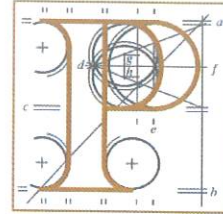


**Our Case Number:** ABP-308153-20

**Planning Authority Reference Number:** R593/20



An  
Bord  
Pleanála

Cork City Council,  
c/o John A Murphy,  
Anglesea Road,  
Cork.  
T12 T997

**Date:** 19 DEC 2022

**Re:** Whether the use of an existing industrial building and associated storage area in the Port of Cork for the temporary storage of baled dry recyclable wastes pending export from the port to overseas recycling facilities is or is not development and is or is not exempted development.  
Former TATA Steel site, Tivoli Industrial Estate, Cork City.

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 2021. 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](http://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,

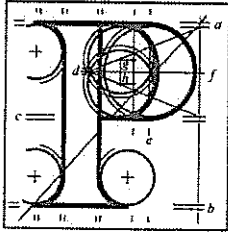
  
Rita Donnelly  
Executive Officer

RL100n



Teil	Tel	(01) 858 8100
Glaio Áitiúil	LoCall	1800 275 175
Facs	Fax	(01) 872 2684
Láithreán Gréasáin	Website	<a href="http://www.pleanala.ie">www.pleanala.ie</a>
Ríomhphost	Email	<a href="mailto:bord@pleanala.ie">bord@pleanala.ie</a>

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



**An  
Bord  
Pleanála**

**Board Order  
ABP-308153-20**

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**Planning and Development Acts 2000 to 2021**

**Planning Authority: Cork City Council**

**Planning Register Reference Number: R593/20**

**WHEREAS** a question has arisen as to whether use of an existing industrial building and associated storage area in the port of Cork for the temporary storage of baled dry recyclable wastes pending export from the port to overseas recycling facilities at TATA Hill Site, Tivoli Industrial Estate, Cork is or is not development or is or is not exempted development:

**AND WHEREAS** the said question was referred to An Bord Pleanála by Cork City Council on the 8<sup>th</sup> day of September, 2020:

**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,
- (b) Articles 5 and 10 of the Planning and Development Regulations, 2001, as amended,

- (c) Part 4 of Schedule 2 of the Planning and Development Regulations 2001, as amended,
- (d) the planning history of the site, and
- (e) the pattern of development in the area:

**AND WHEREAS** An Bord Pleanála has concluded that -

- (a) the permitted development on the site comprising a depot that functions as a store for steel constitutes a 'repository' with regard had to the definition for same as set out in Article 5 of the Planning and Development Regulations, 2001, as amended, and
- (b) the use of an existing building for the temporary storage of baled dry recyclable wastes falls within the above permitted use and, therefore, is not a material change of use and is not development:

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by section 5 (4) of the Planning and Development Act, 2000 hereby decides that the use of an existing industrial building and associated storage area in the Port of Cork for the temporary storage of baled dry recyclable waste pending export from the port to overseas recycling facilities at TATA Hill Site, Tivoli Industrial Estate, Cork is not development.

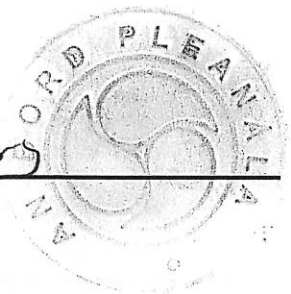
*Patricia Calleary*

**Patricia Calleary**

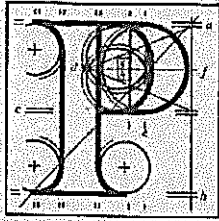
**Member of An Bord Pleanála**

**duly authorised to authenticate**

**the seal of the Board.**



Dated this 15 day of December 2022.



An  
Bord  
Pleanála

**Board Direction**  
**ABP-308153-20**

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The submissions on this file and the Inspector's report were considered at a Board meeting held on 14/12/2022.

The Board decided (on a 2:1 vote), as set out in the following Order, that

Board Order as follows:-

**WHEREAS** a question has arisen as to whether use of an existing industrial building and associated storage area in the port of Cork for the temporary storage of baled dry recyclable wastes pending export from the port to overseas recycling facilities is or is not development or is or is not exempted development.

