

Comhairle Cathrach Chorcaí Cork City Council

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

Susan Cullen
McCutcheon Halley
6 Joyce House
Barracks Square
Ballincollig
Cork

12/11/19

**RE: Section 5 Declaration R547/19 Apple Operations
Europe, Hollyhill Industrial Estate**

A Chara,


With reference to your request for a Section 5 Declaration at the above named property, I wish to advise as follows:

having regard to —

- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended),

It is considered that proposed alterations to an existing link bridge at the Hollyhill Industrial Estate is development and is exempted development

Yours faithfully,


Kerry Bergin
Development Management Section
Community, Culture and Placemaking Directorate
Cork City Council



We are Cork.

PLANNERS REPORT Ref. R 547/19		Cork City Council Culture, Community and Placemaking
Application type	Section 5 Declaration	
Question Posed	<i>Are the alterations to an existing link bridge at the Hollyhill Industrial Estate, Hollyhill, Cork exempted development and therefore does not require planning permission on the basis that the works constitute exempted development under Section 4(1)(h) of the Planning and Development Act 2000</i>	
Location	Hollyhill Industrial Estate	
Applicant	Apple Operations Europe	
Date	11/11/2019	
Recommendation	<i>Is Development and Is 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:

Are the alterations to an existing link bridge at the Hollyhill Industrial Estate, Hollyhill, Cork exempted development and therefore does not require planning permission on the basis that the works constitute exempted development under Section 4(1)(h) of the Planning and Development Act 2000

3. Site Description

The subject site consists of part of the Apple facility in Hollyhill.

4. Planning History

There are multiple planning applications associated with the Apple Campus as set out in the following table:

Ref. No.	Description of Proposed Development	Outcome
19/38803	Construction of a new substation building within the existing car park to cater for additional electric car charging points	New Application
19/38804	Upgrade to office building and retention of modifications to loading bays	New Application
19/38283	Construction of 2 no. plant buildings and 2 no. oil tanks	Granted 06/06/2019
16/36967	Installation of a stainless steel and glass enclosed curved	Granted 04/10/2016

16/36860	bus shelter	Granted 22/07/2016
16/36741	Modifications to the existing transformer and switch room compound	Granted 17/08/2016
16/4145 (Cork Co. Co.)	4 storey extension and pedestrian link	Granted 27/03/2016
15/36684	Car Park extension	Granted 22/03/2016
15/36510	Site development works consisting of site excavation and boundary treatments	Granted 23/10/2015
15/36505	Modifications to existing office building	Granted 20/10/2015
15/36480	Upgrade of existing office building	Granted 05/10/2015
14/36112	Modifications to roof	Granted 31/10/2015
14/36111	Upgrade of elevations	Granted 31/10/2015
14/35924	Modifications and alterations to elevations	Granted 31/10/2015
13/35865	Upgrade and alteration of existing entrances, including erection of security building	Granted 12/09/2014
13/35827	Upgrade of elevations	Granted 26/03/2014
13/35772	Demolition of oil store and construction of plant compound	Granted 03/03/2014
13/5951 (Cork Co. Co.)	Alteration to car park	Granted 14/01/2014
13/35507	Extension to car park	Granted 13/01/2014
12/35478	Upgrade of elevation	Granted 29/04/2013
12/35476	Alteration to entrance and internal access road	Granted 27/03/2013
12/4836 (Cork Co. Co.)	Upgrade of elevation	Granted 25/03/2013
12/35248	Extension of car park	Granted 10/08/2012
10/34660	Office building	Granted 08/08/2012
01/24955	Retention and alteration to car parks	Granted 12/05/2011
00/24721	Gate	Granted 10/05/2011
95/20037	Fence and gate. Appealed under ABP Ref: 28/123166	Granted 13/12/2001
94/19171	Extend car park and new entrance	Granted 15/02/1996
89/15523	New entrance to car park	Granted 03/02/1995
89/15214	Anc Utilities	Granted 24/01/1990
89/14783	Ext Manufacture	Granted 25/08/1989
87/13840	Anc Manufacture	Granted 15/03/1989
86/13000	Ext Manufacture	Granted 18/09/1987
84/11933	Ext Office	Granted 29/10/1986
83/11720	Ext Manufacture	Granted 26/09/1984
	Ext Manufacture	Granted 26/03/1984

5. Legislative Provisions

5.1 The Act

Section 2(1),

“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),

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 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 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.

