

OFFALY COUNTY COUNCIL

DECLARATION UNDER SECTION 5 OF THE  
PLANNING & DEVELOPMENT ACT 2000, AS AMENDED

REFERENCE: DEC 23/12

NAME OF APPLICANT: MARTINA O'MOORE FORAN & FRANK KILRAINE

ADDRESS: KILLANE, EDENDARRY, CO. OFFALY R45 HE55

NATURE OF APPLICATION: REQUEST FOR DECLARATION UNDER SECTION 5 OF THE PLANNING & DEVELOPMENT ACT 2000, AS AMENDED AS TO WHETHER OR NOT THE INSTALLATION OF SECURITY FENCING, 2.4M IN HEIGHT AND 66M IN LENGTH ON A SMALL PARCEL OF UNUSED LAND BETWEEN THE EXISTING RUNNING TRACK AND THE EXISTING PLAYING PITCH AT O'BRIEN PARK (DERRYROVERS HOME GROUND) EDENDERRY, CO. OFFALY IS OR IS NOT DEVELOPMENT, AND IS OR IS NOT EXEMPTED DEVELOPMENT.

LOCATION OF DEVELOPMENT: O'BRIEN PARK (DERRYROVERS HOME GROUND) EDENDERRY, CO. OFFALY.

WHEREAS A question referred to Offaly County Council on 05/05/2023 as to whether the installation of security fencing, 2.4m in height and 66m in length on a small parcel of unused land between the existing running track and the existing playing pitch at O'Brien Park (Derryrovers Home Ground) Edenderry, Co. Offaly is or is not development, and is or is not exempted development under the Planning and Development Act 2000, (as amended).

AND WHEREAS the Planning Authority, in considering this declaration request, had regard particularly to-

- (a) Section 2 of the Planning & Development Act 2000, as amended.
- (b) Section 3(1) of the Planning & Development Act 2000, as amended.
- (c) Section 4(1)(h) of the Planning & Development Act 2000, as amended.

AND WHEREAS Offaly County Council has concluded that –

- The works are considered **development** and is **exempted development**.
- **NOW THEREFORE** Offaly County Council, in exercise of the powers conferred on it by Section 5 (2)(a) of the Planning and Development Act 2000, as amended, hereby decides The installation of security fencing, 2.4m in height and 66m in length on a small parcel of unused land between the existing running track and the existing playing pitch at O'Brien Park (Derryrovers Home Ground) Edenderry, Co. Offaly **is development** and **is exempted development**.

**MATTERS CONSIDERED** In making its decision, the Planning Authority had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

  
Senior Executive Officer

23/5/2023  
Date

**Note:** Any person issued with a Declaration may on payment to An Bord Pleanála, 64 Marlborough Street Dublin 2 of such fees as may be described refer a declaration for review by the board within four weeks of the issuing of the Declaration.

# OFFALY COUNTY COUNCIL

## Planning Report

### Section 5 Declaration

<b>File Reference:</b>	<b>Dec 23/12</b>
<b>Question:</b>	Whether or not the installation of security fencing, 2.4m in height and 66m in length on a small parcel of unused land between the existing running track and the existing playing pitch at O'Brien Park (Derryrovers home ground) Edenderry, Co. Offaly is or is not development, and is or is not exempted development.
<b>Applicant:</b>	Martina O'Moore Foran & Frank Kilraine
<b>Location:</b>	O'Brien Park (Derryrovers home ground) Edenderry, Co. Offaly
<b>Date received:</b>	5 <sup>th</sup> May 2023
<b>Date due:</b>	1 <sup>st</sup> June 2023

#### 1. Proposal

The question has arisen as to whether or not the installation of security fencing, 2.4m in height and 66m in length on a small parcel of unused land between the existing running track and the existing playing pitch at O'Brien Park (Derryrovers home ground) Edenderry, Co. Offaly is or is not development, and is or is not exempted development.

#### 2. Background

The site is that of the existing Soccer Pitch, running track, dressing rooms, and parking area. It is located at O'Brien Park (Derryrovers home ground) Edenderry, Co. Offaly

#### 3. Relevant Planning History:

**PL2/19/296:** Permission **Granted** to the Committee of Derry Rovers Football Club for the construction of a single storey extension to the existing changing rooms and any associated works subject to 6 conditions.

**PL2/17/4:** Retention Permission **Granted** to the Committee of Derry Rovers Football Club for floodlighting to the grounds and their associated structures. Permission for; (1) the construction of a single storey extension to the existing club house and any associated works, (2) the provision of 25 car park spaces on club grounds that differ in location from those that were previously granted under file number PL2/97/34 subject to 1 condition

**PL2/05/890:** Retention Permission **Granted** to Derry Rovers FC for existing changing rooms as constructed and all associated site works and ancillary services subject to 6 conditions.

