

Item: 3

Licensing Committee: 1 May 2025.

Applications for Temporary Market Operators' Licences.

Orkney 2025 – Sites in Kirkwall and Stromness.

Report by Chief Executive.

1. Overview

- 1.1. On 17 March 2025, Orkney 2025, 2 West Tankerness Lane, Kirkwall, lodged three applications for grant of temporary market operators' licences for sites at The Pickaquoy Centre, Kirkwall, Kirkwall Grammar School, Kirkwall and Stromness Academy, Stromness.
- 1.2. The nature of the temporary markets relates to the provision of food and merchandise outlets to cater for the Orkney 2025 International Island Games.
- 1.3. Each application names a day to day manager to be responsible for the management of each of the sites.
- 1.4. The applications were notified to the statutory consultees on 17 March 2025 intimating that any objections or representations should be received by 4 April 2025. No objections or representations have been received.
- 1.5. On 1 April 2011, the Licensing Sub-committee resolved that the maximum trading hours of 10:00 to 17:00 on Mondays to Sundays be adopted and that any application for a market operator's licence which requested trading hours outwith those hours be referred to the Licensing Committee for determination.
- 1.6. As set out in sections 3, 4 and 5 below, the applications referred to at section 1.1 above request trading hours outwith the Council's approved maximum trading hours.
- 1.7. The applicants are aware that the applications require to be determined by the Licensing Committee. The applicants have been requested to attend this meeting.
- 1.8. The Council has adopted standard conditions to be attached to market operators' licences. A copy of the standard conditions is attached as Appendix 1 to this report.

2. Recommendations

2.1. It is recommended that members of the Committee:

- i. Determine the three applications for temporary market operators' licences from Orkney 2025.

3. Application for Temporary Market within Grounds at The Pickaquoy Centre, Kirkwall

3.1. Orkney 2025 and the nominated day-to-day manager for the site, Kirsty Talbot, request trading within the grounds of The Pickaquoy Centre, Kirkwall.

3.2. The application requests the following trading hours:

- 08:00 to 21:00 on Friday 11 July 2025 to Friday 18 July 2025 inclusive.
- 08:00 to 22:30 on Saturday 19 July 2025.

3.3. A plan showing the proposed location of the temporary market at The Pickaquoy Centre is attached as Appendix 2 to this report.

4. Application for Temporary Market within Grounds of Kirkwall Grammar School, Kirkwall

4.1. Orkney 2025 and the nominated day-to-day manager for the site, Rebecca May, request trading within the grounds of Kirkwall Grammar School, The Meadows, Kirkwall.

4.2. The application requests the following trading hours:

- 08:00 to 21:00 on Friday 11 July 2025 to Friday 18 July 2025 inclusive.

4.3. A plan showing the proposed location of the temporary market at Kirkwall Grammar School is attached as Appendix 3 to this report.

5. Application for Temporary Market within Grounds of Stromness Academy, Stromness

5.1. Orkney 2025 and the nominated day-to-day manager for the site, Gordon Deans, request trading within the grounds of Stromness Academy, Stromness.

5.2. The application requests the following trading hours:

- 08:00 to 21:00 on Friday 11 July 2025 to Friday 18 July 2025 inclusive.

5.3. A plan showing the proposed location of the temporary market at Stromness Academy is attached as Appendix 4 to this report.

6. Legislative Position

- 6.1. In terms of Section 40 of the Civic Government (Scotland) Act 1982 (“the 1982 Act”), a market operator’s licence is required for carrying on a private market.
- 6.2. A private market is defined as a market, whether covered or not, carried on by any person other than a local or public authority, at which goods are offered for sale by more than one seller for sale by retail to the public.
- 6.3. A licensing authority may grant a market operator’s licence to have effect for such period not exceeding 6 weeks from its being granted as the licensing authority may determine, and such licence is known as a temporary market operator’s licence. Provisions for temporary licences are contained within paragraph 7 of Schedule 1 of the 1982 Act.
- 6.4. The present applications each request specified periods of time for either eight or nine days to cater for the Island Games.
- 6.5. In granting a temporary licence, the Council’s standard conditions will normally apply. These could be removed, amended or added to as the licensing authority sees fit.
- 6.6. However, in terms of Section 40 of the 1982 Act, as a minimum, a licence in respect of a private market shall include the following conditions:
 - The regulation of days and hours of opening.
 - The provision of adequate toilet facilities.
 - The layout of the site or premises on which the market is to be held.
 - The maintenance of order and public safety.