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 works to the exterior of a structure.

5.2 Exempted development

The next issue for consideration is whether or not the matter at hand is exempted development. The application has postulated that the proposed development is exempt from planning permission requirements in accordance with Section 4(1)(h) which states:

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.

It is noted that the walkway is visible from the public road, specifically from Ardculien to the east of the site as illustrated in the photographs. It is however considered that the proposed works will not materially affect the external appearance of the walkway to the extent that it would materially change the character of the larger Apple buildings / structure of which the walkway forms a small part. Further the proposed works will not materially affect the appearance of neighbouring structures which are also of an industrial type.



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 Regulations (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 following question has been asked:

Are the alterations to an existing link bridge at the Hollyhill Industrial Estate, Hollyhill, Cork exempted development and therefore does not require planning permission on the basis that the works constitute exempted development under Section 4(1)(h) of the Planning and Development Act 2000

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 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),

It is considered that proposed alterations to an existing link bridge at the Hollyhill Industrial Estate

Martina Foley
Executive Planner

Melissa Walsh
Senior Executive Planner

11/11/19

**COMHAIRLE CATHRACH CHORCAI
CORK CITY COUNCIL**

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

R-Phost/E-Mail: planning@corkeity.ie
Fon/Tel: 021-4924564/4321
Lionra/Web: www.corkeity.ie

SECTION 5 DECLARATION APPLICATION FORM
under Section 5 of the Planning & Development Acts 2000 (as amended)

- 1. POSTAL ADDRESS OF LAND OR STRUCTURE FOR WHICH DECLARATION IS SOUGHT**
- Hollyhill Industrial Estate, Tadhg Barry Road, Hollyhill, Cork.

2. QUESTION/ DECLARATION DETAILS

PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT:

Sample Question: Is the construction of a shed at No 1 Wall St, Cork development and if so, is it exempted development?

Note: only works listed and described under this section will be assessed under the section 5 declaration.

Are the alterations to an existing link bridge at the Hollyhill Industrial Estate, Hollyhill, Cork exempted development and therefore does not require planning permission on the basis that the works constitute exempted development under Section 4(1)(h) of the Planning and Development Act 2000.

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

Please refer to enclosed cover letter prepared by McCutcheon Halley Planning Consultants for full details of proposed works.

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	N/A
(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 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) ----- ----- -----

4. APPLICANT/ CONTACT DETAILS

Name of applicant (principal, not agent):	Apple Operations Europe	
Applicants Address	Hollyhill Industrial Estate, Tadhg Barry Road, Holyhill, Cork.	
Person/Agent acting on behalf of the Applicant (if any):	Name:	Susan Cullen
	Address:	McCutcheon Halley 6 Joyce House, Barracks Square, Ballincollig, Co. Cork.
	Telephone:	021 420 8710
	Fax:	
E-mail address:	scullen@mhplanning.ie	
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	X	B. Other
Where legal interest is 'Other', please state your interest in the land/structure in question			
If you are not the legal owner, please state the name and address of the owner if available			

6.1 / We confirm that the information contained in the application is true and accurate:

Signature: 

Date: 17 October 2019

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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:

