

4. Development Details:

Please provide details of the proposed development for which an exemption under Section 5 of the Planning and Development Act is applied for.

(Note: only works and uses listed and described under this section will be assessed under this Section 5 Application. Use additional sheets if required.)

Sand Arena - 27m wide x 50m Long	
- Drainage stone + sand	
- Post and Rail fence.	
Proposed floor area of proposed works/uses:	27m x 50m sqm

5. Legal Interest of Applicant in the Land or Structure:

Please tick appropriate box to show applicant's legal interest in the land or structure	A. <input checked="" type="checkbox"/> Owner	B. Occupier
	C. Other	
Where legal interest is 'Other', please expand further on your interest in the land or structure		
If you are not the legal owner, please state the name and address of the owner	Name: Araglen Pony Club Address: Araglen Community Field TIPPERARY	

Hoscherty (Sec)

Signature of Applicant(s) Frances Murphy (Hoscherty S.C.) Date: 20/01/24

Note: If the proposed development consists of works to a (Proposed) Protected Structure and/or any structure within the curtilage of a (Proposed) Protected Structure, an application for a Section 57 Declaration may be more appropriate.

GUIDANCE NOTES

- (1) All queries on the form must be completed and the form must be accompanied by the relevant fee. The amount of the fee is currently **€80.00**.

- (2) This application should be accompanied by **TWO COPIES** of the following documentation
 - OSI Site Location Map with the site outlined clearly – 1:1000 in urban areas and 1:2500 in rural areas
 - Floor Plans & Elevations at a scale of not less than 1:200
 - Site layout plan indicating position of proposed development relative to premises and adjoining properties
 - Other details e.g. brochures, photographs if appropriate.

(All dimensions must be given in metric scale and drawings should be accompanied by a brief description outlining the use of the proposed development)

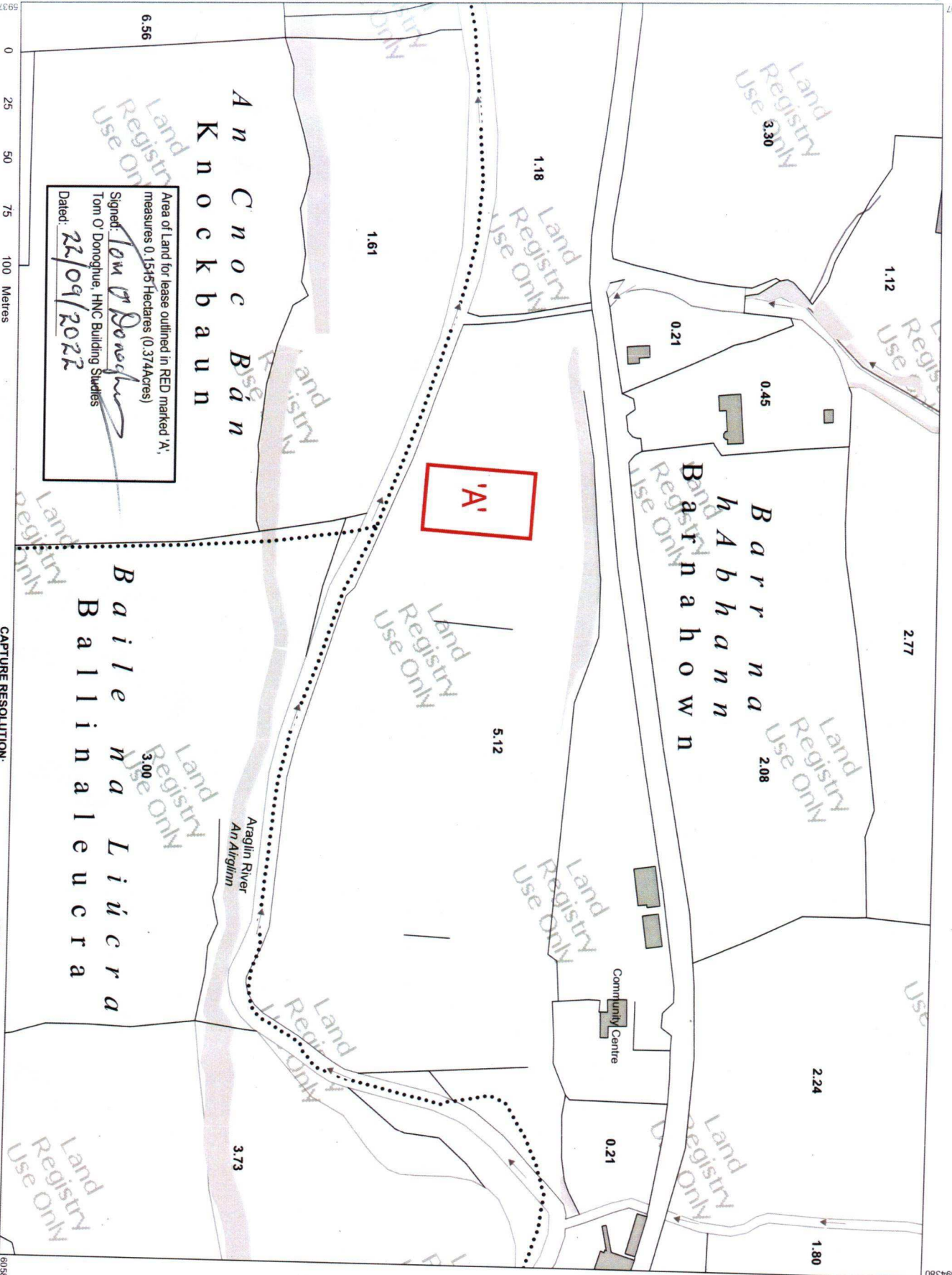
- (3) Where a proper and complete application is received, a decision must be conveyed to the applicant within four (4) weeks except where additional necessary information is required.