These are contained within the Council’s standard conditions.

For Further Information please contact:

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karen.bevilacqua@orkney.gov.uk

Implications of Report

1. **Financial:** The application fees of £960 have been paid. Application fees are not refundable.
2. **Legal:** The legal implications are contained within the body of the report.
3. **Corporate Governance:** Applications which fall outwith the Council's adopted maximum trading hours for market operators require to be determined by the Licensing Committee.
4. **Human Resources:** None.
5. **Equalities:** None.
6. **Island Communities Impact:** None.
7. **Links to Council Plan:** None.
8. **Links to Local Outcomes Improvement Plan:** None.
9. **Environmental and Climate Risk:** None.
10. **Risk:** None.
11. **Procurement:** None.
12. **Health and Safety:** None.
13. **Property and Assets:** None.
14. **Information Technology:** None.
15. **Cost of Living:** None.

List of Background Papers

Three applications for grant of temporary market operators' licences from Orkney 2025.

Appendices

Appendix 1 – Copy standard conditions to be attached to market operators' licences.

Appendix 2 – Plan of location of proposed temporary market at The Pickaquoy Centre, Kirkwall.

Appendix 3 – Plan of location of proposed temporary market at Kirkwall Grammar School, Kirkwall.

Appendix 4 – Plan of location of proposed temporary market at Stromness Academy, Stromness.

Market Operator's Licence – Conditions

Orkney Islands Council

Civic Government (Scotland) Act 1982

Note – It is a criminal offence in terms of section 7(2) of the Civic Government (Scotland) Act 1982 to fail to comply with any condition imposed on this licence.

General Conditions

1. The licence must not be altered, erased or defaced in any way, it must be kept clean and legible and must not be lent to or used by any other person.
2. The licence holder shall be present on the site of the market at all times whilst the market is being set up, or taken down or is operating, and shall have with him/her, at all times the licence issued by the Council.
3. The licence holder shall, when requested by an authorised officer of the Council or the fire authority or a police constable, produce the licence for inspection. The licence holder shall produce the licence immediately in accordance with condition 2 above failing which no later than within 5 days of being requested to do so.
4. The licence holder shall be permitted to trade during the following hours inclusive and at no other times: [times specified here].
5. The licence holder shall take all reasonable steps to ensure that:
 - any person, whilst operating or trading at the market keep himself and his clothing clean and;
 - any movable structure, vehicle or stall etc, used for the purposes of operating at a private market, vehicle etc, where perishable goods or goods for human consumption are stored prior to sale, are kept in a clean and hygienic condition in accordance with the standards specified in the relevant food safety legislation.
6. The licence holder shall require prior consent and approval of the Council for the layout of the market.
7. The licence holder shall take all reasonable steps to ensure that there are adequate toilet facilities at or near the market [the objective standard in terms of number wc/urinals etc and wash-hand basins per stall(s) will be specified here] [as per terms of current licence].
8. Any stalls used on the market shall be of a form which can be speedily and easily removed, and where such stalls, movable structures, vehicles etc are used for the sale of food, they shall contain equipment for the proper cleaning and sterilising of all utensils and vessels used in connection there with, and the Licence holder shall for the avoidance of doubt comply at all times with the requirements of the relevant food safety legislation.

