

An
Bord
Pleanála

Board Order
ABP-306161-19

Planning and Development Acts 2000 to 2019

Planning Authority: Cork City Council

Planning Register Reference Number: R546/19

Comhairle Cathrach Chorcaí
Cork City Council

15 MAY 2020

Strategic Planning & Economic
Development Directorate

WHEREAS a question has arisen as to whether the change of use of an existing industrial site and buildings to use as a Resource Recovery and Recycling Centre (RRRC) and ancillary storage at the former TATA Steel site, Tivoli Industrial Estate, Cork is or is not development or is or is not exempted development:

AND WHEREAS the question was referred to An Bord Pleanála by Cork City Council on the 12th day of December, 2019:

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to -

- (a) sections 2 and 3 of the Planning and Development Act 2000, as amended,

CM56

- (b) articles 5 to 11 of the Planning and Development Regulations 2001, as amended, with particular reference to articles 5(1) and 10(1),
- (c) Part 4 of Schedule 2 'Exempted Development – Classes of Use' of those Regulations,
- (d) the planning history of the site, and
- (e) the submissions of the parties to the referral:

AND WHEREAS An Bord Pleanála has concluded that -

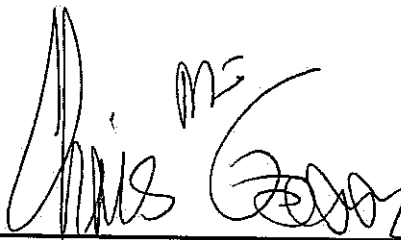
- (a) the change of use of a steel stock depot to a Resource Recovery and Recycling Centre constitutes 'development' for the purposes of the Planning and Development Act, 2000, as amended,
- (b) the change of use constitutes a material change, and
- (c) no exemption exists in legislation for such a material change of use:

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (4) of the 2000 Act, hereby decides that the change of use of an existing industrial site and buildings to use as a Resource Recovery and Recycling Centre (RRRC) and ancillary storage at the former TATA Steel site, Tivoli Industrial Estate, Cork is development and is not exempted development.



Matters Considered

In making its decision, the Board 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.



Chris McGarry

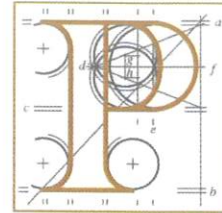
Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**

Dated this 13th day of May 2020.

Our Case Number: ABP-306161-19

Planning Authority Reference Number: R546/19



An
Bord
Pleanála

Development Management
Community, Culture and Placemaking
Cork City Council
City Hall
Cork
Co. Cork

Comhairle Cathrach Chorcaí
Cork City Council

15 MAY 2020

Strategic Planning & Economic
Development Directorate

Date: 14 MAY 2020

Re: Confirmation that the use of an existing industrial site and buildings for a Resource Recovery and Recycling Centre (RRRC) and ancillary storage is not development.
TATA Steel Site at Tivoli, Cork

Dear Sir / Madam,

An order has been made by An Bord Pleanála determining the above-mentioned referral under the Planning and Development Acts 2000 to 2019. A copy of the order is enclosed.

In accordance with section 146(5) of the Planning and Development Act 2000, as amended, the Board will make available for inspection and purchase at its offices the documents relating to any matter falling to be determined by it, within 3 days following the making of its decision. The documents referred to shall be made available for a period of 5 years, beginning on the day that they are required to be made available. In addition, the Board will also make available the Inspector's Report, the Board Direction and Board Order in respect of the matter on the Board's website (www.pleanala.ie). This information is normally made available on the list of decided cases on the website on the Wednesday following the week in which the decision is made.

The Public Access Service for the purpose of inspection/purchase of file documentation is available on weekdays from 9.15am to 5.30pm (including lunchtime) except on public holidays and other days on which the office of the Board is closed.

Yours faithfully,

Miriam Baxter
Executive Officer

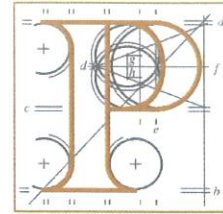
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Láithreán Gréasáin	Website	www.pleanala.ie
Ríomhphost	Email	bord@pleanala.ie

64 Sráid Maoilbhríde	64 Marlborough Street
Baile Átha Cliath 1	Dublin 1
D01 V902	D01 V902

Case Number: ABP-306161-19

Planning Authority Reference Number: R546/19



An
Bord
Pleanála

Development Management
Community, Culture and Placemaking
Cork City Council
City Hall
Cork
Co. Cork



Date: 17 December 2019

Re: Confirmation that the use of an existing industrial site and buildings for a Resource Recovery and Recycling Centre (RRRC) and ancillary storage is not development.
TATA Steel Site at Tivoli, Cork

Dear Sir / Madam,

An Bord Pleanála has received your referral and will consider it under the Planning and Development Act, 2000, (as amended). A receipt for the fee lodged is enclosed.

In order to comply with section 128 of the Planning and Development Act, 2000, (as amended), please forward, within a period of 2 weeks beginning on the date of this letter, copies of any information in your possession which is relevant to the referral, including:

- (i) details of previous decisions affecting the site;
- (ii) any correspondence that has taken place between the person(s) issued with a declaration under subsection (2)(a) of section 5 of the 2000 Act, (as amended), and the planning authority;
- (iii) the name and address of the owner of the land in question and the name of the occupier of the said land, if different;
- (iv) the names and addresses of all persons notified by you under subsection (2) of section 5 of the 2000 Act, (as amended);
- (v) where no declaration was issued by you, indicate the date that the declaration was due to be issued in accordance with subsection (2) of section 5 of the 2000 Act, (as amended).

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D01 V902	D01 V902

Please note that under section 127(3) of the Planning and Development Act, 2000, (as amended), the person by whom the referral is made shall not be entitled to elaborate in writing upon or make further submissions in writing in relation to the grounds of the referral unless requested to do so by An Bord Pleanála.

Yours faithfully,



Tara Doyle
Administrative Assistant
Direct Line: 01-8737145

BPRL01PA

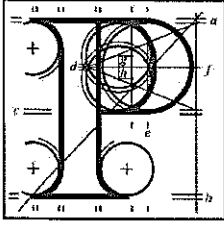
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64 Marlborough Street
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An
Bord
Pleanála

Táille Reachtúil
Statutory Receipt

Ainm an Chustaiméara: Name of Customer:	Development Management
Gníomhaire: Agent:	
Íocaíocht Faighte: Payment Received:	€110
Modh Íocaíochta: Payment Method:	Money Order
Uimh. Aitheantais Lóisteála: Lodgement ID:	LDG-022538-19
Cineál na Lóisteála: Lodgement Type:	Referral
Iarratas ar éisteacht ó bhéal Oral Hearing Request:	No
Dáta Faighte: Date Received:	12/12/2019
Faighte ag: Received by:	Anthony Byrne

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Comhairle Cathrach Chorcaí Cork City Council

Halla na Cathrach, Corcaigh - City Hall, Cork - T12 T997

The Secretary
An Bord Pleanála
64 Marlborough Street
Dublin 1
D01 V902

11th December 2019

Re: Section 5 – R546/19 – Former Tara Steel Site, Tivoli Industrial Estate, Cork City

Dear Sir/ Madam,

Please find enclosed a referral under Section 5(4) of the Planning & Development Act 2000 with a cheque for €110.00
The reference number is R546/19.