**AND WHEREAS** the said question was referred to An Bord Pleanála by Cork City Council on the 8<sup>th</sup> day of September, 2020,

**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,
- (b) Articles 5 and 10 of the Planning and Development Regulations, 2001, as amended,
- (c) Part 4 of Schedule 2 of the Planning and Development Regulations 2001,



(d) The planning history of the site and

(e) The pattern of development in the area:

**AND WHEREAS** An Bord Pleanála has concluded that -

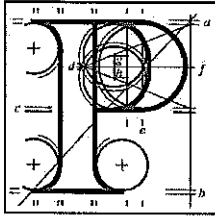
- (a) the permitted development on the site comprising a depot that functions as a store for steel constitutes a 'repository' with regard had to the definition for same as set out in Article 5 of the Planning and Development Regulations, 2001, as amended, and
- (b) the use of an existing buildings for the temporary storage of baled dry recyclable wastes falls within the above permitted use and, therefore, is not a material change of use and is not development.

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by section 5 (4) of the Planning and Development Act, 2000, as amended, hereby decides that the use of an existing industrial building and associated storage area in the Port of Cork for the temporary storage of baled dry recyclable waste pending export from the port to overseas recycling facilities at the former TATA Steel site, Tivoli Industrial Estate, Cork is not development.

**Board Member:**

Patricia Calleary.  
Patricia Calleary

**Date:** 14/12/2022



An  
Bord  
Pleanála

## Inspector's Report 308153-20

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<b>Question</b>	Whether the use of an existing building and associated storage area for the temporary storage of baled recyclable waste pending export is or is not development and is or is not exempted development.
<b>Location</b>	Former TATA Steel site, Tivoli Industrial Estate, Cork City
<b>Referral</b>	
<b>Referred by</b>	Cork City Council
<b>Owner/Occupier</b>	Forge Hill Recycling Unlimited Company
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	01/11/22
<b>Inspector</b>	Pauline Fitzpatrick



## 1.0 Introduction

Cork City Council made a submission to the Board under section 5 of the Planning and Development Act, seeking confirmation whether the use of an existing industrial building and associated storage area at the Former TATA Steel site in the Tivoli Industrial Estate is or is not development and is or is not exempted development. The submission was received on the 8<sup>th</sup> September, 2020.

The Board is advised that the site was subject of an earlier referral under section 5. File ref. ABP-306161-19 refers. The question posed in that instance was whether the use of an existing industrial site and buildings as a Resource Recovery and Recycling Centre (RRRC) and ancillary storage is or is not development and is or is not exempted development

## 2.0 Site Location and Description

- 2.1. The site relating to the referral is located within the Tivoli Industrial Estate, which is located between the River Lee and the N8 Cork to Dublin Road and is on the east side of Cork City. The Cork to Cobh railway line is located to the north of the site and runs parallel with the N8. Access to the industrial estate is via the Silversprings Junction flyover on the N8.
- 2.2. The site contains a large building with an office annex that was formerly in use by TATA Steel with associated parking and marshalling yards. The site is bounded by the industrial estate access roads to the north and west and by the Port of Cork shipyards and warehouses to the south and east.

## 3.0 The Question

- 3.1. The question referred to the Board is:-

Whether use of an existing industrial building and associated storage area in the port of Cork for the temporary storage of baled dry recyclable wastes pending export from the port to overseas recycling facilities is development and, if so, is it exempted development.

## 4.0 The Referrer's Submission

The following is submitted from Cork City Council:

- In reference to the site's planning history, it is noted that neither of the parent permissions explicitly permitted a 'factory' or established the principle of the undertaking of 'industrial processes' on the site.
- The proposed use does not accord with the definition of 'Industrial Process' as set out in Article 5(1) of the Planning and Development Regulations but maybe better described as a repository as detailed in the same article.
- It has not been established that the proposed use is not a material change of use.
- The inspector's report on the previous referral found that the proposal for the site would not require appropriate assessment as it would not be likely to have a significant effect on the integrity of the nearest European sites. As the proposal is largely similar to that previously assessed the same conclusion is reached.