9. The licence holder shall take all reasonable steps to collect and remove any paper, garbage or other refuse which may be produced or may accumulate during the course of market trading, and shall take all reasonable steps to ensure that the market is kept in a tidy condition so far as is reasonably practicable. Without prejudice to the foregoing generality the licence holder shall place litter bins throughout the market in appropriate places for the deposit of paper or garbage or other refuse by customers, and also take all reasonable steps to ensure that the site of the market is clear of all refuse at the end of trading.
10. On written notice signed by any authorised officer of the Council being given to the licence holder or to his/her authorised representative, or any person operating at the market under the licence, that s/he has become unsuitable in respect of the unsatisfactory condition of his/her clothing or person, or that any movable structure, vehicle, stall etc is unsuitable, the licence holder, representative or such other person on whom the notice has been served shall immediately cease to trade or operate until s/he remedies the cause of complaint to the satisfaction of the said authorised officer.
11. If the licence holder ceases to act as a market operator for the unexpired period of the licence, or has received notification that the licence has been suspended by the Council, or that it has been revoked or suspended by a court, s/he shall within 3 days thereafter, deliver the licence to the Council.
12. The licence holder will maintain a register of stall holders trading on the market at any particular time, and make it available for inspection to any authorised officer of the Council at any reasonable time during which the market is in operation. This will include names, addresses, vehicle registrations and proof of identity and ownership.
13. The licence holder shall ensure that stall holders operating on the market display a clear and prominent notice of their trading name and address.
14. The licence holder shall take all reasonable steps to intimate to the Council any changes, additions, alterations to any stalls/vehicles/movable structures which sell food or perishable items in terms of the relevant food safety legislation.
15. The licence holder shall maintain public liability insurance to a minimum level of indemnity of £5 million throughout the currency of the licence, and must notify the Council before permitting any alteration to be made the policy. When requested the licence holder shall exhibit to the Council the policy and any receipt for premiums or any other document relating thereto as the Council may require. The Council may require the level of indemnity figure to be increased at any reasonable time.
16. Any vehicle to be used at the market must be in place on the site of the market before members of the public are admitted and must not be moved during the time when the market is open to members of the public. Any portable generators should be enclosed wherever possible to reduce noise and safeguard the public.

Conditions – Farmers' Markets and Continental Markets

1. General Food Safety Requirements.

Training of Food Handlers:

Food Handlers at stalls handling high risk open foods should be trained to at least the REHIS elementary food hygiene certificate level, or equivalent.

Customers:

Where customers are encouraged to try before they buy, adequate arrangements must be in place to prevent food samples becoming contaminated, for example provision of separate containers for clean and used spoons or use of individual cocktail sticks.

Registration of Food Businesses:

All businesses operating stalls should be registered as a food business with the local authority for the area in which they are based.

Personal Hygiene.

- A high degree of personal hygiene must be maintained by all food handlers.
- Stall holders selling open food must wear suitable protective clothing, including headwear.
- A no smoking policy must be adhered to by all food handlers when at the stall or preparing foods.
- Waterproof coloured dressings should be provided at each stall.

Produce at Stalls.

No food must be placed on the ground.

2. Labelling Requirements.

The name of any food sold loose must be displayed clearly.

All other foods sold which are pre-packed at premises other than the final seller must comply with the Food Labelling Regulations 1996 as amended. In particular, they will require to be labelled with:

- Name of the food.
- List of ingredients (including the required name of any allergens).
- A Best Before or Use By date.
- Any special storage conditions, or conditions of use.
- The name and address of the manufacturer or packer.
- Particulars of the place of origin or provenance of the food, if failure to do so could mislead a customer.
- Instructions for use, if it would be difficult to make use of the food without instructions.
- Where cheeses (or other foods) are made from raw milk this information should be given.

3. Meat Product Standards.

Meat products must comply with the Meat Products (Scotland) Regulations 2004. This requires certain meat products to contain a minimum percentage of meat. Some examples of meat percentage requirements are shown below. Further information about meat percentage requirements can be obtained from the Council's Environmental Health service by telephoning 01856 873535 or emailing environmental.health@orkney.gov.uk.

Percentage of Meat Required (pc).

Name of Meat Product.	Meat from Pig.	Meat from Rabbit or Bird or a mixture.	Meat from any other species.
Burger.	67pc.	55pc.	62pc.
Chopped "X".	75pc.	41pc.	47pc.
Sausage.	32pc.	26pc.	30pc.
Pork Sausage.	42pc.	N/A.	N/A.

4. Specific Food Safety Requirements.

These additional requirements have been separated into four categories to reflect the risks associated with the different foods being sold and the degree of on site preparation:

- Low Risk Pre-packed.
- Low Risk Sold Loose With Handling/Sorting.
- High Risk Pre-packed With No Preparation On Site.
- High Risk with On Site Preparation.