Question Referred

Confirmation that the use of an existing industrial site and buildings for a Resource Recovery and Recycling Centre (RRRC) and ancillary storage is not development

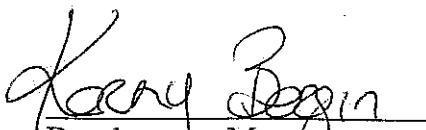
Applicant Details

[Redacted applicant details]

Person/Agent Acting on behalf of Applicant

Susan Cullan
McCutcheon Halley
6 Joyce House
Barrack Street

Yours faithfully,


Development Management
Cork City Hall



Comhairle Cathrach Chorcaí Cork City Council

Halla na Cathrach, Corcaigh - City Hall, Cork - T12 T997

The Secretary
An Bord Pleanála
64 Marlborough Street
DUBLIN 1
D01 V902

19/11/2019

REFERRAL UNDER SECTION 5(4) OF THE PLANNING AND DEVELOPMENT ACT 2000

FORMER TATA STEEL SITE, TIVOLI INDUSTRIAL ESTATE, CORK CITY

This referral is made under section 5(4) of the *Planning and Development Act 2000* (as amended).

This referral is structured as follows:

1. Introduction
 2. Background
 3. Grounds of Referral
 4. Screening for Appropriate Assessment
 5. Conclusion
- Appendices 1 – 4

1. INTRODUCTION

1.1 RELEVANT LEGISLATIVE PROVISION

All relevant legislative provisions of the Planning and Development Act, 2000 (as amended) and the Planning and Development Regulations, 2001 (as amended) are included as Appendix 1 to this referral. In this referral, 'the Act' means the Planning and Development Act 2000, as amended, and 'the Regulations' means the Planning and Development Regulations 2001, as amended.

1.2 PARTICULARS OF REFERRAL

Various particulars required under section 127 of the Act are provided with this referral. The subject matter and grounds of the referral and the reasons, considerations and arguments on which they are based are included below in the body of this referral. Also enclosed is the fee of €110.

The referral is made by:

Development Management
Community, Culture and Placemaking
Cork City Council
City Hall
Cork
Telephone (021) 492-4762
Email michelle_broderick@corkcity.ie



We are Cork.

1.3 THE QUESTION REFERRED

Confirmation that the use of an existing industrial site and buildings for a Resource Recovery and Recycling Centre (RRRC) and ancillary storage is not development.

1.4 THE REFERRAL SITE

For ease of reference, the lands which are the subject of this referral are referred to as 'the referral site' in this referral.

The referral site is located in the Tivoli Industrial Estate located between the River Lee and N8 Cork to Dublin road. The Cork – Cobh Rail Line, located to the north of the subject site, runs parallel to the N8. Access to the site is via the N8 Silversprings Junction flyover. A site location map is attached here as Appendix 2.

The site is bound by the Tivoli Industrial estate access roads to the north and west and Port of Cork shipyards and warehouses to the south and west. The site comprises a large structure, with office annex, formerly occupied by Tata Steel associated parking and marshalling yards.

2. BACKGROUND

2.1 GENERAL BACKGROUND

The subject referral is subsequent to a request for a Planning Authority declaration on the question to which this referral relates (as set out in Section 1.3 above). The request for declaration is recorded under Cork City Council Ref: R 546 / 19.

The application and cover letter was submitted to Cork City Council on 11 October 2019 by McCutcheon Halley, Planning Consultants on behalf of Waste Recovery Services (Fermoy) Ltd., are attached hereto as Appendix 3.

2.2 SITE PLANNING HISTORY

There are two planning permissions associated with the subject site as follows -

Parent Permission

73/4551, the 'parent permission' granted 26 February 1974 for:
Erection of steel stock depot, offices etc. at Tivoli Industrial Estate

Amendment Permission

77/6677, the 'parent permission' granted 24 March 1977 for:
Erection of steel stock depot, offices etc. at Tivoli Industrial Estate

It is noted that neither of the permissions explicitly permitted a *Factory* or established the principle of the undertaking of *Industrial Processes* on the subject site. Copies of both grants are attached thereto as Appendix 4.

2.3 DEVELOPMENT PLAN OBJECTIVES

Cork City Development Plan 2015-2021

The Cork City Development Plan 2015-2019 (CCDP) was made by the elected members of Cork City Council on 23/03/2015 and came into effect on 20/04/2015.

The referral site is zoned: *Local Area Plan to be Prepared*. The CCDP states:

14.14 The Port of Cork proposes to relocate the existing container shipping operations from Tivoli to the lower harbour, namely, Ringaskiddy. When implemented, this will create an opportunity to redevelop Tivoli Docks for alternative purposes.

14.15 Tivoli has an extensive south facing waterfront and the commuter rail line runs along its northern boundary. The CASP Update identifies it as an area with future potential for residential and employment uses. The City Council is committed to supporting the regeneration of the Tivoli area through the preparation of a local area plan in order to determine a development strategy, i.e. an appropriate mix of land-uses and sequencing of development. The timing of the preparation of a local area plan will be linked to the programme for relocation of the Port and the likely timetable for lands becoming available for redevelopment.

14.16 It will be important to ensure that the mix of uses and timing of redevelopment of Tivoli does not take away from the potential of the City Centre and North and South Docklands for economic development and employment generating uses. Key issues to be resolved prior to redevelopment of Tivoli include the relocation of Port activities and related industrial uses including the 'SEVESO' uses and resolution of access issues, including public transport provision.

Objective 14.4 Tivoli

To prepare a local area plan for the redevelopment of Tivoli in consultation with key stakeholders, in particular Port of Cork, taking account of the following requirements:

- a. To develop a vision for the future redevelopment of the Tivoli Docks taking account of its waterfront location and potential commuter rail access;
- b. To investigate the feasibility of developing the area as a new medium-density waterside residential quarter incorporating in the region of 3,000 residential units, complemented by local services and recreational amenities, which should include high quality parks and riverside walks (and if feasible access for water-based activities) to serve local residents, workers and the wider community;
- c. To identify suitable types and quantum of other uses, including employment uses, which would complement the residential development;
- d. To develop a transport and access strategy for the area, in particular the provision of high quality public transport;
- e. To identify a strategy for the phasing of development in the area.

The Tivoli Docks Issues Paper was issued in 2017 and work is ongoing in the preparation of the local area plan.

3. GROUNDS OF REFERRAL

The planning authority contends that:

- (1) The 1974 did not explicitly permit the use of the referral site as a *Factory* or for *Industrial Processes*,
- (2) It has not been established to the satisfaction of the Planning Authority that the previous use of the referral site by, Tata Steel, has not been abandoned,
- (3) The proposed use does not accord with the definition of Industrial Process as set out in Article 5(1) of *Planning and Development Regulations 2002* (as amended),
- (4) It is not clear whether the site will be used for the deposit of material explicitly excluded from exempted development provisions by Section 3(2) of the *Planning and Development Act 2000* (as amended), and
- (5) It has not been established to the satisfaction of the Planning Authority that the proposed use is not a material change of use.

4. SCREENING FOR APPROPRIATE ASSESSMENT

Section 177U (9) of the Act requires planning authorities and the Board to screen declarations or referrals under section 5 of the Act for appropriate assessment. The provisions of the Habitats Directive, the Appropriate Assessment Guidelines for Planning Authorities 2009 (revised 2010) and the Act are noted. The relevant European sites are the Cork Harbour SPA (site code 004030) and the Great Island Channel SAC (site code 001058).

The subject site is approximately 1km west the Cork Harbour SPA. The subject site is located close to the northern edge of the River Lee which hydraulically links to both the Cork Harbour SPA and the Great Island Chanel SAC further downstream.