Details submitted with the referral include copies of planning permissions associated with the site's planning history and a copy of a submission forming an application to Cork City Council from Forge Hill Recycling Unlimited Company seeking a declaration on the question to which the referral relates.

## 5.0 Response by Forge Hill Recycling Unlimited Company

The submission by O'Callaghan Moran and Associates on its behalf can be summarised as follows:

- It operates a non-hazardous waste recovery facility at Forge Hill under an integrated emissions licence. The sources are primarily household and commercial dry recyclable collections.
- The mixed wastes are mechanically separated by type. The segregated materials are baled and stored prior to export for further processing.
- The Covid19 pandemic presents a significant threat to the export of the recyclable materials. A ban or severe disruption in exports would have major



implications for Forge Hill Recycling's household and commercial waste collections. It has limited storage space at its Forge Hill facility. Once capacity has been reached it would have to stop accepting and processing waste. To maintain household and essential business collection services, additional contingency off-site storage capacity is required.

- The only activity carried out on the subject site would be storage. A baling unit would be provided to repair any bale damaged in transit from its facility. The maximum amount stored will be 24,000 tonnes. Once access to the overseas processing facilities is regained it will arrange for the removal of the bales from the Tivoli site and will resume exporting directly from the Forge Hill facility.
- A waste permit is required.
- The current authorised use of the site is for industrial purposes and the existing permissions on the site (ref. nos. 73/4551 and 77/6677) are still valid. The temporary storage of baled recycled materials comes within the definition of industrial use.
- It does not constitute a material change of use.
- With regard to Article 5(1) of the Planning and Development Regulations, 2001, the treatment of waste to recovery recyclables with the subsequent baling of the recovered materials is an industrial process and the storage of the bales is incidental to this process.

## **6.0 Statutory Provisions**

### **6.1. Planning and Development Act 2000 (as amended)**

#### **Section 2(1)**

In this Act, except where the context otherwise requires— “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

“use”, in relation to land, does not include the use of the land by the carrying out of any works thereon;

“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal ....

### **Section 3**

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.

(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 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.



## 6.2. Planning and Development Regulations, 2001 (as amended)

### PART 2 - Exempted Development

Article 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 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 making, 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 programme or other original database;

"repository" means a structure (excluding any land occupied therewith) where storage is the principal use and where no business is transacted other than business incidental to such storage;

### Article 6(1)

Subject to article 9, 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)

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 – ...

(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate



assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site, ...

Article 10(1)

Development which consists of a change of use within any one of the classes of use 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—

- (a) involve the carrying out of any works other than works which are exempted development,
- (b) contravene a condition attached to a permission under the Act,
- (c) be inconsistent with any use specified or included in such a permission, or
- (d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned.

Schedule 2 Part 1

Exempted Development – General

Column 1 Description of Development	Column 2 Conditions and Limitations
<p><i>Development for industrial purposes</i></p> <p>CLASS 22 Storage within the curtilage of an industrial building, in connection with the industrial process carried on in the building, of raw materials, products, packing materials or fuel, or the deposit of waste arising from the industrial process</p>	<p>The raw materials, products, packing materials, fuel or waste stored shall not be visible from any public road contiguous or adjacent to the curtilage of the industrial building.</p>

Part 4 Exempted Development – Classes of Use

CLASS 5 - Use as a wholesale warehouse or as a repository.

## 7.0 Planning History

I note the following planning history relating to the site:

P.A. Reg. No. T.P. 4551 - Permission granted for the erection of a steel stock depot, offices, etc. at Tivoli Industrial Estate, subject to 4 conditions, on 26th February 1974.

P.A. Reg. No. T.P. 6677 - Permission granted for an additional covered area at the existing steel depot at Tivoli Industrial Estate on 24th March 1977.

ABP-306161-19 - the Board decided that the use of the existing industrial site and buildings as a Resource Recovery and Recycling Centre (RRRC) and ancillary storage is development and is not exempted development.

## 8.0 Assessment

Comparable to the previous referral on the site under ref. ABP 306161-19 certain details pertaining to what processes were undertaken in the original TATA Steel premises and when it ceased to operate are not provided. In addition as referenced by the inspector on the previous referral there is insufficient information available to make a determination on whether the TATA Steel use has or has not been abandoned. Notwithstanding, I consider that there is sufficient information before the Board to address the question raised.