4.1. Low Risk Pre-Packed:

Examples: Fruit and vegetables already made up in tagged quantities, i.e. no open handling at Stall. Fruit jam and honey jars, prepared bakery products in sealed containers.

Requirements:

- All displayed food should be covered or wrapped.
- Suitable facilities for the disposal of waste and waste water are required.

4.2. Low Risk Sold Loose:

Examples: Fruit and vegetables weighed to the desired quantity at stall.

Requirements:

- Customers should be discouraged from handling food themselves.
- Suitable facilities for the disposal of waste and waste water are required.
- A wash hand basin with hot and cold or warm potable water together with supplies of soap and disposable paper towels must be available in close proximity to the stall. (This can be a shared facility with neighbouring stalls).
- Work surfaces must be kept clean and will require regular cleaning throughout the day.

4.3. High Risk Pre-Packed With No Preparation On Site:

Examples: Selling vacuum packed cooked meat, wrapped cream cakes, packaged sea-foods, wrapped sandwiches, eggs and cheese.

Requirements:

- All displayed food should be covered or wrapped and transported under hygienic conditions.
- Suitable facilities for the disposal of waste and waste water are required.
- A wash hand basin with hot and cold or warm potable water together with supplies of soap and disposable paper towels must be available in close proximity to the stall. (This can be a shared facility with neighbouring stalls)
- Work surfaces must be kept clean and be constructed in such a way that they are smooth, impervious to moisture and capable of being easily cleaned.
- High risk foods should be delivered and stored on site under refrigeration at below 5°C.
- A probe thermometer for monitoring the temperature together with disposable sterile wipes must be available.

4.4. High Risk With Preparation On Site:

Examples: Cutting, portioning or preparing of raw or cooked meat products.

Requirements:

- Separate utensils and equipment must be used for raw and cooked foods.
- All displayed food should be covered or wrapped and transported under hygienic conditions.
- Customers should be discouraged from handling food themselves.
- Suitable facilities for the disposal of waste and waste water are required.
- A wash hand basin with hot and cold or warm potable water together with supplies of soap and disposable paper towels must be available at the stall, for the exclusive use of the business.
- A sink with a hot and cold potable water supply for the cleaning of equipment and utensils must be provided for the use of the business. It is recommended that the supply be piped to the sink.
- Work surfaces must be kept clean and be constructed in such a way that they are smooth, impervious to moisture and capable of being easily cleaned.
- High risk food should be delivered and stored on site under refrigeration at below 5°C.
- If food is required to be reheated prior to service, equipment to carry out this must be capable of reheating the food to a temperature of not less than 82°C.
- If food is being held hot, it must be held at a temperature of not less than 63°C.
- A probe thermometer for monitoring the temperature together with disposable sterile wipes must be available.

5. Food Safety Management System

All food business operators are required to have a food safety management system based upon the HACCP principles. Such a system details the controls in place to protect the food from contamination during the entire operation of the market and should be based on the nature and size of a food business i.e. a stall selling sealed sweets would have a far less complicated system than a stall preparing, cooking and selling hot food. You must provide Environmental Health with a copy of your food safety management system with your application form.

6. Health and Safety at Work

- The Health and Safety at Work etc. Act 1974 and the appropriate regulations must be adhered to at all times.
- Adequate precautions must be taken to reduce the possibility of customers tripping or falling at the stepped sections which surround the raised area where the stalls are to be positioned.
- Cables to and from stalls must be arranged in such a manner that they do not cause a trip hazard.
- All electrical plugs and connections must comply with British Standard BS/EN 60309-2:1999.
- A test certificate for all portable electrical appliances must be available.
- If Liquefied Petroleum Gas (LPG) is used as a fuel, the following precautions have to be taken due to the explosive nature of the gas if a leakage occurs:
 - The cylinders must be stored upright with the valve securely fixed and accessible.
 - The length of any flexible tubing should not exceed 0.5 metres.
 - A dry powder fire extinguisher and fire blanket must be available at the stall.

7. Refuse Disposal

- All litter and refuse generated must be cleared from the market area and the surrounding environment on a regular basis during the trading hours.
- Adequate litter bins must be provided.

