



Halla na Cathrach
Corcaigh
T12 T997

City Hall
Cork
T12 T997

Danny Keohane
Stoneview
Blarney
Cork

08/06/18

RE: Section 5 Declaration Apple Green Service Station, North Ring Road Cork

Dear Sir/Madam,

I am asked by Mr. Patrick Ledwidge, Director of Services, Strategic Planning & Economic Development to refer to your request for a section 5 Declaration at the above address.

Having regard to the provisions of:

Article 6 of the Planning and Development Regulations 2001 (as amended), Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended) and previous determinations under An Bord Pleanála referrals RL 3233, RL 3069 and RL 2850,

it is considered that the replacement of existing underground fuel tanks at the Applegreen Service Station, North Ring Road, **constitutes development** within the meaning of the Planning and Development Act, 2000 (as amended) and is **exempted development**, being development that:

- (a) does not result in an intensification of use and,
- (b) does 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 and, therefore, comes within the scope of section 4(1)(h) of the Planning and Development Act 2000:

Yours Faithfully,

Paul Hartnett
Assistant Staff Officer
Strategic Planning & Economic
Development
Cork City Council

Description: Replacement of existing underground tank installation.
Applicant: John O'Reilly (Topaz Energy Group)
Location: **Apple Green Service Station, North Ring Road, Cork.**
Date: 31st May 2018

SUMMARY OF RECOMMENDATION

Constitutes development; is exempted development

PURPOSE OF REPORT

This report relates to a request for a declaration under Section 5(1) of the Planning Act ("Request for a Declaration) regarding whether the replacement of existing underground fuel storage tanks is or is not exempted development in terms of the meaning assigned to "development" in the Planning and Development Act, 2000 (as amended).

DESCRIPTION OF SITE

The subject site is the existing Applegreen Service Station site, located on the North Ring Road.

DETAILS OF WORKS

Per the Request for Declaration, the proposed works that are the subject of this declaration comprise

- the replacement of existing underground tank installation

STATUTORY PROVISIONS

The exemption status of the subject works and use is appropriately assessed by the following provisions:

- Section 3(1) of the Planning and Development Act, 2000 – 2007 ("the Act") establishes that **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 2(1) of the Act establishes that **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 4(1)(h) establishes that "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) of the Act provides that the Minister may make regulations that provide for exempted development.

- Article 6(1) of the Planning and Development Regulations, 2001 to 2009 (“the Regulations”) establishes that, subject to other specified conditions and limitations, classes of development specified in Schedule 2, Part 1 of the Regulations constitute exempted development.

ASSESSMENT

Assessment under Section 5(1) of the Act is a two-part process. Firstly, it must be determined whether the works in question constitute development. Secondly, it must be determined whether the works constitute exempted development or not.

I consider that the installation of new fuel tanks constitutes “development,” having regard to

- the definition of development set out in Section 3(1) of the Act (which includes “the carrying out of any works...under land”)
- the definition of “works” as set out in Section 2(1) of the Act (which includes any act of construction or excavation).

I further consider that the fuel tanks that are the subject of this declaration constitute exempted development, with regard to the following previous declarations from An Bord Pleanála (including RL 3233, RL 3069 and RL 2850) in which the Board concluded that the replacement of underground storage tanks constituted development which is exempted development.

Applying these findings to the subject Request for a Declaration,

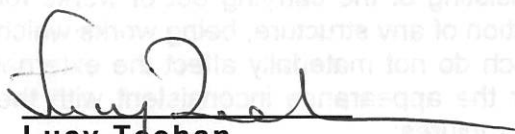
- I concur with the applicant’s submission that the re-installation of tanks would have no material visual impact on the premises.
- I am satisfied that there will be no intensification of use.

RECOMMENDATION

Having regard to the provisions of:

Article 6 of the Planning and Development Regulations 2001 (as amended), Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended) and previous determinations under An Bord Pleanála referrals RL 3233, RL 3069 and RL 2850, it is considered that the replacement of existing underground fuel tanks at the Applegreen Service Station, North Ring Road, **constitutes development** within the meaning of the Planning and Development Act, 2000 (as amended) and is **exempted development**, being development that:

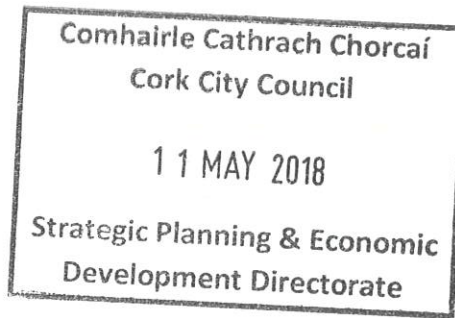
- (a) does not result in an intensification of use and,
- (b) does not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures and, therefore, comes within the scope of section 4(1)(h) of the Planning and Development Act 2000:



Lucy Teehan
Senior Executive Planner
31/5/2018

Keohane

Consulting Engineers Ltd.