### **Is or is not development**

From the details provided the building and associated storage area is proposed to be used for the temporary contingency storage of baled recyclable materials, only, with a baling unit to be provided to repair any bale damaged in transit from the Forge Hill recycling facility. 24,000 tonnes is the maximum to be stored at the site.

From the absence of details indicating the contrary no upgrading or improvement works are proposed to allow the site to function to meet the needs of the proposed activity. As such 'works' do not appear to be required on the site

I consider that the question before the Board relates to 'use'.

I refer the Board to the inspector's assessment on the previous section 5 referral in terms of the planning history on the site and the purpose of the original building and

lands. He concluded that the permitted structure on site is a depot that functions as a store for steel and constitutes a 'repository' as per the definition for same set out in Article 5 of the Planning and Development Regulations, 2001, as amended. The inspector noted that whilst the storing of the steel stock was conceivably incidental to processing of steel the depot was not permitted to undertake any 'process' in the form of making, repairing etc. any articles of steel. On this basis it was concluded that the TATA Steel building was not an 'industrial building' in accordance with the definition set out in the Planning and Development Regulations because it was not permitted to be used for the carrying on of any industrial process at that site. The inspector also concluded that stock be defined as constituting an accumulated supply of a particular item, product, material etc.

Having regard to section 3 (2) of the Planning and Development Act, 2000, as amended, which specifies specific uses whereby the use of the land shall be taken as having materially changed I do not consider that the baled dry recyclable materials would be classified as either builder's waste, rubbish or debris.

Having regard to Article 10(1) of the regulations and Class 5 of Part 4 – Exempted Development which specifies use as a wholesale warehouse or as a repository, I consider it reasonable to conclude that the proposed temporary storage of baled recyclables would be consistent with the 'storage' or 'repository' permitted use with no business being transacted on the site. With regard to the caveats listed in subsections (a) to (d) I note the following:

- (a) the development does not involve the carrying out of any works,
- (b) it does not contravene a condition attached to the permissions granted on the site,
- (c) it would not be inconsistent with any use specified or included in the said permissions,
- (d) the existing use of the site as a repository is a permitted use and consists of the resumption of use which has not been abandoned.

On this basis I submit that the use of the site for storage of dry baled recyclable material prior to export, only, does not constitute a material change of use. Thus the question posed to the Board does not constitute development as defined in Section 3(1) of the Act.



## 8.1. **Appropriate Assessment**

I note and concur with the inspector's assessment on the previous referral.

Having regard to utilisation of established structures within a serviced, industrial estate and to the significant separation distances and extensive urban fabric between the site and Natura 2000 sites in the wider area, it is reasonable to conclude that, on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposal, individually or in combination with other plans or projects, would not be likely to have a significant effect on any designated European Site. The proposed storage of bales of dry recyclable waste prior to export would not require an appropriate assessment because it would not be likely to have a significant effect on the integrity of a European site.

## 9.0 **Recommendation**

9.1. I recommend that the Board should decide this referral in accordance with the following draft order.

9.2.

**WHEREAS** a question has arisen as to whether use of an existing industrial building and associated storage area in the port of Cork for the temporary storage of baled dry recyclable wastes pending export from the port to overseas recycling facilities is development and, if so, is it exempted development.

**AND WHEREAS** the said question was referred to An Bord Pleanála by Cork City Council on the 8<sup>th</sup> day of September, 2020:

**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

- (b) Articles 5 and 10 of the Planning and Development Regulations, 2001, as amended,
- (c) Part 4 of Schedule 2 Exempted Development – Classes of Use of the Regulations
- (d) The planning history of the site,
- (e) The pattern of development in the area:

**AND WHEREAS** An Bord Pleanála has concluded that:

- (a) the permitted development on the site comprising a depot that functions as a store for steel constitutes a 'repository' with regard had to the definition for same as set out in Article 5 of the Planning and Development Regulations, 2001, as amended.
- (b) the use of an existing buildings for the temporary storage of baled dry recyclable wastes falls within the above permitted use and, therefore, is not a material change of use and is not development.