It is however our contention that, in the absence of details regarding the proposed use, specifically measures to be taken to limit offsite impacts and having regard to the location of the referral site relative to these European sites and related watercourses and to the nature and scale of the development concerned, it not possible to determine whether the proposed use concerned will impact upon the integrity of the sites referred to above.

5. CONCLUSION

The planning authority contends that it is clear that the matter to which this referral relates, being the use of an existing industrial site and buildings for a Resource Recovery and Recycling Centre (RRRC) and ancillary storage at the Former Tata Steel Site, Tivoli Industrial Estate, Cork City is **development and is not exempted development.**

The planning authority looks forward to the Board's consideration and determination of this referral. Please do not hesitate to contact this office should any further information be required.

encl. Appendix 1 Legislative Provisions
Appendix 2 Site Location Map
Appendix 3 Copy of Section 5 Determination Application to Cork City Council
Appendix 4 Copies of Planning Permissions associated with the Referral Site
Fee € 110

**APPENDIX 1
LEGISLATIVE PROVISIONS**

PLANNING AND DEVELOPMENT ACT, 2000 (AS AMENDED)

Section 2(1),

2.—(1) “structure” means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and—

(a) where the context so admits, includes the land on, in or under which the structure is situate, and

(b) in relation to a protected structure or proposed protected structure, includes—

(i) the interior of the structure,

(ii) the land lying within the curtilage of the structure,

(iii) any other structures lying within that curtilage and their interiors, and

(iv) all fixtures and features which form part of the interior or exterior of any structure or structures referred to in subparagraph (i) or (iii);

“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),

3.—(1) 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 3(2)

3. (2) For the purposes of subsection (1) and without prejudice to the generality of that subsection—

(a) where any structure or other land or any tree or other object on land becomes used for the exhibition of advertisements, or

(b) where land becomes used for any of the following purposes—

(i) the placing or keeping of any vans, tents or other objects, whether or not moveable and whether or not collapsible, for the purpose of caravanning or camping or habitation or the sale of goods,

(ii) the storage of caravans or tents, or

(iii) the deposit of vehicles whether or not usable for the purpose for which they were constructed or last used, old metal, mining or industrial waste, builders’ waste, rubbish or debris, the use of the land shall be taken as having materially changed.

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;

Section 4(2),

Section 4(2) provides that the Minister may, by regulations, provide for any class of development to be exempted development. The principal regulations made under this provision are the Planning and Development Regulations 2001, as amended.

Section 5(1),

5.—(1) *If any question arises as to what, in any particular case, is or is not development or 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, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.*

Section 5(4),

5.—(4) *Notwithstanding subsection (1), a planning authority may, on payment to the Board of such fee as may be prescribed, refer any question as to what, in any particular case, is or is not development or is or is not exempted development to be decided by the Board.*

Section 177U (9) (screening for appropriate assessment)

177U.—(9) *In deciding upon a declaration or a referral under section 5 of this Act a planning authority or the Board, as the case may be, shall where appropriate, conduct a screening for appropriate assessment in accordance with the provisions of this section.*

PLANNING AND DEVELOPMENT REGULATIONS, 2001 (AS AMENDED)

Part 2 – Exempted Development

Article 5(1)

5.—(1) *In this Part –*

“industrial building” means a structure (not being a shop, or a structure in or adjacent to and belonging to a quarry or mine) used for the carrying on of any industrial process;

“industrial process” means any process which is carried in in the course of trade or business, other than agriculture, and which is-

(a) for or incidental to the making of any article or part of an article, or

(b) for or incidental to the altering, repairing, ornamenting, finishing, cleaning, washing, packing, canning, adapting for sale, breaking up or demolition of any article, including the getting, dressing or treatment of minerals, and for the purposes of this paragraph, “article” includes-

(i) a vehicle, aircraft, ship or vessel, or

(ii) a sound recording, film, broadcast, cable programme, publication and computer program or other original database

Article 6 (1)

6.—(1) *Subject to article 7, 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) (a) (viii)

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—

(x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,



**APPENDIX 2
SITE LOCATION MAP**

PLANNER'S REPORT		Cork City Council Culture, Community and Placemaking
Ref. R /19		
Application type	Section 5 Declaration	
Description	<i>Whether: The use of an existing industrial site and buildings for a Resource Recovery and Recycling Centre (RRRC) and ancillary storage is not development</i>	
Location	Tata Steel, Tivoli, Cork	
Applicant	Waste Recovery Services c/o McCutcheon Halley	
Date	22/10/2019	
Recommendation	<i>Is Development and Is Not Exempted Development</i>	

In this report 'the Act' means the Planning and Development Act 2000 (as amended) and 'the Regulations' means the Planning and Development Regulations 2001 (as amended), unless otherwise indicated.

1. Requirements for a Section 5 Declaration

Section 5(1) of the Planning and Development Act 2000 as amended states,

5.—(1) If any question arises as to what, in any particular case, is or is not development or 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, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.

The requirements for making a section 5 declaration are set out in the Act.

2. The Question before the Planning Authority

In framing the question to the planning authority, the applicant states in Q2 of the application form:

Confirmation that the use of an existing industrial site and buildings for a Resource Recovery and Recycling Centre (RRRC) and ancillary storage is not development.

3. Site Description

The property in question is in the Tivoli Industrial Estate on the north side of the River Lee to the east of the city centre. The site itself consists of a large building, formerly used for steel manufacturing, and associated parking and yard areas.

4. Planning History

Application Ref. No.	Development Description	Conditions of Note
73/4551	Erection of steel stock depot, offices etc. at Tivoli Industrial Estate	None
77/6677	Additional covered area at existing steel depot at Tivoli Industrial Est., Cork	None

5. Legislative Provisions

5.1 The Act

Section 3(1),

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 3(2)

For the purposes of subsection (1) and without prejudice to the generality of that subsection—

(a) where any structure or other land or any tree or other object on land becomes used for the exhibition of advertisements, or

(b) where land becomes used for any of the following purposes—

(i) the placing or keeping of any vans, tents or other objects, whether or not moveable and whether or not collapsible, for the purpose of caravanning or camping or habitation or the sale of goods,

(ii) the storage of caravans or tents, or

(iii) the deposit of vehicles whether or not usable for the purpose for which they were constructed or last used, old metal, mining or industrial waste, builders’ waste, rubbish or debris,

the use of the land shall be taken as having materially changed.

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;

Section 4(2),

Section 4(2) provides that the Minister may, by regulations, provide for any class of development to be exempted development. The principal regulations made under this provision are the Planning and Development Regulations 2001-2013.

Section 177U (9) (screening for appropriate assessment)

In deciding upon a declaration or a referral under section 5 of this Act a planning authority or the Board, as the case may be, shall where appropriate, conduct a screening for appropriate assessment in accordance with the provisions of this section.

5.2 The Regulations

Article 9 (1)

Development to which article 6 relates shall not be exempted development for the purposes of the Act

—

(a) (i) if the carrying out of such development would... contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,

(a) (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,

Article 10 (1)

Development which consists of a change of use within any one of the classes of use as specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not –

(c) be inconsistent with any use specified or included in such a permission, or

(d) be development where the existing use is an unauthorised, save where the change of use consists of resumption of a use which is not unauthorised and which has not been abandoned

6. ASSESSMENT

5.1 Development

The first issue for consideration is whether or not the matter at hand is 'development'.