This application form and relevant fee should be submitted to:

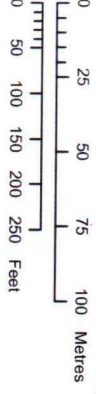
Planning Section, Tipperary County Council, Civic Offices, Limerick Road, Nenagh, Co. Tipperary	<u>OR</u>	Planning Section, Tipperary County Council, Civic Offices, Emmet Street, Clonmel, Co. Tipperary
Enquires:		
Telephone 0818 06 5000		
E-Mail planning@tipperarycoco.ie		

FOR OFFICE USE ONLY
<u>DATE STAMP</u>
Fee Recd. € _____
Receipt No _____
Date _____
Received by _____

Land Registry Compliant Map



Area of Land for lease outlined in RED marked 'A',
measures 0.1515 Hectares (0.374 Acres)
Signed: *Tom O'Donoghue*
Tom O'Donoghue, HNC Building Studies
Dated: 22/09/2022



OUTPUT SCALE: 1:2,500

CAPTURE RESOLUTION:
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LEGEND:
To view the legend visit: www.osi.ie and search for 'Large Scale Legend'



CENTRE COORDINATES:
ITM 594089,606111

PUBLISHED: 21/09/2023

MAP SERIES: 1:5,000
1:2,500
1:5,000

ORDER NO.: 50358737_1

MAP SHEETS: 5756
5756-C
5828

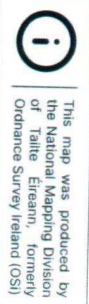
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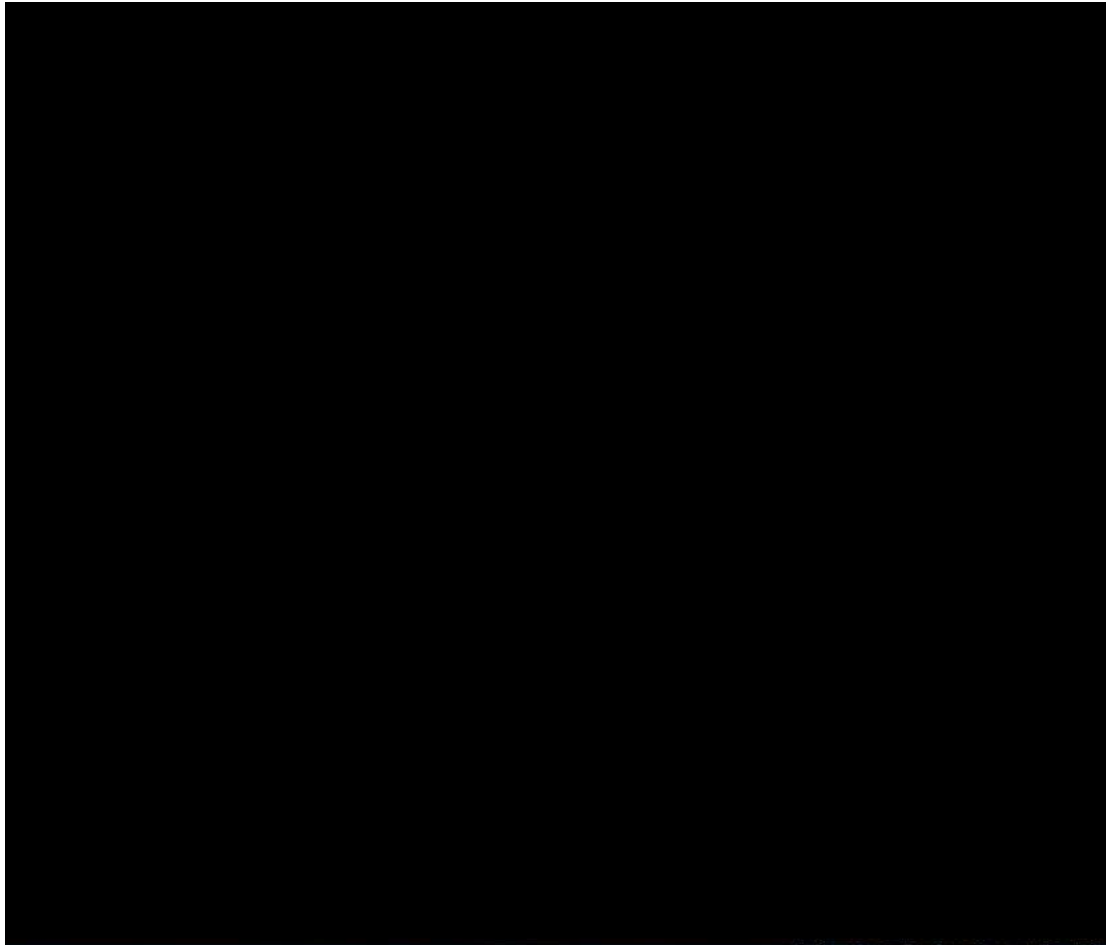
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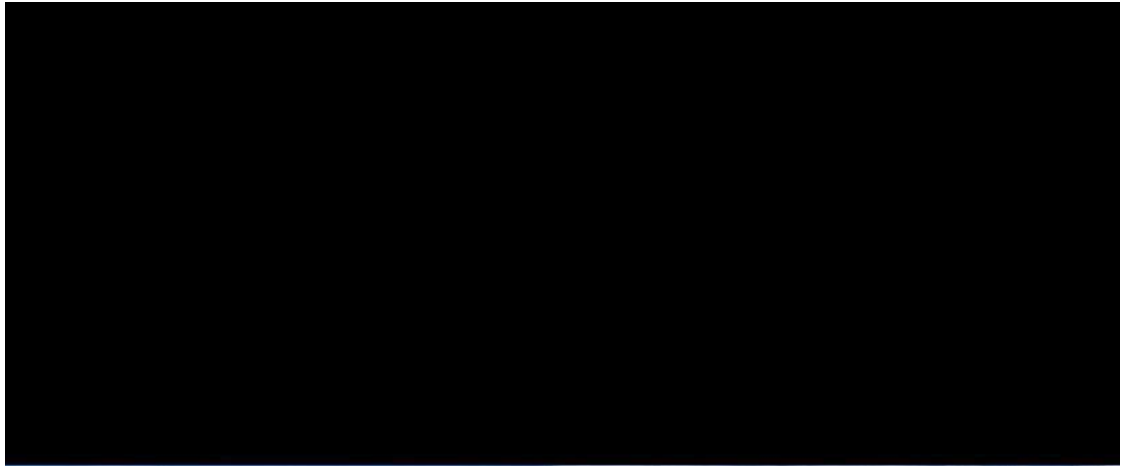
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SCANNED