**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 use of an existing industrial building and associated storage area in the Port of Cork for the temporary storage of baled dry recyclable wastes pending export from the port to overseas recycling facilities is not development.

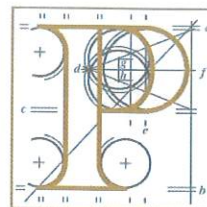
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**Pauline Fitzpatrick**  
**Senior Planning Inspector**

**November, 2022**

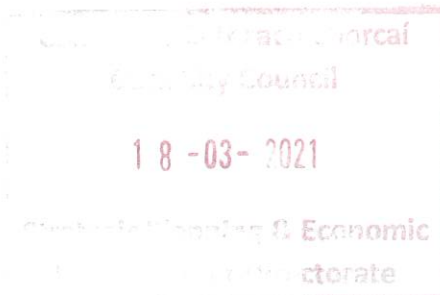
**Our Case Number:** ABP-308153-20

**Planning Authority Reference Number:** R593/20



**An  
Bord  
Pleanála**

Cork City Council  
c/o John A Murphy  
Anglesea Road  
Cork  
Co. Cork  
T12 T997



**Date:** 16 March 2021

**Re:** Whether the use of an existing industrial building and associated storage area in the Port of Cork for the temporary storage of baled dry recyclable wastes pending export from the port to overseas recycling facilities is or is not development and is or is not exempted development.  
Former TATA Steel site, Tivoli Industrial Estate, Cork City.

Dear Sir / Madam,

I have been asked by the Board to refer to the above-mentioned appeal and, in particular, to the Board's notice to you under section 126 of the Planning and Development Act, 2000, (as amended), in which it was indicated that the Board intended to determine this appeal before 26th April 2021.

I regret to inform you that, the Board will not now be in a position to determine the appeal before that date. An Inspector's report has been received and the file is at Board level. The continuing delay is due to further consideration of the case required.

The delay involved is regretted.

Yours faithfully,

pp Deirdre O'Keefe  
Sorcha Skelly  
Executive Officer  
Direct Line: 01-8737164

BP93

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Glao Áitiúil  
Facs  
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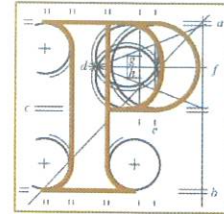
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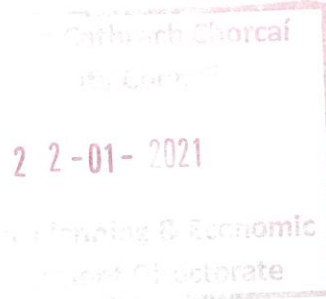
Our Case Number: ABP-308153-20

Planning Authority Reference Number: R593/20



An  
Bord  
Pleanála

Cork City Council  
c/o John A Murphy  
Anglesea Road  
Cork  
Co. Cork  
T12 T997



**Date:** 20 January 2021

**Re:** Whether the use of an existing industrial building and associated storage area in the Port of Cork for the temporary storage of baled dry recyclable wastes pending export from the port to overseas recycling facilities is or is not development and is or is not exempted development.  
Former TATA Steel site, Tivoli Industrial Estate, Cork City.

Dear Sir / Madam,

I have been asked by An Bord Pleanála to refer to the above appeal.

It is a statutory objective of the Board to ensure that every appeal received is determined within eighteen weeks beginning on the date of receipt of that appeal. This is in accordance with section 126(2)(a) of the Planning and Development Act, 2000, (as amended). Where it appears to the Board that it would not be possible or appropriate to determine a particular appeal within this period, a notice must be sent to the parties in accordance with section 126(3)(a) of the Act.

The Board hereby serves notice under section 126(3)(a) that it will not be possible to determine the case within the statutory objective period due to further consideration of the case required. The Board now intends to determine the above appeal before **16th March 2021**.

The Board will take all such steps as are open to it to ensure that the appeal is determined before that date.