'Development' as defined in the Act (3)(1) comprises two possible chief components: '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'. In order to ascertain whether or not the subject use is considered to be development as so defined, consideration must first be given to whether any works on, in, over or under land have or will be carried out, and secondly to whether any material change in the use of any structures or other land have or will take place.

'Works' is defined in section 2(1) of the Act as 'the carrying out of any works on, in, over, or under land' including '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 consider that the proposed element constitutes development as it comprises of works which includes both demolition & construction.

5.2 Exempted development

The next issue for consideration is whether or not the matter at hand is exempted development.

7. ENVIRONMENTAL ASSESSMENT

7.1 Screening for Environmental Impact Assessment

Having regard to the contents of Article 103 (as amended by Article 14 of the Planning and Development (Amendment) (No 3) Regulations 2011) and Schedule 7 of the Planning and Development Regulations 2001 (as amended) it is considered that the proposed development by reason of its nature, scale and location would not be likely to have significant effects on the environment. Accordingly it is considered that an environmental impact statement is not required to be submitted.

7.2 Screening for Appropriate Assessment

Section 177U (9) of the Act requires planning authorities to screen applications for a section 5 declaration for appropriate assessment. The provisions of the *Habitats Directive*, the *Appropriate Assessment Guidelines for Planning Authorities 2009* (revised 2010) and the Act are noted. The relevant European sites are the Cork Harbour SPA (site code 004030) and the Great Island Channel cSAC (site code 001058). Having regard to the location of the proposed development site relative to these European sites and related watercourses and to the nature and scale of the proposed development it is considered that the proposed development would not affect the integrity of the European sites referred to above. Accordingly it is considered that appropriate assessment is not required.

8. Conclusion

The question has been asked whether

Having considered the particulars submitted with the application and the relevant legislation as set out above, it is considered that the proposed altered layout is development and is not exempted development

9. RECOMMENDATION

In view of the above and having regard to —

- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended), and
- Articles 6, and 9 of the Planning and Development Regulations 2001 (as amended),

It is considered that proposed alteration to the floor plan as granted under TP 13/35871 **Is Development** and is **Not Exempted Development**.

Mary Doyle
Executive Planner

APPENDIX 3
COPY OF SECTION 5 DETERMINATION APPLICATION TO CORK CITY COUNCIL

3. APPLICATION DETAILS

Answer the following if applicable. Note: Floor areas are measured from the inside of the external walls and should be indicated in square meters (sq. M)

(a) Floor area of existing/proposed structure/s		3,488 sqm
(b) If a domestic extension, have any previous extensions/structures been erected at this location after 1 st October, 1964, (including those for which planning permission has been obtained)?		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, please provide floor areas. (sq m) _____
(c) If concerning a change of use of land and / or building(s), please state the following:		
Existing/ previous use (please circle)	Proposed/existing use (please circle)	
N/A	N/A	
_____	_____	
_____	_____	

4. APPLICANT/ CONTACT DETAILS

Name of applicant (principal, not agent):		Waste Recovery Services
Applicants Address:		_____
Person/Agent a behalf of the Applicant (if any):		_____
		6 Joyce House Barrack Square Ballincollig Cork
Telephone:		_____
Fax:		N/A
E-mail address:		_____
Should all correspondence be sent to the above address? <small>(Please note that if the answer is 'No', all correspondence will be sent to the Applicant's address)</small>		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

5. LEGAL INTEREST

Please tick appropriate box to show applicant's legal interest in the land or structure	A. Owner	B. Other <input checked="" type="checkbox"/>
Where legal interest is 'Other', please state your interest in the land/structure in question	See attached letter of consent from Port of Cork	
If you are not the legal owner, please state the name and address of the owner if available	Port of Cork Custom House Street Cork	

I confirm that the information contained in the application is true and accurate:

Signature: _____

Date: 11/10/2019 _____

ADVISORY NOTES:

The application must be accompanied by the required fee of €80

The application should be accompanied by a site location map which is based on the Ordnance Survey map for the area, is a scale not less than 1:1000 and it shall clearly identify the site in question.

Sufficient information should be submitted to enable the Planning Authority to make a decision. If applicable, any plans submitted should be to scale and based on an accurate survey of the lands/structure in question.

The application should be sent to the following address:

The Development Management Section, Strategic Planning & Economic Development
Directorate, Cork City Council, City Hall, Anglesea Street, Cork.

- The Planning Authority may require further information to be submitted to enable the authority to issue the declaration.
- The Planning Authority may request other person(s) other than the applicant to submit information on the question which has arisen and on which the declaration is sought.
- Any person issued with a declaration may on payment to An Bord Pleanála refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.
- In the event that no declaration is issued by the Planning Authority, any person who made a request may on payment to the Board of such a fee as may be prescribed, refer the question for decision to the Board within 4 weeks of the date that a declaration was due to be issued by the Planning Authority.

The application form and advisory notes are non-statutory documents prepared by Cork City Council for the purpose of advising as to the type information is normally required to enable the Planning Authority to issue a declaration under Section 5. This document does not purport to be a legal interpretation of the statutory legislation nor does it state to be a legal requirement under the Planning and Development Act 2000 as amended, or Planning and Development Regulations 2001 as amended.

DATA PROTECTION

The use of the personal details of planning applicants, including for marketing purposes, may be unlawful under the Data Protection Act 1988-2003 and may result in action by the Data Protection Commissioner against the sender, including prosecution

Port of Cork Company, Custom House Street, Cork, Ireland • Tel: 353 21 4273125 • Fax: 353 21 4276484

Email: info@portofcork.ie • Web: www.portofcork.ie
Cuideachta Phort Chorcaí, Sráid Teach Custaim, Corcaigh, Éire



Mr. Seán Healy
Director
Cushman & Wakefield
6 Lapps Quay
Cork.

Tuesday 12th March, 2019.

RE: Permission for WRS to apply for Licence

WRS have the permission of the Port of Cork Company to apply for the licence for our warehouse property in Tivoli.

Please note that the ultimate renting of property is subject to the approval of the Board of Directors of the Port of Cork Company (in this case the Board of Trustees) and to legal agreements.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Conor Mowlds', written over a horizontal line.

Conor Mowlds
Chief Commercial Officer

APPENDIX 4
COPIES OF PLANNING PERMISSIONS ASSOCIATED WITH THE REFERRAL SITE

~~OUTLINE PERMISSION / PERMISSION / APPROVAL~~

SUBJECT TO CONDITIONS UNDER SECTION 26 OF THE ACT

Rec'd 21/1/74

To: M/s Gamble Simms,
c/o M/s Brodie & Hawthorn,
Chartered Architects,
55, Malone Avenue, Belfast BT9 6EP

Reference No. in
Planning Register T.P. 4551

Application
Received: 27th December, 1973.

In pursuance of the powers conferred upon them by the above-mentioned Act, the Cork Corporation have by order dated 26 FEB 1974 decided to grant

~~OUTLINE PERMISSION / PERMISSION / APPROVAL~~

for the development of land, namely:—

Erection of steel stock depot, offices etc at Tivoli Industrial Estate.

In accordance with plans and particulars submitted on 27th December, 1973.

SUBJECT to the conditions (if any) set out in Column 1 of the Schedule hereto. The reasons for the imposition of the said conditions are set out in Column 2 of the Schedule.

If there is no appeal against the said decision, a grant of

~~OUTLINE PERMISSION / PERMISSION / APPROVAL~~

in accordance with the decision will be issued after the expiration of the period within which an appeal may be made to the Minister for Local Government (see footnote).

It should be noted that until a grant of

~~OUTLINE PERMISSION / PERMISSION / APPROVAL~~

has been issued the development in question is NOT AUTHORISED.