TIPPERARY COUNTY COUNCIL

Application for Declaration under Section 5

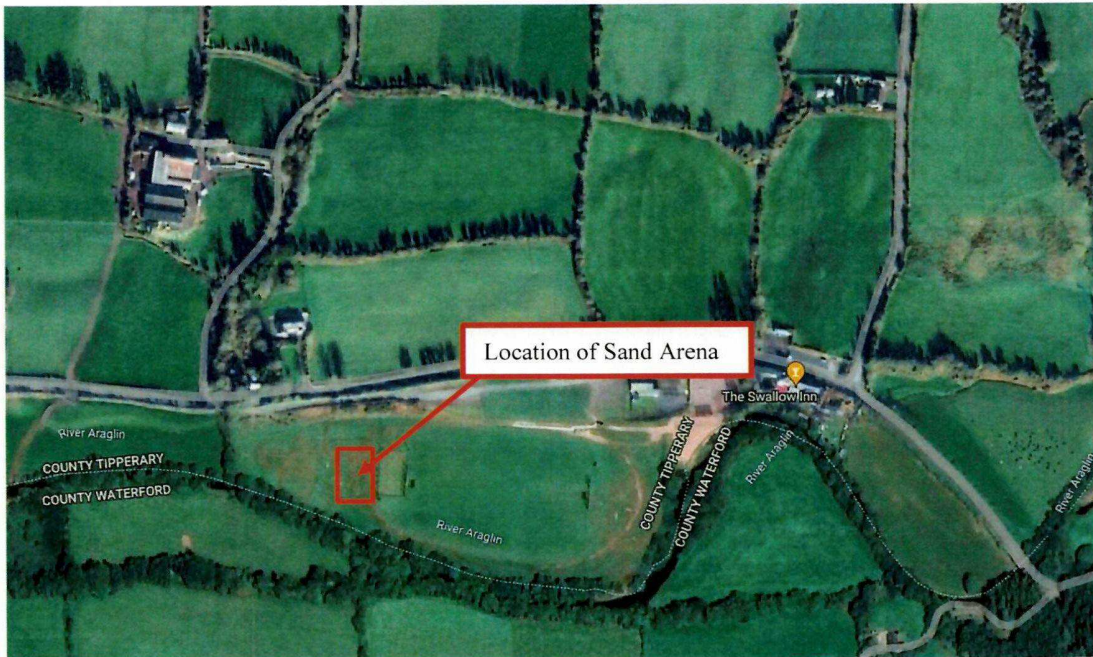
Planning & Development Act 2000, as amended
Planning & Development Regulations 2001, as amended

Planning Ref.: S5/24/28
Applicant: Araglen Pony Club c/o Hazel O' Doherty
Development Address: Araglen Community Field, Araglen, Co. Tipperary
Proposed Development: Sand Arena (27m wide x 50m long)

1. GENERAL

On 26th February 2024 a request was made for a declaration under Section 5 of the Planning and Development Act, 2000 as amended by Araglen Pony Club c/o Hazel O' Doherty as to whether or not the following works constituted development and if so, whether same was exempted development:

Sand Arena (27m wide x 50m long)



2. STATUTORY PROVISIONS

The following statutory provisions are relevant to this referral case;

Planning and Development Act 2000, as amended

Section 2(1) of the Planning and Development Act, 2000, as amended, 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.

Section 3 (1) of the Planning and Development Act 2000, as amended, states as follows: -

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

Section 4 (4) of the Planning and Development Act 2000, as amended states:

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 of the Planning and Development Regulations 2001, as amended states:

Exempted Development.

6. (3) Subject to article 9, in areas other than a city, a town or an area specified in section 19(1)(b) of the Act or the excluded areas as defined in section 9 of the Local Government (Reorganisation) Act, 1985 (No. 7 of 1985), development of a class specified in column 1 of Part 3 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 3 opposite the mention of that class in the said column 1.

Class 10, Schedule 2, Part 3 of the Planning and Development Regulations 2001, as amended sets out an exemption for:

The erection of an unroofed fenced area for the exercising or training of horses or ponies, together with a drainage bed or soft surface material to provide an all-weather surface.

This exemption is subject to the following conditions/limitations:

- 1. No such structure shall be used for any purpose other than the exercising or training of horses or ponies.*
- 2. No such area shall be used for the staging of public events.***
- 3. No such structure shall be situated within 10 metres of any public road, and no entrance to such area shall be directly off any public road.*
- 4. The height of any such structure shall not exceed 2 metres.***

Article 9 of the Planning and Development Regulations 2001, as amended sets out restrictions on exemptions and states:

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

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

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

(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.

(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.

3. ASSESSMENT

a. Site Location

The site comprises part of an existing Community Field at Barnahown, Araglen, Co. Tipperary.

b. Relevant Planning History

There is no planning history traced for the site on the planning register.

c. Assessment

A) "Is or is not Development"

I consider the above listed proposals constitute "works" as understood by the Planning and Development Act 2000, as amended. The above listed proposals therefore constitute "development" within the meaning of the Planning and Development Act 2000, as amended.

B) "Is or is not Exempted Development"

I consider that Class 10, Schedule 2, Part 3 of the Planning and Development Regulations 2001 (as amended) is relevant to this assessment.