Yours faithfully,

Sorcha Skelly  
Executive Officer  
Direct Line: 01-8737164

BP90 Registered Post

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Facs  
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64 Marlborough Street  
Dublin 1  
D01 V902



# 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.  
D01V902

Your Ref: ABP – 308153-20

01/10/2020

**Re: Section 5 Declaration  
Tara Steel Site, Tivoli Industrial Estate, Cork City  
Our Reference – R593/20**

Dear Sir/Madam,

I refer to the above appeal and I the Planning Authority wishes to respond as follows:

- (i) Please find attached all previous decision affecting this site
- (ii) Please find attached all correspondence that has taken place between the person(s) issued with a declaration under subsection (2)(a) of section 5 of the 200 Act, (as amended), and the planning authority
- (iii) Name of Owner of land in question: Port of Cork Company  
Address of Owner of land in question: Custom House Quay Cork
- (iv) N/A
- (v) No declaration issued by Cork City Council – Application received on 01/09/2020

Yours faithfully,

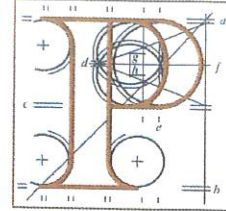
Kerry Bergin  
Assistant Staff Officer  
Community Culture and Placemaking  
Planning Department  
Cork City Council



**We are Cork.**

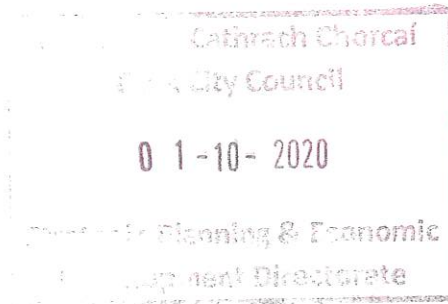
Our Case Number: ABP-308153-20

Planning Authority Reference Number: R593/20



An  
Bord  
Pleanála

Cork City Council  
c/o John A Murphy  
Anglesea Road  
Co. Cork  
T12 T997



Date: 29 September 2020

**Re:** Whether the use of an existing industrial building and associated storage area in the Port of Cork for the temporary storage of baled dry recyclable wastes pending export from the port to overseas recycling facilities is or is not development and is or is not exempted development.  
Former TATA Steel site, Tivoli Industrial Estate, Cork City

Dear Sir / Madam,

The documents requested on the 14th September 2020 in relation to the above-mentioned appeal have not yet been received. So that consideration of the appeal may proceed, you are requested to furnish the documents forthwith.

Section 128 of the Planning and Development Act, 2000, (as amended), provides that the planning authority shall forward the relevant documents within a **period of 2 weeks** beginning on the day on which a copy of the appeal is sent to you. Please disregard this letter if documents have issued previously. Please quote the above appeal reference number in any further correspondence.

Yours faithfully,

  
Shauna Kelly  
Administrative Assistant  
Direct Line: 01-8737191

BP09

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Láithreán Gréasáin  
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Tel  
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Website  
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(01) 858 8100  
1890 275 175  
(01) 872 2684  
www.pleanala.ie  
bord@pleanala.ie

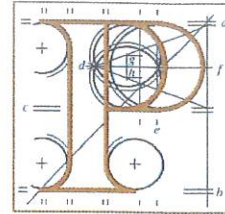
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Baile Átha Cliath 1  
D01 V902

64 Marlborough Street  
Dublin 1  
D01 V902



**Our Case Number:** ABP-308153-20

**Planning Authority Reference Number:** R593/20



An  
Bord  
Pleanála

Cork City Council  
c/o John A Murphy  
Anglesea Road  
Cork  
Co. Cork  
T12 T997



**Date:** 14 September 2020

**Re:** Whether the use of an existing industrial building and associated storage area in the Port of Cork for the temporary storage of baled dry recyclable wastes pending export from the port to overseas recycling facilities is or is not development and is or is not exempted development.  
Former TATA Steel site, Tivoli Industrial Estate, Cork City

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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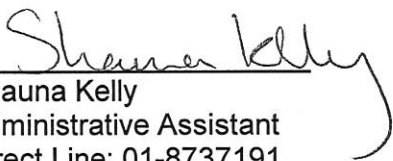
(01) 858 8100  
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Please note that under section 127(3) of the Planning and Development Act, 2000, (as amended), the person by whom the referral is made shall not be entitled to elaborate in writing upon or make further submissions in writing in relation to the grounds of the referral unless requested to do so by An Bord Pleanála.