Signed on behalf of the Corporation of Cork

26 FEB 1974

Date:

Staff Officer, ~~ASSISTANT TOWN CLERK~~
Planning Department

NOTIFICATION OF A GRANT OF

~~OUTLINE PERMISSION~~ / PERMISSION / ~~APPROVAL~~

under Section 26 of the Act.

Reg Post
23 MAR 1974

55444

To: M/s Gamble Simms,
c/o m/s Brodie & Hawthorn,
Chartered Architects,
55 Malone Ave., Belfast BT9 6EP.

Reg. No. T.P. 4551.
Application Received: 27th December, 1973.

APPLICATION BY M/s Gamble Simms,
OF c/o m/s Brodie & Hawthorn, Chartered Architects, 55 Malone Ave., Belfast.
FOR :—

~~OUTLINE PERMISSION~~ / PERMISSION / ~~APPROVAL~~

FOR... Erection of steel stock depot, offices etc.
AT ... Tivoli Industrial Estate.

Further to notification of decision to grant dated 26th February, 1974.

the Cork Corporation hereby conveys a grant of

~~OUTLINE PERMISSION~~ / PERMISSION / ~~APPROVAL~~

for the development/retention described subject to the conditions (if any) set out in the said notification.

The permission/approval is also subject to further approval being obtained in accordance with article 5 of the Local Government (Planning and Development) Act, 1963, (Permission) Regulations, 1964, prior to the

commencement of
the development
any part of the development other than
.....
.....

Signed on behalf of the Corporation of Cork

1 Prior to commencement of development the developer must make a contribution of £1540 to Cork Corporation towards the costs of drainage works facilitating the proposed development subject to:

1. The Cork Drainage Works will facilitate the proposed development.

(a) Where the proposed works are not commenced within fifteen years of completion of the development, the Planning Authority shall return the contribution;

(b) Where the proposed works are within the said period, carried out in part only or in such manner as to facilitate the development to a lesser extent, the Planning Authority shall return a proportionate part of the contribution;

(c) The Planning Authority shall pay interest on the contribution as long as and in so far as it is retained unexpended by the Local Authority.

2. The concrete beds of all foul drains and surface water pipes must consist of 150 m.m. reinforced concrete as shown in drawings; and foundation concrete in protection G2 must be reinforced with 2 no. 12 mm dia. bars.

3. A bund equal to 110% of the volume of the oil storage tanks must be provided.

4. Detailed landscape proposals must be submitted and approved prior to the commencement of occupancy of the buildings.

2. In the interests of the proper drainage of the area.

3. To guard against oil spillage.

4. In the interests of the amenities of the area.

*Reid 9/7/76
Rec No 10443*

NOTE 1: Any appeal against a decision of a planning authority under section 26 of the Act of 1963 may be made to the Minister for Local Government.

The applicant for permission may appeal within one month beginning on the day of receipt by him of the decision. Any other person may appeal to the Minister within three weeks beginning on the date of the decision.

Appeals should be addressed to the Secretary, Department of Local Government (Planning Appeals Section), Custom House, Dublin 1. An appeal by the applicant for permission should be accompanied by this form. In the case of an appeal by any other person the name of the applicant, particulars of the proposed development and the date of the decision of the planning authority should be stated.

NOTE 2: Grant of Permission under the Local Government (Planning and Development) Act, 1963 is not to be taken as a waiver of the provisions of any Building Bye-Law, Local Act, Order, Regulation or other Statutory Provision in force in the Cork County Borough. Approval under the Corporation's Building Bye-Laws should also be obtained in addition to the Planning Permission.

LOCAL GOVERNMENT (PLANNING AND DEVELOPMENT) ACT, 1963

NOTIFICATION OF DECISION TO GRANT

OUTLINE PERMISSION / PERMISSION / APPROVAL

WITHOUT CONDITIONS UNDER SECTION 26 OF THE ACT

To: ~~Quello Glass Works Ltd.,~~
~~Shroff Industrial Est.,~~
~~Cork.~~

Reference No. in
Planning Register T.P. ~~6477~~

Application
Received: ~~25th January, 1977~~

In pursuance of the powers conferred upon them by the above-mentioned Act, the Cork Corporation have by order dated 24-3-77 decided to grant

OUTLINE PERMISSION / PERMISSION / APPROVAL

for the development of land, namely:—

~~at Shroff Industrial Est., Cork.~~ Additional covered area at existing steel depot
~~in accordance with plans and particulars submitted on 08/1/1977~~

If there is no appeal against the said decision, a grant of

OUTLINE PERMISSION / PERMISSION / APPROVAL

in accordance with the decision will be issued after the expiration of the period within which an appeal may be made to the Minister for Local Government (see footnote).

It should be noted that until a grant of

OUTLINE PERMISSION / PERMISSION / APPROVAL

has been issued the development in question is NOT AUTHORISED.

Signed on behalf of the Corporation of Cork

Date: 25-3-77

~~Planning Dept. Officer,~~ ASSISTANT TOWN CLERK.

NOTE 1: Any appeal against a decision of a planning authority under section 26 of the Act of 1963 may be made to the Minister for Local Government.

The applicant for permission may appeal within one month beginning on the day of receipt by him of the decision. Any other person may appeal to the Minister within three weeks beginning on the date of the decision.

Appeals should be addressed to the Secretary, Department of Local Government (Planning Appeals Section), Custom House, Dublin 1. An appeal by the applicant for permission should be accompanied by this form. In the case of an appeal by any other person the name of the applicant, particulars of the proposed development, and the name of the person on behalf of whom the appeal is made, should be stated.

The Secretary
Planning Department
Cork City Council
City Hall
Cork



11th October 2019

Re: Section 5 Declaration at the former TATA Steel site, Tivoli Docks, Cork seeking confirmation that the use of an existing industrial site and buildings for a Resource Recovery and Recycling Centre (RRRC) and ancillary storage is not development

Dear Sir/Madam,

We McCutcheon Halley, 6 Joyce House, Barrack's Square, Ballincollig, Co. Cork act on behalf of Waste Recovery Services (Fermoy) Ltd, Knockananig, Fermoy, Co. Cork, Cork with regard to the former TATA Steel Site at Tivoli, Cork (outlined in red in the attached site location map).

Our client requests a declaration in accordance with Section 5 of the Planning and Development Act 2000 (as amended), confirming that the use of the existing permitted industrial premises at Tivoli, Cork for the Resource Recovery and Recycling Centre (RRRC) and ancillary storage is consistent with the existing permitted use and is not development and does not therefore require planning permission as:

- The existing permitted use of the TATA Steel site is for industrial use.
- The existing permission on the site has not been abandoned and therefore the use associated with the site is industrial;
- The use of the premises for a Resource Recovery and Recycling Centre falls within the definition of an industrial process;
- The storage of materials associated with the primary industrial use is a permitted use of the site; and
- The conditions of the existing permissions do not preclude the proposed use.

This declaration is required to allow Waste Recovery Services to apply for a licence to operate at this location.

The remainder of this declaration request is set out as follows:

- Site and Context and Planning History
- Description of Proposed Industrial Use
- Planning legislation
- Case Law
- Assessment

www.mhplanning.ie

Site Context and Planning History

The site is situated within Tivoli Docks and Industrial Estate within the Cork City development boundary on the eastern side of the City as shown in Figure 1 below. The site is accessed via the existing Tivoli Estate road running to the north of the subject site. Existing development on the site consists of 1 no. industrial building, 1 no. roof covered structure and 1 no. office and associated parking / hard standing / yard and ancillary areas. To the south, west and east lie lands within the ownership of the Port of Cork.