8. Noise

- Use of loudspeakers will not be permitted for advertising or promotion.
- There should be no increase in the existing background noise level at the nearest dwelling(s) due to noise generated from any fixed plant and equipment associated with the market.

9. Application Form for Stalls

All businesses wishing to operate a stall at the market should complete the application form overleaf and return it to the Council's Environmental Health service at least 7 days prior to the date of the market.

Application Form for Stalls

Company Name:	
Address including postcode:	
Telephone numbers for landline and mobile:	
Email address:	
Company branding:	
Contact name:	

Registration

You will only be accepted for the market if you have previously sent to your Local Authority a completed registration form in terms of the Food Premises (Registration) Regulations 1991.

State which Local Authority you are registered with:	
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Food Hygiene Training

Are high risk open foods handled at the stall?	Yes / No (delete as appropriate)
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If Yes, details are required of all food handlers attending the Farmers Market and the food hygiene training they have received. This should be provided in the table below (continue on separate sheets if necessary).

Name.	Date of Training.	Training Centre.

Products available for sale from stall:

Product.	Loose or pre-packed.	Place of production including Local Authority.

Will you be doing cookery demonstrations / tastings?	Yes / No (delete as appropriate)
Will you be using Liquefied Petroleum Gas (LPG)?	Yes / No (delete as appropriate)

Producers of Meat / Game / Chicken

Where will your animals be slaughtered?	
Contact phone number for above:	
Where will your product be packed?	
Contact phone number for above:	
How will the product be transported to the Farmers' Market?	
Is the transport refrigerated?	Yes / No (delete as appropriate)

Declaration:

I have read the above Conditions for Farmers' Markets and Continental Markets and will comply with them in all respects.

Signature of Applicant:

Print name of Applicant:

Date:

Please complete and return this form at least 7 days prior to the date of the market.

Please return to:

Environmental Health.

Orkney Islands Council.

Council Offices.

School Place.

KIRKWALL.

Orkney.

KW15 1NY.

Fax: 01856 886450.

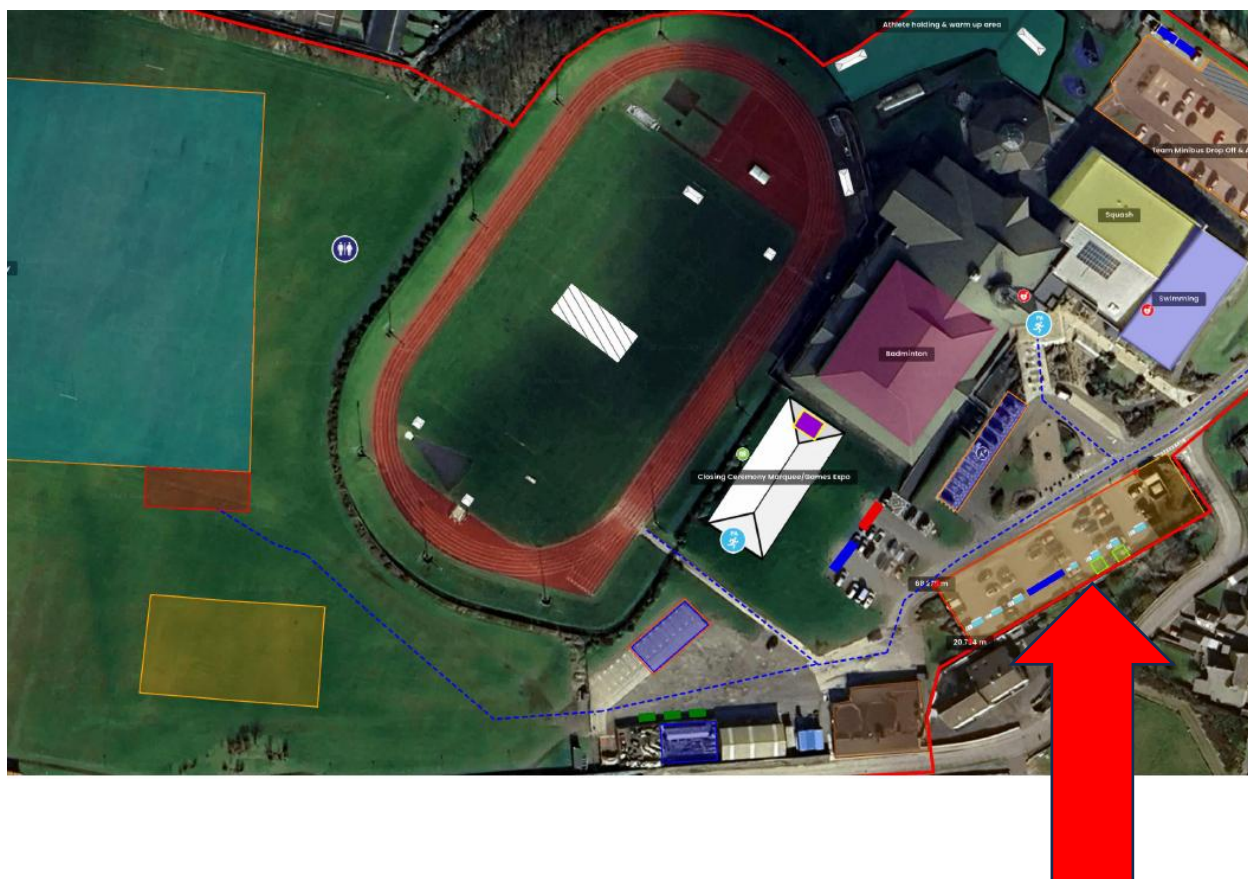
Email: environmental.health@orkney.gov.uk.