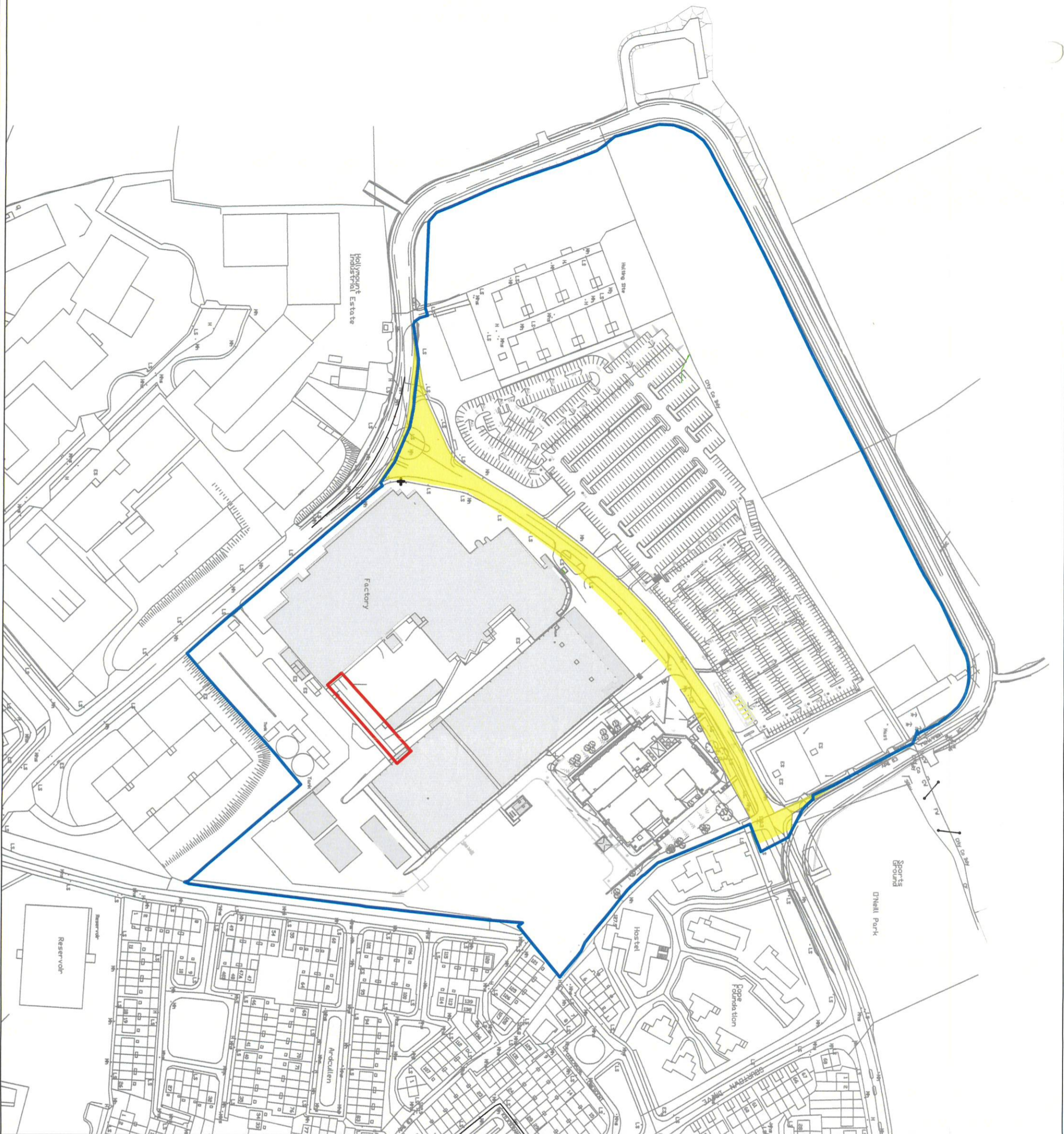
The Development Management Section, Strategic Planning & Economic Development
Directorate, Cork City Council, City Hall, Anglesea Street, Cork.

- 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



Legend

- Site Boundary
- Adjoining Lands in Applicant's ownership
- Wayleave



Title
**Link Bridge – Section 5 Declaration
 Site Location Map 1**

Client
Apple Operations

Project
**Section 5 Declaration, Link Bridge, Apple,
 Holyhill, Cork**

Scale	1 : 2500	Date	17/10/2019
O.S. map	6382-01, 6382-02, 6382-06 & 6382-07	Draw No.	2439-22-03
Ordnance Survey Licence No.:	END0005419	Version	1.1
		Drawn	J.P
		Checked	C.O'C