Fig. 1 Location of the Site in the context of Tivoli, Cork

The area is currently zoned as 'Local Area Plan to be prepared' in Map 5 - North Eastern Suburbs Objectives of the Cork City Development Plan 2015 and as illustrated in Figure 2 below.

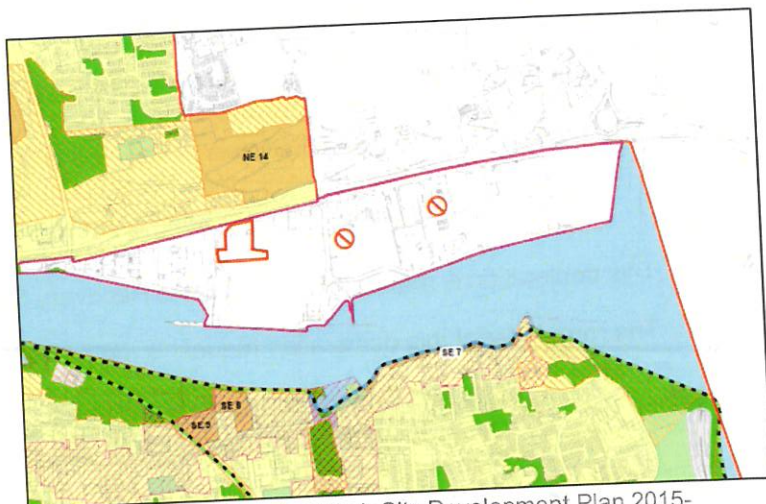


Fig. 2 Extract from the Cork City Development Plan 2015-2021.

The industrial use on this site was first permitted by Cork City Council Ref. No. 73/4551 for permission for a steel stock depot / office. The industrial buildings were extended under Ref. No. 77/6677 when permission was granted for an additional covered area. The buildings within the subject site have been in use for the manufacturing of steel on a long-term basis.

Description of Proposed Use

The new industrial use being considered for the TATA steel site in the Tivoli Docks consists of returning waste materials to the economy. The proposed industrial use will consist of the processing of these materials to an 'end of waste status' material or product as well as an ancillary storage of materials on the site.

The impetus for the consideration of establishing a Resource Recovery and Recycling Centre is the European Commission's Action Plan on the Circular Economy. The objective of this Action Plan is to chart a way for the European Union's economy to retain the value of products, materials and resources for as long as possible thereby reducing the generation of waste.

The Commission has recognised that it is a pre-condition of a circular economy to ensure that the maximum possible amount of waste generated by economic activities are returned back to the economy and used again. In order to re-introduce these materials into the economy they must achieve an 'end of waste status' under article 28 of the European Communities (Waste Directive) Regulations, 2011, S.I. No. 126 of 2011.

As detailed on the EPA's website:

'Certain specified waste shall cease to be waste when it has undergone a recovery, including recycling, operation and complies with specific criteria to be developed in accordance with the following conditions:

- *the substance or object is commonly used for specific purposes;*
- *a market or demand exists for such a substance or object*
- *the substance or object fulfils the technical requirements for the specific purposes and meets the existing legislation and standards applicable to products; and*
- *the use of the substance or object will not lead to overall adverse environmental or human health impacts.'*

This can be achieved by ensuring materials that reach the end of their life cycle are, in so far as is technically feasible, recovered through recycling and ideally reintroduced to the product lifecycle. These "secondary raw materials" can then be traded like "primary raw materials" from traditional extractive resources.

The following outlines the process and materials which can be produced at the Resource Recovery and Recycling Centre. All processing of material will be undertaken within the existing building which will be modified internally to accommodate the processing plant and equipment.

Construction & Demolition (C&D) and Commercial and Industrial (C&I) Waste Materials

The materials will arrive in skips and small tipper trucks and be offloaded inside the building. Large pieces of timber, metal, plastic, cardboard, etc. will be removed. The remaining materials will then be mechanically treated to segregate them into lighter materials (plastic and paper, ferrous and non-ferrous metals (cans), hard plastic and cardboard) and heavy materials (brick, stones, and ceramics).

The processing of the waste materials will produce the following products or articles:

1. Recycled Aggregate - The concrete rubble, brick, stones and ceramics will be crushed to produce recycled aggregate. This product will meet end of waste status that can be used in the manufacture of concrete products.
2. Solid Recovered Fuel (SRF) - The non-recyclable paper and plastics i.e. those that are heavily contaminated will be processed to produce solid recovered fuel (SRF) which has a high calorific value and is a favoured fossil fuel replacement, particularly in cement kilns.

3. Biomass Fuel – Suitable timber will be shredded to produce a woodchip that can be used as a biomass fuel.

Any metals and the recyclable plastic and cardboard will be baled and sent to other authorised treatment plants for further processing.

Plastic Film

Initially the plastic film will be baled and sent to an authorised recycling plants. WRS is assessing the potential to process the film to produce pellets that will replace virgin material in the manufacture of new plastic materials. The aim will be to produce another 'end of waste status' article subject to approval by the EPA.

Household Skip Waste

The skip waste is predominantly from household clearances and renovations and does not contain organic/food waste. The skips will be inspected by the drivers when being collected and the householder requested to remove any unsuitable wastes, e.g. black bin bags, paint tins etc.

On arrival the skip will be inspected and off-loaded in a designated area. Any unsuitable materials will be removed to a quarantine area. Recyclables such as timber, metal, plastic and cardboard will be separated and directed to the C&D and C&I processing lines where similarly they will be used to produce Recycled Aggregate, SRF, and Biomass Fuel.

The non-recyclable/non-recoverables, which will comprise approximately 5% by weight, will be sent for disposal at an appropriately licenced facility.

Waste Electrical and Electronic Equipment (WEEE)

Initially the WEEE will be stored pending onward consignment to authorised recycling facilities. WRS is assessing the feasibility of processing the items either to salvage base and precious metals, or provide added value.

Relevant Legislation

In order to assess whether the proposal is or is not development and/or is or is not exempted development, regard must be had to the 2000 Planning and Development Act (as amended) and the 2001 Planning and Development Regulations (as amended). The principal provisions of both the Act and the Regulations are outlined below:

Planning and Development Act, 2000 (as amended)

Section 2 of the 2000 Planning and Development Act (PDA), defines a "Structure" as;

"Any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and-

- (a) Where the context so admits, includes the land on, in or under which the structure is situate, and*
- (b) In relation to a protected structure or proposed protected structure, includes:*
 - i. The interior of the structure*
 - ii. The land lying within the curtilage of the structure*
 - iii. Any other structures lying within that curtilage and their interiors, and*
 - iv. All fixtures and features which form part of the interior or exterior of any structure or structures referred to in subparagraph (i) or (ii)"*

Section 3 (1) of the Act defines "Development" as, '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 of the Act refers to "exempted development" and Subsection (1) sets out categories of development that shall be exempted development for the purposes of this Act, including subsection (1)(h) which includes:

"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".

Section 4 (1)(h) of the Act makes it clear that works which affect only the interior of the structure or which do not materially affect the external appearance of the structure will be considered exempted development.

