laying out and use of land for golf or pitch and putt or sports involving the use of motor vehicles, aircraft or firearms), 39, 44 or 50(a) specified in column 1 of Part 1 of Schedule 2”,

The application site is located within the Bray Municipal District LAP Boundary and is Zoned AOS –Active Open Space.

The proposal is for the replacement of the astro tuft surface of the existing all weather pitch astro with a new all-weather astro surface. None of the conditions attached to any of the grants of planning permission as outlined in the Planning History above, would de-exempt the works proposed as part of this Section 5 Declaration. No changes are proposed to the ground level of the all-weather pitch and no changes are proposed to the size of the all-weather pitch. No other structures are proposed to be erected as part of this Section 5 Declaration.

It is therefore considered that the proposed works fall within the exempted development provisions as set out in Class 33(c).

RECOMMENDATION

Main Considerations with respect to Section 5 Declaration:

- a) The details submitted with this Section 5 Application on the 04/08/2023.
- b) Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended).
- c) Class 33(c) of Part 1 Schedule 2 of the Planning and Development Regulations, 2001 (as amended).
- d) Articles 6 of the Planning and Development Regulations 2001, as amended.

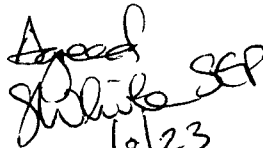
With respect to the query under Section 5 of the Planning and Development Act 2000 (as amended), as to whether the:

- The replacement of the existing all weather astro surface with a new all-weather astro surface is or is not exempted development;

The works are considered to be works which comprises of "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" and would therefore come with the provisions of **Class33(c)** of Part 1 Schedule 2 of the Planning and Development Regulations, 2001 (as amended).

The Planning Authority therefore considers that the proposal as described in the documents and details submitted as part of this Section 5 **would constitute development** and **is exempted development under** of **Class33(c)** of Part 1 Schedule 2 of the Planning and Development Regulations, 2001 (as amended).


Patrice Ryan
Executive Planner
28/08/2023


Aileen White SEP
30/8/23



Comhairle Contae Chill Mhantáin Wicklow County Council

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MEMORANDUM

WICKLOW COUNTY COUNCIL

TO: Patrice Ryan
Executive Planner

FROM: Nicola Fleming
Staff Officer

RE:- Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). Ex 55/2023

I enclose herewith for your attention application for Section 5 Declaration received 4th August 2023.

The due date on this declaration is the 31st August 2023.


Staff Officer
Planning Development & Environment





Comhairle Contae Chill Mhantáin Wicklow County Council

**Forbairt Pleanála agus Comhshaol
Planning Development and Environment**

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8th August 2023

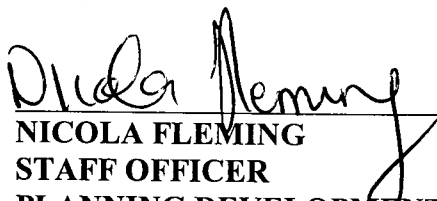
**Stephen Barry
Enniskerry Youth Club AFC
Berryfield Park
Berryfield Lane
Fassaroe
Bray
Co. Wicklow
A98 E8P2**

**RE: Application for Certificate of Exemption under Section 5 of the Planning and
Development Acts 2000 (as amended). Ex 55/2023
Replace all weather astro surface – Berryfield Park, Fassaroe, Bray**

A Chara

I wish to acknowledge receipt on 4th August 2023 details supplied by you in respect of the above Section 5 application. A decision is due in respect of this application by 31st August 2023.

Mise, le meas



**NICOLA FLEMING
STAFF OFFICER
PLANNING DEVELOPMENT AND ENVIRONMENT**



Wicklow County Council
County Buildings
Wicklow
0404-20100

04/08/2023 10 40 13

Receipt No L1/0/316983
***** REPRINT *****

ENNISKERRY YOUTH CLUB
BERRYFIELD PARK
BERRYFIELD LANE
FASSAROE
BRAY CO WICKLOW

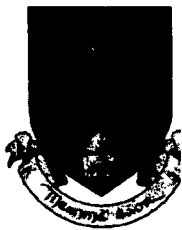
PLANNING APPLICATION FEES	80 00
GOODS	80 00
VAT Exempt/Non-vatable	

Total	80 00 EUR
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Tendered	
Cash	80 00

Change	0 00
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Wicklow County Council
County Buildings
Wicklow
Co Wicklow
Telephone 0404 20148
Fax 0404 69462

Office Use Only

Date Received _____

Fee Received _____

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

1. Applicant Details

Stephen BARRY

(a) Name of applicant:

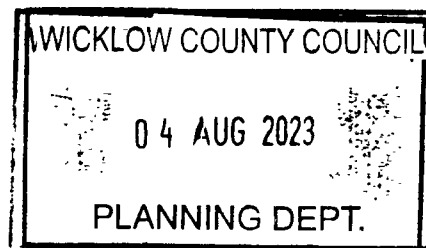
ENNISKERRY YOUTH CLUB AFC

Address of applicant:

BERRYFIELD PARK BERRYFIELD LANE

FASSAROE BRAY CO WICKLOW A98ES P2

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



2. Agents Details (Where Applicable)

(b) Name of Agent (where applicable) _____

Address of Agent : _____

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

3. Declaration Details

i. Location of Development subject of Declaration _____
BERRYFIELD PARK BERRYFIELD LANE
FASSAROE BRAY CO WICKLOW

ii. Are you the owner and/or occupier of these lands at the location under i. above ?
☒ Yes ☐ No.

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, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question. You should therefore set out the query for which you seek the Section 5 Declaration _____
OUR FOOTBALL CLUB WANTS TO REPLACE THE ALL WEATHER
ASTRO SURFACE WHICH IS 11 YEARS OLD AND WORN WITH A
NEW ALL WEATHER ASTRO SURFACE
WE ARE APPLYING FOR SPORTS CAPITAL GRANT TO HELP
WITH THE COST

Additional details may be submitted by way of separate submission.

v. Indication of the Sections of the Planning and Development Act or Planning Regulations you consider relevant to the Declaration _____

Additional details may be submitted by way of separate submission.

vi. Does the Declaration relate to a Protected Structure or is it within the curtilage of a Protected Structure (or proposed protected structure) ? NO

vii. List of Plans, Drawings submitted with this Declaration Application _____

viii. Fee of € 80 Attached ? Yes

Signed : Stephen Barry Dated : 1st August 2023
CHAIRMAN
ENNISKERRY VC

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.

APPENDIX 2: TEMPLATE TO BE COMPLETED WHERE PLANNING PERMISSION IS NOT REQUIRED

Must be completed by a Technical Supervisor¹⁰/Local Authority Planning Department

Name of Applicant

ENNISKERRY Youth Club AFC

Address of Project

BERRYFIELD PARK
BERRYFIELD LANE
FASSAROE BRAY
A98 E8 P2

Project details

ASTRO ALL WEATHER PITCH To Be Replaced

Project site address

AS ABOVE

**To be completed by your technical supervisor or Local Authority
planning department only**

I certify that the above named project or part of project does not require planning permission.

Signature

Name

(Block Capitals)

Position

Relevant Qualification

Date

¹⁰ A professional competent in planning matters, typically an architect, civil engineer or planning consultant

English | Gaeilge

ENNISKERRY YOUTH
CLUB AFC

BERRYFIELD PARK

BERRYFIELD LANE

FASSAROE

BRAY

CO. WICKLOW

A98 E8P2



EIR**CODE**

A handwritten signature in black ink, consisting of several loops and flourishes.



SITE BOUNDARY

SITE ENTRANCE

SITE NOTICE

NEW TREE @ 7M C/C

NOTE:

DIMENSIONS NOTED * - DISTANCES FROM BUILDING ELEMENT(SUCH AS CORNER COLUMN) TO CENTRELINE OF RELEVANT BOUNDARY, MEASURED PERPENDICULARILY TO BOUNDARY (CLOSEST DISTANCE).

PLANNING APPLICATION

Scott Tallon Walker Architects		19 Merion Square	Dublin 2	Tel. 01-6693000	Fax 01-6613300
CLIENT COSGRAVE PROPERTY GROUP	DRAWING SITE LAYOUT PLAN		CAD REF: K:\09\09073\PLA		
PROJECT ENNISKERRY F.C. ALTERNATIVE DESIGN			PROJ. NO.	STATUS	DWG. NO. ISSUE
SITE FASRAROE	SCALE 1:500	PROJECT ARCHITECT @A1 MAREK SOBOL	09073-PLA-002 P1		
			E-mail: mail@stw.ie WWW: www.stw.ie		

DO NOT SCALE FROM THIS DRAWING.WORK ONLY FROM FIGURED DIMENSIONS.
ALL ERRORS AND OMISSIONS TO BE REPORTED TO THE ARCHITECT.
THIS DRAWING TO BE READ IN CONJUNCTION WITH RELEVANT CONSULTANT'S DRAWINGS.

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PLOT. BY: Marek Sobol	

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ISSUED TO PLANNING CONSULTANT TO LODGE APPLICATION	MS ORIG.	PD CHK.	23.09.09 DATE	P1 ISSUE