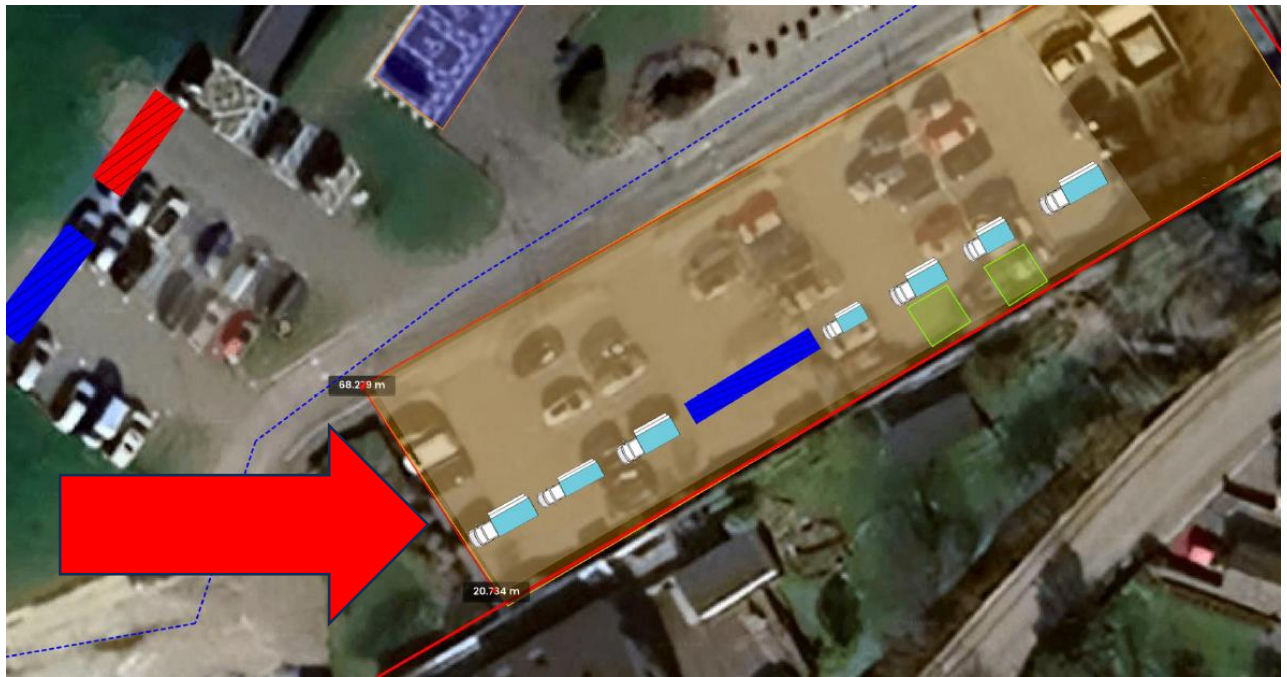
Orkney Islands Council 2011.