An assessment of the proposal relevant to the conditions/limitations are set out below:

1. No such structure shall be used for any purpose other than the exercising or training of horses or ponies.

No evidence that the structure would be used for purposes other than the exercising or training of horses or ponies.

2. No such area shall be used for the staging of public events.

It is considered that the proposal would not satisfy this condition and limitation as it is located within the Community Field and is for use by the Araglen Pony Club.

3. No such structure shall be situated within 10 metres of any public road, and no entrance to such area shall be directly off any public road.

The sand arena is not within 10m of the public road and the arena is not access directly off any public road.

4. The height of any such structure shall not exceed 2 metres.

The applicant has not specified the height of the sand arena post and rail boundary and it is unclear if this condition and limitation is satisfied.

Having regard to the above it is considered that the proposal does not avail of the exemption set out under Class 10, Schedule 2, Part 3 of the Planning and Development Regulations 2001 (as amended).

C) Is the exemption restricted under Article 9

Notwithstanding that the sand arena does not avail of an exemption there are important considerations with respect to restrictions on exemptions that need to be considered.

Restriction set out under Article 9(1)(a)(iii) endanger public safety by reason of traffic hazard or obstruction of road users

It is unclear from the application if the proposed development will result in an increase in traffic to and from the site and whether same would have any impact on the Strategic Road. Details in relation to requirements for car and truck parking have not been set out.

Restriction set out under Article 9(1)(a)(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site.

The proposal has been assessed having regard to the requirements of the EU Habitats Directive. The proposal has been screened as to the requirements for AA and the screening assessment considers that the proposal is likely to impact on the Blackwater River Special Area of Conservation (Site Code 002170) Natura 2000 site. See also Appropriate Assessment (AA) screening report attached.

It has been determined that the requirement for AA cannot be excluded.

D) Requirement for Appropriate Assessment (AA) and Environmental Impact Assessment (EIA)

AA

As set out above the proposal has been assessed having regard to the requirements of the EU Habitats Directive. The proposal has been screened as to the requirements for AA and the screening assessment considers the proposal is likely to impact on the Blackwater River Special Area of Conservation (Site Code 002170) Natura 2000 site. See also Appropriate Assessment (AA) screening report attached.

EIA

The proposed development is not a type of development included for under Schedule 5 of the Planning and Development Regulations 2001, as amended. EIA is not required in respect of the development. See attached.

4. RECOMMENDATION

WHEREAS a question has arisen as to whether the construction of a Sand Arena at Araglen Community Field, Araglen, Co. Tipperary is “development” and is or is not “exempted development”,

AND WHERE AS Tipperary County Council in considering this referral had regard particularly to -
(a) Sections 2, 3 and 4 of the Planning and Development Act, 2000 as amended,
(b) Article 6 and Article 9 of the Planning and Development Regulations, 2001, as amended,
(c) Schedule 2, Part 3, Class 10 of the Planning and Development Regulations, 2001, as amended.

AND WHEREAS Tipperary County Council has concluded that –

The Sand Arena at Araglen Community Field, Araglen, Co. Tipperary, is development and **IS NOT** exempted development as;

- The proposal does not avail of the exemption set out under Schedule 2, Part 3, Class 10 of the Planning and Development Regulations, 2001, as amended, as conditions and limitations 2 and 4 of this Class,
- It is further considered that any available exemption would be limited by Article 9(a)(iii) of the Planning and Development Regulations 2001, as amended,
- The applicant is further advised that the subject site is located on lands identified as being at risk of flooding and within the Blackwater River Special Area of Conservation (SAC). The proposal

has been screened as to the requirement for Appropriate Assessment and it has been determined that same is required. Any available exemption under Class 10 would therefore be limited by Article 9(1)(a)(viiB) of the Planning and Development Regulations 2001, as amended

NOW THEREFORE Tipperary County Council, in exercise of the powers conferred on it by Section 5 (3) (a) of the 2000 Act, as amended, hereby decides that the construction of a Sand Arena at Araglen Community Field, Araglen, Co. Tipperary is development and IS NOT exempted development.

The development has been screened as to the requirement for Appropriate Assessment and Environmental Impact Assessment and it has been determined that an Appropriate Assessment would be required.