Yours faithfully,



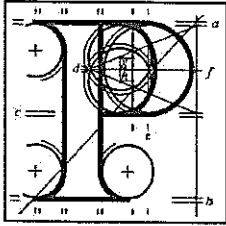
Shauna Kelly  
Administrative Assistant  
Direct Line: 01-8737191

BPRL01PA

<b>Teil</b>	<b>Tel</b>	(01) 858 8100
<b>Glaó Áitiúil</b>	<b>LoCall</b>	1890 275 175
<b>Facs</b>	<b>Fax</b>	(01) 872 2684
<b>Láithreán Gréasáin</b>	<b>Website</b>	<a href="http://www.pleanala.ie">www.pleanala.ie</a>
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Dublin 1  
D01 V902



An  
Bord  
Pleanála

Táille Reachtúil  
Statutory Receipt

<b>Ainm an Chustaiméara:</b> <b>Name of Customer:</b>	Development Management
<b>Gníomhaire:</b> <b>Agent:</b>	
<b>Íocaíocht Faighte:</b> <b>Payment Received:</b>	€110
<b>Modh Íocaíochta:</b> <b>Payment Method:</b>	Bank Draft
<b>Uimh. Aitheantais Lóisteála:</b> <b>Lodgement ID:</b>	LDG-030327-20
<b>Cineál na Lóisteála:</b> <b>Lodgement Type:</b>	Referral
<b>Iarratas ar éisteacht ó bhéal</b> <b>Oral Hearing Request:</b>	No
<b>Dáta Faighte:</b> <b>Date Received:</b>	08/09/2020
<b>Faighte ag:</b> <b>Received by:</b>	Aine Loughran

Tell (01) 858 8100  
Glao Áitiúil LoCall 1890 275 175  
Facs Fax (01) 872 2684  
Láithreán Gréasáin Website www.pleanala.ie  
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~~OUTLINE PERMISSION~~ / PERMISSION / APPROVAL

SUBJECT TO CONDITIONS UNDER SECTION 26 OF THE ACT

*Rec'd 26/2/74*

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~~

Reg Post  
23 MAR 1974

55444

under Section 26 of the Act.

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:

(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 C2 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.

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

Raid 9/7/76  
Rec. No 1044

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.

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.



**NOTIFICATION OF DECISION TO GRANT**

**OUTLINE PERMISSION / PERMISSION / APPROVAL**

**WITHOUT CONDITIONS UNDER SECTION 26 OF THE ACT**

To: ~~Cork City Council Ltd.,~~ .....

Reference No. in  
Planning Register T.P. ~~5577~~ .....

~~Cork Industrial Est.,~~ .....

~~Cork,~~ .....

Application  
Received: ~~24th 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 Civil Industrial Est., Cork~~ **Additional covered area at existing steel depot**  
**in accordance with plans and particulars submitted on 24/1/1977**

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 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

The Development Management Section  
Community, Culture & Placemaking Directorate,  
Cork City Council,  
City Hall, Anglesea Street,  
Cork

24 JUL 2020  
30<sup>th</sup> July 2020

Re: Section 5 Declaration that the use of the former TATA Steel industrial site and buildings at Tivoli Docks, Cork for temporary contingency storage of bales of recyclable wastes is not development.

Dear Sir/Madam,

Our client, Forge Hill Recycling Company Unlimited (FHR), operates a non-hazardous waste recovery facility at Forge Hill under an Integrated Emissions Licence granted by the Environmental Protection Agency. The licence authorises the acceptance and processing of municipal dry recyclable waste. The sources are primarily households and commercial dry recyclable collections and the materials include mainly paper, card, plastic bottles, plastic film, steel cans and aluminium cans.

The mixed wastes are mechanically separated by type (plastic, paper, cardboard and ferrous and non-ferrous metals). The processing is highly automated and manual picking is mostly limited to quality control. The segregated materials are baled and stored prior to export for further processing, for example in paper mills, steel mills, aluminium smelters and plastic conversion factories.