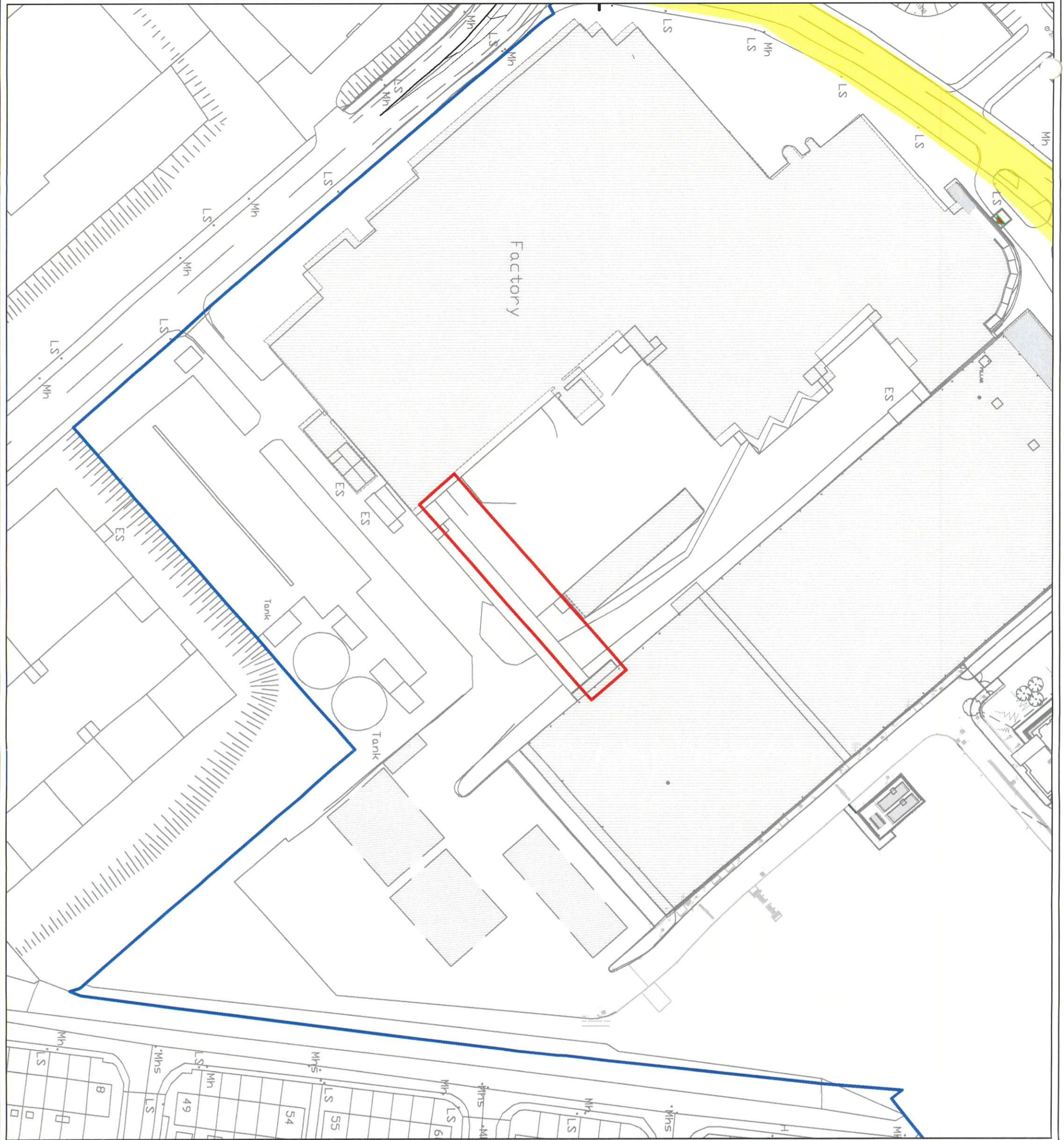
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PLEASE NOTE: This drawing should only be used for planning purposes only. For detailed information please refer to the architect's drawings or construction drawings.



- Legend
- Site Boundary
 - Adjoining Lands in Applicant's ownership
 - Wayleave



Title Link Bridge – Section 5 Declaration
Site Location Map 1

Client **Apple Operations**
 Project **Section 5 Declaration, Link Bridge, Apple, Holyhill, Cork**

Scale	1 : 2500	Date	04/10/2019
O.S. map	6382-01, 6382-02, 6382-06 & 6382-07	Draw No.	2439-22-04
Ordnance Survey Licence No.:	EN0005419	Version	1.1
		Drawn	J.P
		Checked	C.O.C

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