Signed: Sara Jane Condon

Date: 14th March 2024

Assistant Planner



Signed:

Date: 19.03.2024

Senior Executive Planner

HABITATS DIRECTIVE APPROPRIATE ASSESSMENT (AA) SCREENING REPORT

STEP 1. Description of the project/proposal and local site characteristics:

(a) File Reference No:	S5/24/28
(b) Brief description of the project or plan:	Sand Arena (27m wide x 50m long)
(c) Brief description of site characteristics:	Sand Arena within a rural unserved area.
(d) Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW	None
(e) Response to consultation:	None

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 ¹	Distance from proposed development ² (km)	Connections (Source-Pathway-Receptor)	Considered further in screening Y/N
002137 Lower River Suir	https://www.npws.ie/protected-sites/sac/002137	Within 10km	None	No
002170 Blackwater River SAC	<p>https://www.npws.ie/protected-sites/sac/002165</p> <p>Qualifying Interests Sandbanks which are slightly covered by sea water all the time [1110]</p> <p>Estuaries [1130]</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Coastal lagoons [1150]</p> <p>Large shallow inlets and bays [1160]</p> <p>Reefs [1170]</p> <p>Perennial vegetation of stony banks [1220]</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p>	Within SAC	Yes Within SAC	Yes

	<p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330]</p> <p>Mediterranean salt meadows (Juncetalia maritimi) [1410]</p> <p>Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation [3260]</p> <p>Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410]</p> <p>Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p> <p>Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]</p> <p>Petromyzon marinus (Sea Lamprey) [1095]</p> <p>Lampetra planeri (Brook Lamprey) [1096]</p> <p>Lampetra fluviatilis (River Lamprey) [1099]</p> <p>Salmo salar (Salmon) [1106]</p> <p>Tursiops truncatus (Common Bottlenose Dolphin) [1349]</p> <p>Lutra lutra (Otter) [1355]</p>			
0049094 Blackwater Callows SPA	https://www.npws.ie/protected-sites/spa/004094	Within 10Km	None	No

STEP 3. Assessment of Likely Significant Effects

(a) Identify all potential direct and indirect impacts that may have an effect on 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.)
<p>Construction phase e.g.</p> <ul style="list-style-type: none"> • Vegetation clearance • Demolition • Surface water runoff from soil excavation/infill/landscaping (including borrow pits) • Dust, noise, vibration • Lighting disturbance • Impact on groundwater/dewatering • Storage of excavated/construction materials • Access to site • Pests 	<p>The proposal is located within the SAC boundary and would have involved soil stripping in addition to the importation of stones and sand at the construction stage. The proposal is also located on lands shown to be at risk of flooding from the River Araglen.</p> <p>Significant impacts from vegetation clearance, noise, dust, vibration and surface water run off are likely given its location within the SAC boundary on lands at risk of flooding in close proximity to the Araglin river, which is a tributary of the Blackwater SAC.</p> <p>It is uncertain if sediment entering surface water runoff may enter the watercourse, impacting with water quality which is hydrologically connected to the SAC.</p>
<p>Operational phase e.g.</p> <ul style="list-style-type: none"> • Direct emission to air and water • Surface water runoff containing contaminant or sediment • Lighting disturbance • Noise/vibration • Changes to water/groundwater due to drainage or abstraction • Presence of people, vehicles and activities • Physical presence of structures (e.g. collision risks) • Potential for accidents or incidents 	<p>The proposal is located on lands shown to be at risk of flooding within the SAC boundary and in close proximity to the River Araglen, a tributary of the River Blackwater. The arena is sand based and there is significant potential for sedimentation from surface water runoff to enter the SAC at the operational stage. The proposal will also introduce additional people and vehicles into the SAC.</p>
<p>In-combination/Other</p>	<p>Uncertain</p>
<p>(b) Describe any likely changes to the European site:</p>	
<p>Examples of the type of changes to give consideration to include:</p> <ul style="list-style-type: none"> • Reduction or fragmentation of habitat area • Disturbance to QI species • Habitat or species fragmentation • Reduction or fragmentation in species density • Changes in key indicators of conservation status value (water or air quality etc.) • Changes to areas of sensitivity or threats to QI • Interference with the key relationships that define the structure or ecological function of the site 	<p>The following are likely;</p> <ul style="list-style-type: none"> Reduction of habitat area Changes to water quality Disturbance to species

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

Yes No

Not applicable

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.

Having regard to the location of the proposal within the SAC, on lands identified as being at risk of flooding in close proximity to the Araglen River, a tributary of the River Blackwater, the nature and scale of the proposed development, the proposed land use and the subsequent direct connection to the SAC, it is likely that the development may have significant effects on the above listed European site (River Blackwater SAC) in view of the said sites' conservation objectives.
The development cannot be screened out from Appropriate Assessment.