Section 4(2) of the Act provides for the making of regulations. The provisions from the planning and Development Regulations (2001) most relevant to this declaration are set out below:

Planning and Development Regulations, 2001 (as amended)

Under Article 5(1) of the regulations (as amended by Article 3 of S.I. No.364 of the Planning and Development Regulations 2005) an "industrial building" is defined as:

*"a structure (not being a shop, or a structure in or adjacent to and belonging to a quarry or mine) used for the carrying on of **any industrial process**";*

Article 5(1) of the regulations defines "industrial process" as:

"any process which is carried on in the course of trade or business, other than agriculture, and which is-

*(a) for or incidental to the **making of any article or part of an article**, or*

(b) for or incidental to the altering, repairing, ornamenting, finishing, cleaning, washing, packing, canning, adapting for sale, breaking up or demolition of any article, including the getting, dressing or treatment of minerals" (emphasis added).

Case Law

We acknowledge that the TATA Steel site has been inactive for a number of years. In considering the new industrial use of the site we refer the Council to Molloy & Others – v – The Minister for Justice, 2004 which specifically addresses the validity of a planning permission when a use has ceased for a period of time.

The Molloy Case (Molloy & Others v The Minister for Justice, 2004) found that in circumstances where a planning permission is capable of being implemented and there has been no material structural alteration to the land or property, which would render the planning permission incapable of being implemented, **a valid planning permission cannot be lost or abandoned**. So, for example, in a situation where a planning permission was granted for an industrial use but that use ceased for a period having been implemented, the industrial use **can be reawakened if there has been no material structural alteration to the premises**.

The main conclusion reached by the High Court in this case reads as follows:

"I take the view that where there is an existing valid planning permission for a specific use of land or property and no subsequent planning permission has been granted for the use of the land or property

concerned and where a material unauthorised change of use has taken place and has been carried on even for a period in excess of twenty years and notwithstanding that there may have been no complaint raised by any adjoining interested party in respect of the material unauthorised change of use and no enforcement action has been taken by the appropriate Planning Authority, where in circumstances that the original planning permission is capable of being implemented and by this concept I mean where there has been no material structural alteration to the land or property which would render the original planning permission for use incapable of being implemented, I hold that the original valid planning permission cannot be lost or abandoned."

The Molloy case is particularly relevant in this instance as the development has always been used for industrial purposes as granted by Ref No.'s 73/4551 and 77/6677. There has also been no material or structural alteration to the land or property which would render any original permission incapable of being implemented. Therefore the industrial and ancillary uses permitted by Cork City Council under Ref No.'s 73/4551 and 77/6677 have not been lost or abandoned and remain in effect.

Assessment

In this case, our clients request a declaration in accordance with Section 5 of the Planning and Development Act 2000, confirming that the use of an existing industrial site and buildings at Tivoli, Cork for a Resource Recovery and Recycling Centre (RRRC) and ancillary storage is not development and / or does not constitute a material change of use and does not therefore require planning permission as:

- **There is a permitted and long-established industrial use on the site**

The use of our clients' site in Tivoli for industrial use has been established since the 1970's. The industrial use was first permitted under Council Ref. No. 73/4551 for permission for a steel stock depot / office. This industrial use was then extended under Ref. No. 77/6677 when permission was granted for an additional covered area. As the permitted industrial uses have been established since the 1970's, there is an authorised and long-established industrial use on site.

The permitted use remains in effect and has not been abandoned.

- **The use of the premises for manufacturing and ancillary storage falls within the definition of an industrial process and therefore is not development and does not constitute a material change of use and does not therefore require planning permission**

Article 5(1) of the 2001 Planning and Development Regulations defines an "industrial building" as "a structure (not being a shop, or a structure in or adjacent to and belonging to a quarry or mine) used for the carrying on of any **"industrial process"**", while "industrial process" is defined in the Regulations as:

"any process which is carried on in the course of trade or business, other than agriculture, and which is:

*(a) for or incidental to **the making of any article or part of an article**, or*

(b) for or incidental to the altering, repairing, ornamenting, finishing, cleaning, washing, packing, canning, adapting for sale, breaking up or demolition of any article, including the getting, dressing or treatment of minerals".

The proposed industrial use constitutes **the processing of waste material into 3 no. new materials or articles:**

1. Recycled Aggregate – The breaking up and cleaning of the C&D and C&I waste will result in a product that is incidental to the making on an article, i.e. the manufacture of concrete products.

2. Solid Recovered Fuel (SRF) - The altering and adapting for sale of non-recyclable paper and plastics into a new article, SRF, complies with the definition of industrial process.
3. Biomass Fuel – The breaking up of suitable timber will be shredded to produce a woodchip that can be used as a biomass fuel complies with the definition of industrial process.

In considering the definition of industrial process, we consider that the each of the articles resulting from the processing of the waste material adheres to the definition of an industrial process.

Conclusion

With regard to the planning history, provisions of the 2001 Planning and Development Regulations and the case law cited in this submission, it is our opinion that the use of the existing industrial site for the Resource Recovery and Recycling Centre (RRRC) and ancillary storage is not development as it does not constitute a material change of use.

In accordance with the Council's requirements for Section 5 declarations please find enclosed:

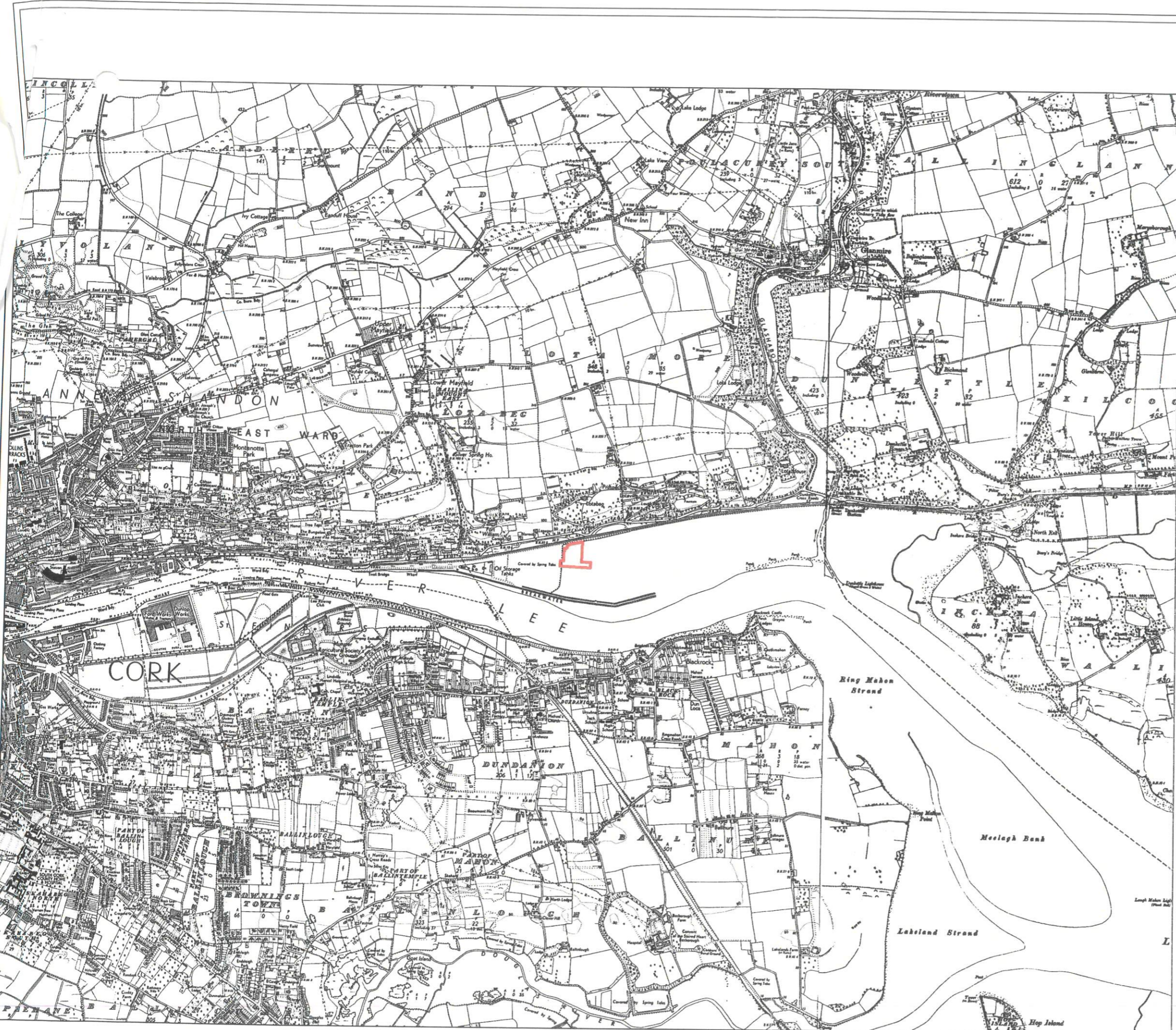
1. This cover letter which includes the applicant's name and address; the location of development; and the nature of development;
2. Letter of Consent from the Port of Cork;
3. The correspondence address which is: McCutcheon Halley Chartered Planning Consultants, 6 Joyce House, Barrack Square, Ballincollig, Co. Cork;
4. Ordnance Survey Site Location Maps, Site Plan, Floor Plans and Elevations;
5. Copy of planning permissions granted under Council Ref. No. 73/4551 and Ref. No. 77/6677;
6. The appropriate referral fee of €80.00.