The Covid19 pandemic presents a significant threat to the export of the recyclable materials. A ban or exports or severe disruption of the market would have major implications for FHR's household and commercial waste collections. FHR has limited storage space at its Forge Hill facility and once that capacity has been reached FHR would have to stop accepting and processing waste. Therefore to maintain the household and essential commercial business collection services, additional contingency off-site storage capacity is required.

FHR has identified a warehouse with a paved service yard at Tivoli Docks owned by the Port of Cork Company Ltd that is suitable for a temporary contingency storage of baled recyclable materials. The only activity carried out will be storage. A baling unit will be provided to repair any bale damaged in transit from the FHR facility.

The provision of contingency storage capacity requires authorisation under the Waste Management Act 1996, as amended and the regulatory authority is Cork City Council. At a meeting to discuss the proposed development, Mr. Tony O'Sullivan SEE Environment indicated that the development could be accommodated by means of a Certificate of Registration or a Waste Facility Permit.

Having reviewed the Waste Facility Permit & Registration Regulations 2007, as amended, FHR considers that a Waste Permit is required and that the appropriate Class is Class 10 the recovery of waste where the annual intake does not exceed 50,000 tonnes. The Regulations require that a local authority in making a determination on a permit application that the facility is compliant with planning or is exempt from planning permission under Section 5 of the Planning & Development Act 2000, as amended.

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 former TATA Steel industrial building and site at Tivoli for the temporary contingency storage of baled recyclables is not development and therefore does not require planning permission as:

The current authorised use of the site is for industrial purposes and the existing permission on the site (Ref. Nos. 73/4551 & 77/6677) are still valid and the temporary storage of baled recycled materials comes within the definition of industrial use.

#### Site Location

The site is in the Tivoli Docks and Industrial Estate, as shown on the enclosed maps (1:10,560). It is entered off the Tivoli Estate access road to the north of the site. The site comprises one industrial building, one roofed storage area, an office and associated parking and yard areas.

#### Site Planning History

The original planning permission (73/4551) was granted for a steel depot and office. A subsequent permission (77/6677) authorised the construction of the covered storage area.

#### Nature of Development

As referred to above, in the event that the export of the recyclable materials is disrupted, the bales will be transported from Forge Hill to Tivoli on curtain sided articulated trailers. At Tivoli, the bales will be off-loaded and stacked inside the warehouse. In addition, containers of baled materials loaded at Forge Hill will be moved to Tivoli and stored in the service yard.

The only activity carried out will be storage of baled recyclables and no waste processing will be conducted. The maximum amount stored will be 24,000 tonnes. Once access to the overseas processing facilities is regained, FHR will arrange for the removal of the bales from the Tivoli site and will resume exporting directly from the Forge Hill facility.

#### Assessment

FHR considers that the temporary contingency storage of the baled recyclables at the site in Tivoli is not development and/or does not constitute a material change of use and does not therefore require planning permission as:

- The use of the site for industrial purposes is authorised and long-established.

The use of the site for the storage of the baled recyclables falls within the definition of an industrial process and, as such, is not development, does not constitute a material change of use and therefore does not require planning permission

Article 5(1) of the 2001 Planning and Development Regulations 2001 as amended 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. The Regulations define '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...*

The treatment of waste to recovery recyclables, with the subsequent baling of the recovered materials is an industrial process and the storage of the bales is incidental to this process.

Enclosures

Section 5 Declaration Application Form

2 Copies of a site location drawing (1:10,560)

2 copies of a site location drawing (1:2,500)

2 copies of a site layout drawing (1:1000)

A letter from the Port of Cork Company consenting to the submission of a Section 5 Declaration Application.

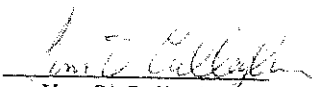
A cheque in the sum of €80.

Address for Correspondence

Please address correspondence on this matter to the undersigned at

O'Callaghan Moran & Associates  
Unit 15,  
Melbourne Business Park  
Model Farm Road,  
Cork T12 WR89

Yours Sincerely,

  
Jim O' Callaghan