Conclusion:

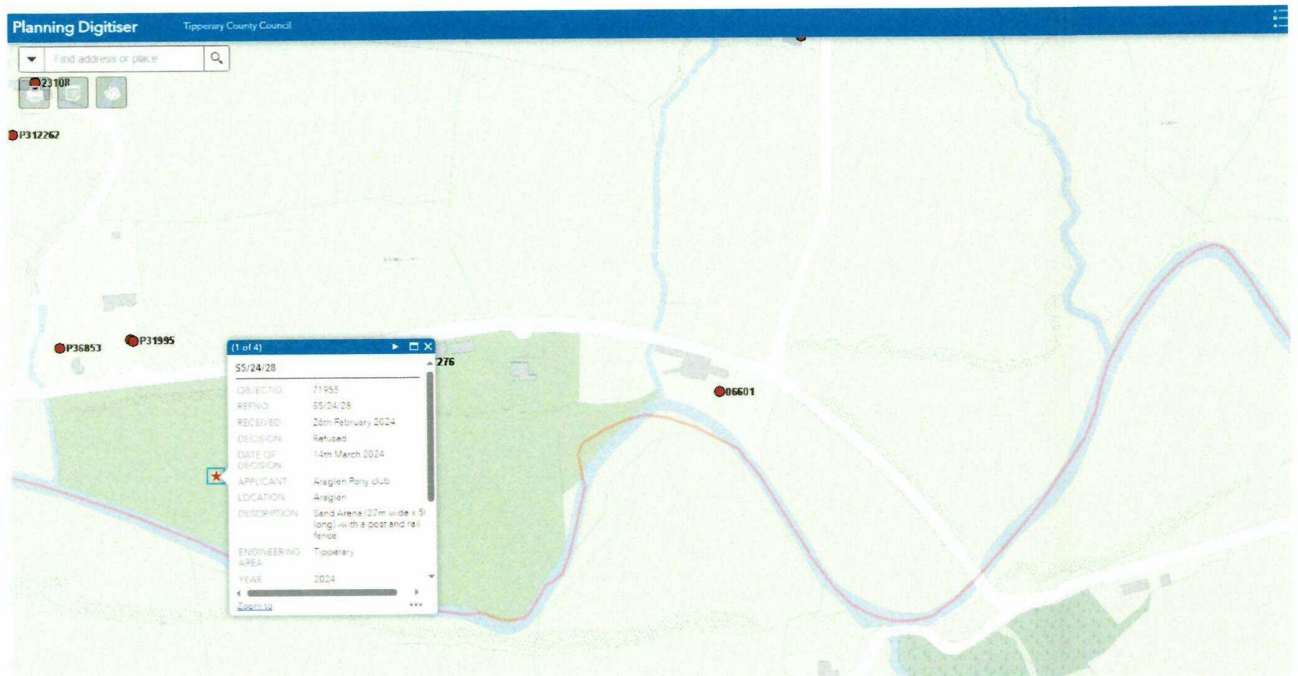
	Tick as Appropriate:	Recommendation:
(i) It is clear that there is no likelihood of significant effects on a European site.	<input type="checkbox"/>	The proposal can be screened out: Appropriate assessment not required.
(ii) It is uncertain whether the proposal will have a significant effect on a European site.	<input type="checkbox"/>	<input type="checkbox"/> Request further information to complete screening <input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
(iii) Significant effects are likely.	x	<input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
Signature and Date of Recommending Officer:	<i>Sara Jane Condon</i>	Date: 13 th March 2024

EIA Pre-Screening	
Establishing a development is a 'sub-threshold development'	
File Reference:	S5/24/28
Development Summary:	Change of use from commercial to residential
Was a Screening Determination carried out under Section 176A-C?	<input type="checkbox"/> Yes, no further action required <input checked="" type="checkbox"/> No, Proceed to Part A
A. Schedule 5 Part 1 - Does the development comprise a project listed in Schedule 5, Part 1, of the Planning and Development Regulations 2001 (as amended)? (Tick as appropriate)	
<input type="checkbox"/> Yes, specify class _____	EIA is mandatory
<input checked="" type="checkbox"/> No	No Screening required Proceed to Part B
B. Schedule 5 Part 2 - Does the development comprise a project listed in Schedule 5, Part 2, of the Planning and Development Regulations 2001 (as amended) and does it meet/exceed the thresholds? (Tick as appropriate)	
<input checked="" type="checkbox"/> No, the development is not a project listed in Schedule 5, Part 2	No Screening required
<input type="checkbox"/> Yes, the project is listed in Schedule 5, Part 2 and meets/exceeds the threshold, specify class (including threshold): Class 10 _____	EIA is mandatory
<input type="checkbox"/> Yes, the project is of a type listed but is <i>sub-threshold</i> : _____	No Screening required Proceed to Part C
C. If Yes, has Schedule 7A information/screening report been submitted?	