Please do not hesitate to contact us should you require any further information.

Yours sincerely




Susan R. Cullen
McCutcheon Halley



Legend

Site Boundary



Title Former TATA Steel site, Tivoli Docks, Cork
Site Location Map 1

Client Waste Recovery Services Ltd.
 Project Section 5 Declaration
 Former TATA Steel site, Tivoli Docks, Cork

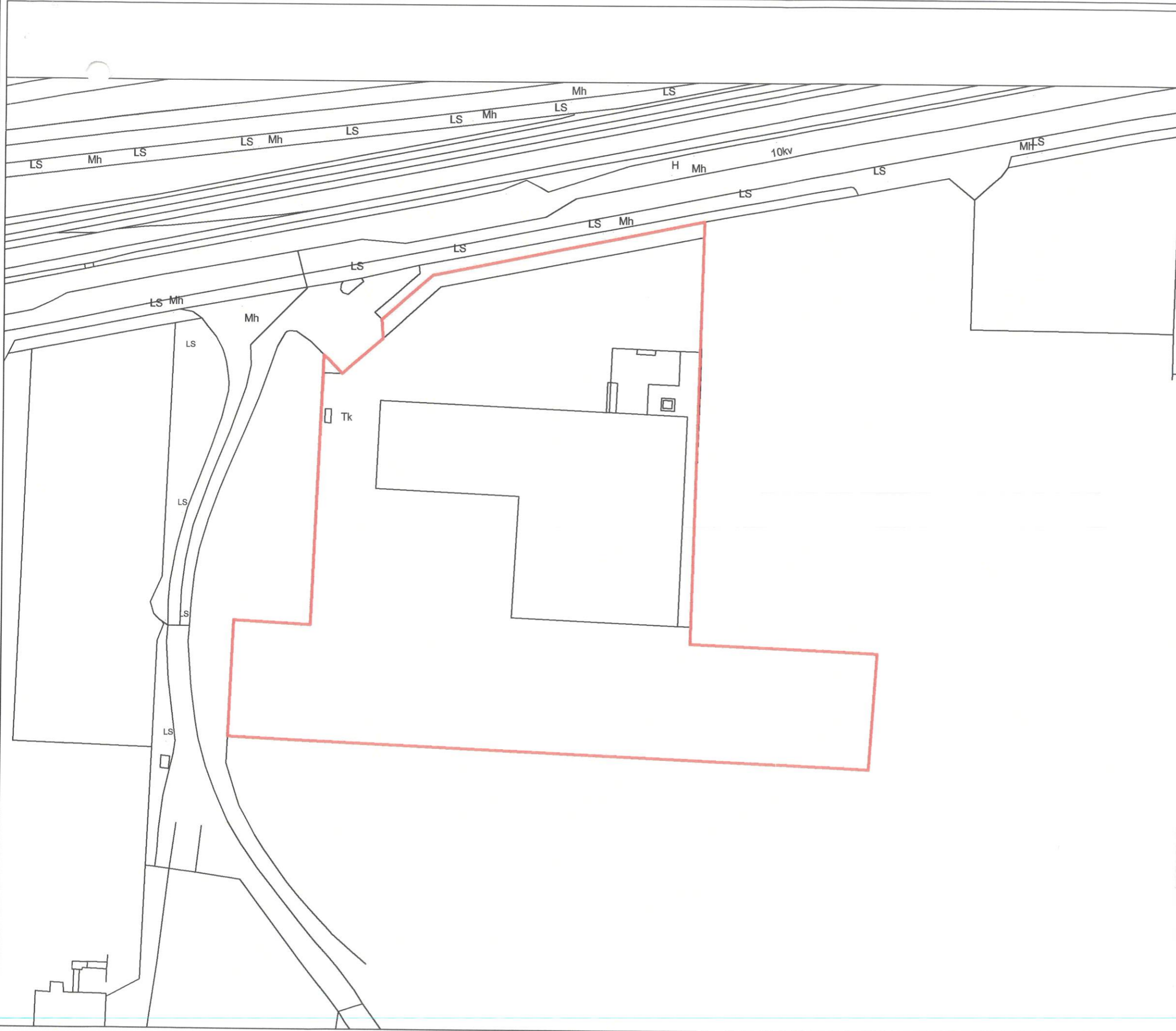
Scale	1 : 10560	Date	11/10/2019
O.S. map	CK074 CK075	Draw No.	3908-01
Ordnance Survey Licence No.:	EN0005419	Version	1.1
		Drawn	J.P
		Checked	A.MA

 **McCutcheon Halley**
 CHARTERED PLANNING CONSULTANTS

Cork
 6 Joyce House
 Barrack Square
 Ballincollig, Cork

Dublin
 Kreston House
 Arran Court Aun
 Quay Dublin 7

T. +353 (0)21 4208 710 F. +353 (0)21 4208 555 E. info@mhwplanning.ie




Legend

Site Boundary



Title		Former TATA Steel site, Tivoli Docks, Cork	
		Site Location Map 2	
Client	Waste Recovery Services Ltd.		
Project	Section 5 Declaration Former TATA Steel site, Tivoli Docks, Cork		
Scale	1 : 1000	Date	11/10/2019
O.S. map	6383-10 6383-05	Draw No.	3908-02
		Version	1.1
Ordnance Survey Licence No.:		Drawn	J,P
	EN0005419	Checked	A.MA

 McCutcheon Halley <small>CHARTERED PLANNING CONSULTANTS</small>	Cork 6 Joyce House Barrack Square Ballincollig, Cork	Dublin Kreston House Arran Court, Arran Quay, Dublin 7
	T. +353 (0)21 4208 710	F. +353 (0)21 4208 555

PLEASE NOTE: This drawing should only be used for planning purposes only. For detailed information please refer to the architectural drawings or construction drawings.