**PL2/97/34:** Permission **Granted** to Derry Rovers FC for playing pitch and dressing room for recreational purposes subject to 7 conditions.

**UD/16/19** A Enforcement Notice was issued in relation to the development of a running track around football pitch also concerns with traffic congestion

**UD/05/33** Could not find file

#### **4. Legislative Context**

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

- Section 2

*“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)

*“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 4(1)(h)

*The following shall be exempted developments for the purposes of this Act—  
“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”*

#### **5. Proposal by Applicant**

The applicants wishes to ascertain whether or not the installation of security fencing, 2.4m in height and 66m in length on a small parcel of unused land between the existing running track and the existing playing pitch at O’Brien Park (Derryrovers

home ground) Edenderry, Co. Offaly is or is not development, and is or is not exempted development.

## **6. Appropriate Assessment**

A screening exercise for an appropriate assessment has been carried out and it is concluded that the development is unlikely to have significant effects on any European sites. Please see attached report under Appendix A.

## **7. Evaluation**

### **Question: Is the following works considered as Development?**

It is considered that the proposal constitutes 'development' as defined by Section 3(1) of the Act.

### **Question: Is the following works proposal considered as Exempted Development?**

The applicants are proposing to install a security fencing, 2.4m in height and 66m in length on a small parcel of unused land between the existing running track and the existing playing pitch at O'Brien Park (Derryrovers home ground) Edenderry, Co. Offaly. It is noted, security fencing is already erected between the existing running track and the existing playing pitch on the other end of the playing pitch.

In the context of the site, it is noted that there is existing fencing already located on both the southern and eastern boundary of the site, as well as internal fencing boundary around the soccer pitch. It is therefore considered, the proposed development does not materially affect the appearance of the site as to render the appearance inconsistent with the character of the site.

## **8. Conclusion**

It is recommended that the applicant be advised that the proposed development is **development and is exempted development.**

**Declaration on Development and Exempted Development**

**Section 5 of the Planning and Development Act 2000 (as amended)**

**WHEREAS** a question has arisen as to:

- Whether or not the installation of security fencing, 2.4m in height and 66m in length on a small parcel of unused land between the existing running track and the existing playing pitch at O'Brien Park (Derryrovers home ground) Edenderry, Co. Offaly is or is not development, and is or is not exempted development.

At O'Brien Park (Derryrovers home ground) Edenderry, Co. Offaly

**AND WHEREAS** Martina O'Moore Foran & Frank Kilraine requested a declaration on the said question from Offaly County Council;

**AND WHEREAS** Offaly County Council, in considering this declaration request, had regard particularly to:

- (a) Section 2 of the Planning & Development Act 2000, as amended.
- (b) Section 3(1) of the Planning & Development Act 2000, as amended.
- (c) Section 4(1)(h) of the Planning & Development Act 2000, as amended.

**AND WHEREAS** Offaly County Council has concluded that –

- The works are considered development and is exempted development.

**NOW THEREFORE** Offaly County Council, in exercise of the powers conferred on it by Section 5 (2) hereby decides that;

- The installation of security fencing, 2.4m in height and 66m in length on a small parcel of unused land between the existing running track and the existing playing pitch at O'Brien Park (Derryrovers home ground) Edenderry, Co. Offaly is **development** and is **exempted development**.

Michael Duffy

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*Michael Duffy*

*Executive Planner*

*22<sup>nd</sup> May 2023*

Carroll Melia

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*Carroll Melia*

*Acting Senior Executive Planner*

*22<sup>nd</sup> May 2023*

# APPROPRIATE ASSESSMENT SCREENING REPORT FOR PLANNING APPLICATIONS



Screening is used to determine if an AA is necessary by examining:

- If the plan / project is directly connected with / necessary to the management of the European site.
- If the effects will be significant on a European site in view of its conservation objectives, either alone / in combination with other plans / projects.