- Yes, Schedule 7A information/screening report has been submitted by the applicant
- No, Schedule 7A information/screening report has not been submitted by the applicant

Screening Determination required

Preliminary Examination required



Extract from GIS SYSTEM showing S5 ref plotted

Handwritten marks or scribbles in the top right corner.

Original

TIPPERARY COUNTY COUNCIL

DELEGATED EMPLOYEE'S ORDER

File Ref: **S5/24/28** Delegated Employee's Order No: _____

SUBJECT: Section 5 Declaration

I, Sharon Kennedy, Director of Services, Tipperary County Council, by virtue of the powers delegated to me in accordance with the provisions of Section 154 of the Local Government Act 2001, as amended by Schedule 1, Part 1 of the Local Government Reform Act 2014 under Chief Executive's Order No. 37256 dated 4th March, 2024, hereby order that pursuant to the provisions of the Planning and Development Act 2000, as amended, that an application under Section 5 from Araglen Pony Club, C/o Hazel O'Doherty, Cloughneafin, Mitchelstown, Co. Cork, re: sand arena (27m wide x 50 m long) at Araglen Community Field, Araglen, Co. Tipperary, is development and is not exempted development.

AND WHEREAS Tipperary County Council, in considering this referral, had regard particularly to –

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000 as amended,
- (b) Article 6 and Article 9 of the Planning and Development Regulations, 2001, as amended,
- (c) Schedule 2, Part 3, Class 10 of the Planning and Development Regulations, 2001, as amended.

Tipperary County Council has concluded that – the Sand Arena at Araglen Community Field, Araglen, Co. Tipperary, is development and **IS NOT** exempted development

Signed:



Date: 20/03/2024

Sharon Kennedy
Director of Services
Planning and Development (including Town Centre First),
Emergency Services and Emergency Planning and
Tipperary/Cahir/Cashel Municipal District



Comhairle Contae Thiobraid Árann
Tipperary County Council

Comhairle Contae
Thiobraid Árann,
Oifigi Cathartha,
Cluain Meala,
Co. Thiobraid Árann
Tipperary County Council,
Civic Offices, Clonmel,
Co. Tipperary
E91 N512

Comhairle Contae
Thiobraid Árann,
Oifigi Cathartha,
An tAonach,
Co. Thiobraid Árann
Tipperary County Council,
Civic Offices, Nenagh,
Co. Tipperary
E45 A099

t 0818 06 5000
e customerservice
@tipperarycoco.ie
tipperarycoco.ie

Date: 20th March 2024

Our Ref: S5/24/28

Civic Offices, Nenagh

**Araglen Pony Club,
C/o Hazel O'Doherty,
Cloughneafin,
Mitchelstown,
Co. Cork.**

**Re: Declaration under Section 5 of the Planning and Development Act
2000**

Dear sir/madam,

I refer to your application for a Section 5 Declaration received on 26th February, 2024, in relation to the following proposed works:

**sand arena (27m wide x 50 m long) at Araglen Community Field, Araglen,
Co. Tipperary**

WHEREAS a question has arisen as to whether the proposed development is or is not exempted development:

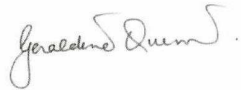
AND WHEREAS Tipperary County Council, in considering this referral, had regard particularly to –

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000 as amended,
- (b) Article 6 and Article 9 of the Planning and Development Regulations, 2001, as amended,
- (c) Schedule 2, Part 3, Class 10 of the Planning and Development Regulations, 2001, as amended.

AND WHEREAS Tipperary County Council has concluded that the proposal as presented in the Declaration application constitute "development" as understood by the Planning and Development Act, 2000, as amended and **is not considered exempted development.**

NOTE: Any person issued with a Declaration of a Planning Authority may refer the Declaration for review to An Bord Pleanála, 64 Marlborough Street, Dublin 1, within four (4) weeks of the date of issue of the Declaration and on payment of the prescribed fee.

Yours sincerely

A handwritten signature in cursive script, appearing to read "Geraldine Quinn".

for **Director of Services**