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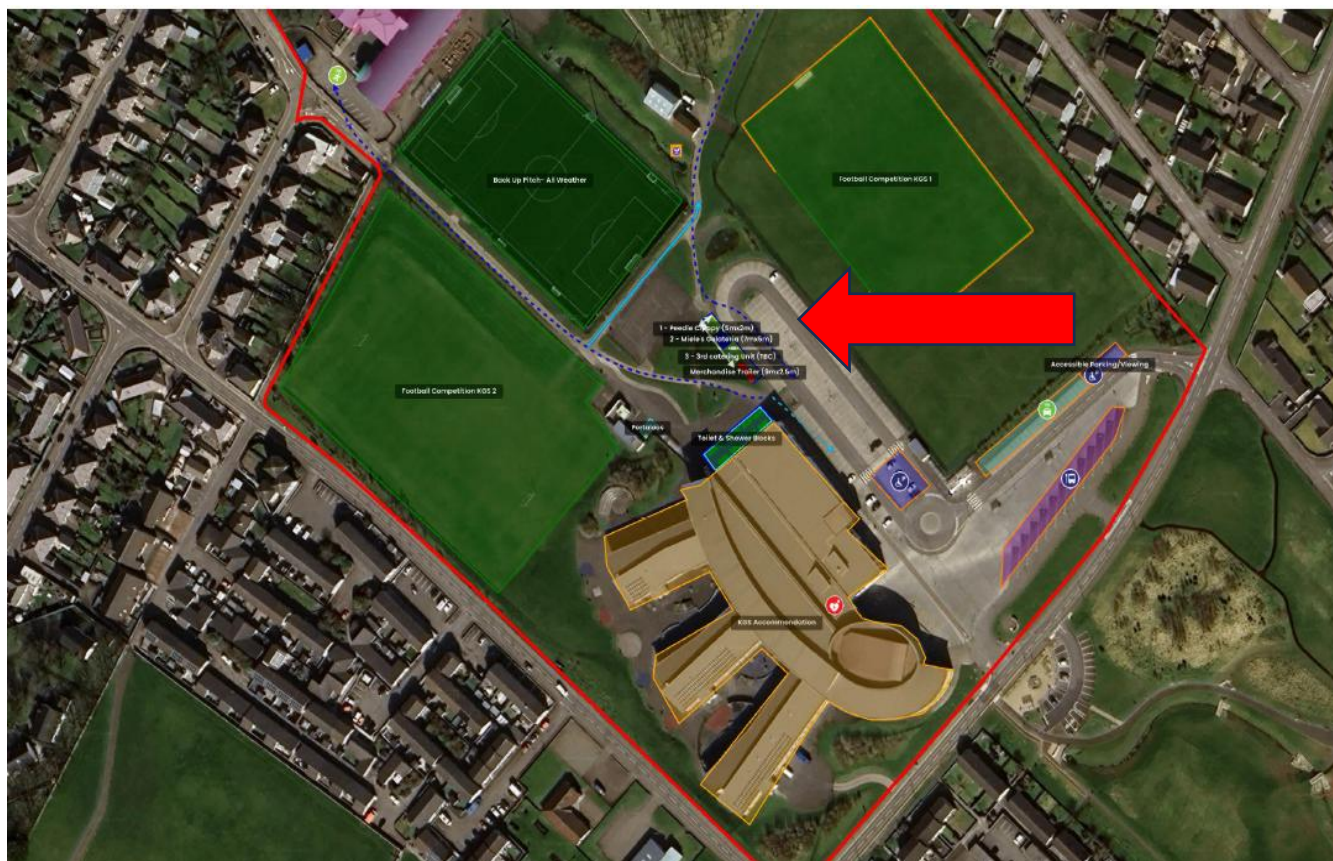


PLANNED LAYOUT OF CATERING VILLAGE





PLANNED LAYOUT OF CATERING AREA



[REDACTED]

PLANNED LAYOUT OF CATERING AREA