**Planning Application Ref. No.: DEC/23/12**

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:			
Proposed development:	Whether or not the installation of security fencing, 2.4m in height and 66m in length on a small parcel of unused land between the existing running track and the existing playing pitch		
Site location:	O'Brien Park (Derryrovers home ground) Edenderry, Co. Offaly		
Site size:	N/A	Floor Area of Proposed Development:	N/A
Identification of nearby European Site(s):	<b>THE LONG DERRIES SAC, EDENDERRY</b>		
Distance to European Site(s):	4.52km		
The characteristics of existing, proposed or other approved plans / projects which may cause interactive / cumulative impacts with the project being assessed and which may affect the site:	Given the limited scale of the development applied for it is not considered that it will have any interactive / cumulative impacts with any other plan or project in the vicinity.		
Is the application accompanied by an EIAR?	No		
(B) IDENTIFICATION OF THE RELEVANT European sites (S):			
The reasons for the designation of the European sites (s):	<p>The Long Derries is of botanical importance due to the presence of good quality dry, calcareous grassland, an interesting gravel pit flora and the presence of three rare plant species, two of which are legally protected. The presence of an interesting transition habitat from Esker to peatland, and a varied bird population, including the rare Nightjar and Partridge, adds to the site's importance.</p> <p>The conservation objectives / qualifying interests of the site and the factors that contributes to the conservation value of the site: (which are taken from the European sites synopses and, if applicable, a Conservation Management Plan; all available on <a href="http://www.npws.ie">www.npws.ie</a>) <b>(ATTACH INFO.)</b></p> <p>An important aspect of this site is the presence of the rare, Red Data Book species, Blue Fleabane (<i>Erigeron acer</i>), and the legally protected (Flora Protection Order, 1987), Basil Thyme (<i>Acinos arvensis</i>) and Green-winged Orchid (<i>Orchis morio</i>). A large population of the latter species occurs in the grassland communities, including those in the transition to peatland zone. Blue Fleabane is found in grassland and</p>		

gravel pits on the site, the latter habitat also supporting Basil Thyme.

The summer birdlife of this area includes Sand Martin, Whinchat, Whitethroat and Cuckoo. Nightjar, a rare species listed in Annex I of the EU Birds Directive, breeds on the site. Partridge, an endangered species in Ireland and one listed in the Red Data Book, is known from the site. Badgers have setts along some of the mature hedgerows.

**(C) NPWS ADVICE:**

Advice received from NPWS over phone:	None received.
Summary of advice received from NPWS in written form (ATTACH SAME):	

**(D) ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS:**

*(The purpose of this is to identify if the effect(s) identified could be significant – if uncertain assume the effect(s) are significant).*

If the answer is 'yes' to any of the questions below, then the effect is significant. (Please justify your answer. 'Yes' / 'No' alone is insufficient)

<b>Would there be...</b> ... any impact on an Annex 1 habitat? (Annex 1 habitats are listed in Appendix 1 of AA Guidance).	Not likely due to the location and type of development. The site is sufficient distance from the European site.
... a reduction in habitat area on a European sites?	Not likely due to the location and type of development. The site is sufficient distance from the European site.
... direct / indirect damage to the physical quality of the environment (e.g. water quality and supply, soil compaction) in the European sites?	Not likely due to the location and type of development. The site is sufficient distance from the European site.
... serious / ongoing disturbance to species / habitats for which the European sites is selected (e.g. because of increased noise, illumination and human activity)?	Not likely due to the location and type of development. The site is sufficient distance from the European site.
... direct / indirect damage to the size, characteristics or reproductive ability of populations on the European sites?	Not likely due to the location and type of development. The site is sufficient distance from the European site.

<p>Would the project interfere with mitigation measures put in place for other plans / projects. [Look at <i>in-combination effects</i> with completed, approved but not completed, and proposed plans / projects. Look at projects / plans within and adjacent to European sites and identify them]. Simply stating that there are no cumulative impacts' is insufficient.</p>	<p>No other plans known of in the vicinity of the site. The site is sufficient distance from the European site.</p>
<b>(E) SCREENING CONCLUSION:</b>	
<b>Screening can result in:</b>	
1	<p><i>AA is not required</i> because the project is directly connected with / necessary to the nature conservation management of the site.</p>
2	<p><i>No potential for significant effects / AA is not required.</i></p>
3	<p><i>Significant effects are certain, likely or uncertain.</i> (In this situation seek a Natura Impact Statement from the applicant, or reject the project. Reject if too potentially damaging / inappropriate.</p>
<p>Conclusion:</p>	
2	
<p>Justify why it falls into relevant category above:</p>	<p>Given the location and the nature and size of the development applied for and the characteristics of European sites in the vicinity and the appropriate assessment guidelines it is considered that the development will have no likely significant impacts on any European sites</p>
<b>Name:</b>	<p>Michael Duffy</p>
<b>Position:</b>	<p>Executive Planner.</p>
<b>Date:</b>	<p>22<sup>nd</sup> May 2023</p>