Stoneview
Blarney
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M 087-2546556
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danny@keohane.ie

The Development Management Section
Strategic Planning & Economic Development Directorate
Cork City Council
City Hall
Cork

8 May 2018

Re: **Section 5 Application for Development at Applegreen Service Station,
North Ring Road, Ballyvolane, Cork**

Dear Sirs,

We wish to submit a Section 5 Application for the Replacement of Underground Fuel Storage Tanks at Applegreen Service Station, North Ring Road, Ballyvolane, Cork

We enclose the following in support of this application:

- Completed Application Form
- Fee €80
- Drawing No. 079/08 (2 copies)
- Site Location Map (1:1000)

Proposal

This existing site contains a fuel service station with 4 no. underground fuel tanks with a total storage capacity of 107,000L. It is proposed to decommission these tanks in accordance with the requirements of the Chief Fire Officer. It is also proposed to install 3 no. 40,000L double-skin underground fuel tanks (total storage 120,000) as shown on the attached drawing.

Background

The existing tanks are old single skin steel tanks. In time there is a risk that these tanks may leak and cause environmental damage. It is proposed to install new double skin steel tanks with modern leak detection systems.

The advent of 2nd grades for both Diesel and Unleaded and the requirement to maintain minimum levels of fuel requires flexible storage arrangement. The size and configuration of the existing tanks does not facilitate this and will result in occasional deliveries of small loads. By a small increase in total storage and a better configuration of tanks the number of road tanker visits to the site will be marginally reduced. This provides marginal safety and traffic benefits.

Note that the increased storage will have no effect of the sales of fuel on the forecourt and therefore there will be no intensification of development at the site. In fact, there will be slightly less intensification due to the reduction in the number of fuel deliveries.

Established Precedent

There are a number of cases countrywide where similar exemptions have been approved. In the case of Chawke's Service Station, Limerick (ABP Ref: 13RL.3233) the Board concluded that the replacement of four underground fuel tanks with four larger underground fuel tanks,

- a) does not result in an intensification of use, and
- b) does 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 and, therefore, comes within the scope of section 4(1)(h) of the Planning and Development Act 2000.

Therefore An Bord Pleanála decided that the said replacement of the four underground tanks with four larger underground tanks at Chawke's Service Station, Newcastle, Castletroy, County Limerick is development and is **exempted development**.

The following extract from the ABP Inspector's Report is of note:

"The fact that the tanks in this instance will be underground and therefore will not be visible, it can reasonably be argued that the structure or works in question will not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures.

Furthermore I consider that the referrer has reasonably argued that the provision of new larger storage tanks will not result in any intensification of use on site. If anything, the incorporation of larger storage tanks will reduce the amount of fuel deliveries to and from the site which will reduce trip generation. It is not proposed to increase the number of fuel dispensing pumps as a result of increasing the fuel storage capacity on site".

Conclusion

The question before the Council is:-

“Whether the replacement of 4 no. underground tanks (total storage 107,000L) with 3 no. underground fuel storage tanks (total capacity of 120,000 litres) at Applegreen Service Station, North Ring Road, Ballyvolane, Cork is or is not development and is or is not exempted development”.

There will be no intensification of development arising from the provision of the new tanks. If anything the reduction in the frequency of large HGV road tankers having to enter the premises at busy periods for refuelling of the tanks will represent a deintensification.

The underground tanks will not be visible and will not affect the character of the site.

The removal and installation of the tanks is exempted development under s.4 (1) (h) of the PDA, 2000.

There is an established An Bord Pleanala precedent for an identical situation in Co. Limerick.

The Council are therefore requested to confirm the s.5 declaration that the works are **DEVELOPMENT AND ARE EXEMPTED DEVELOPMENT.**

Yours sincerely,



Danny Keohane

Planning Pack Map

CENTRE COORDINATES:
ITM 569153.573715

PUBLISHED: 09/05/2018
ORDER NO.: 50006862_1

MAP SERIES: 6338-17
MAP SHEETS: 1:1,000
1:1,000 6338-22

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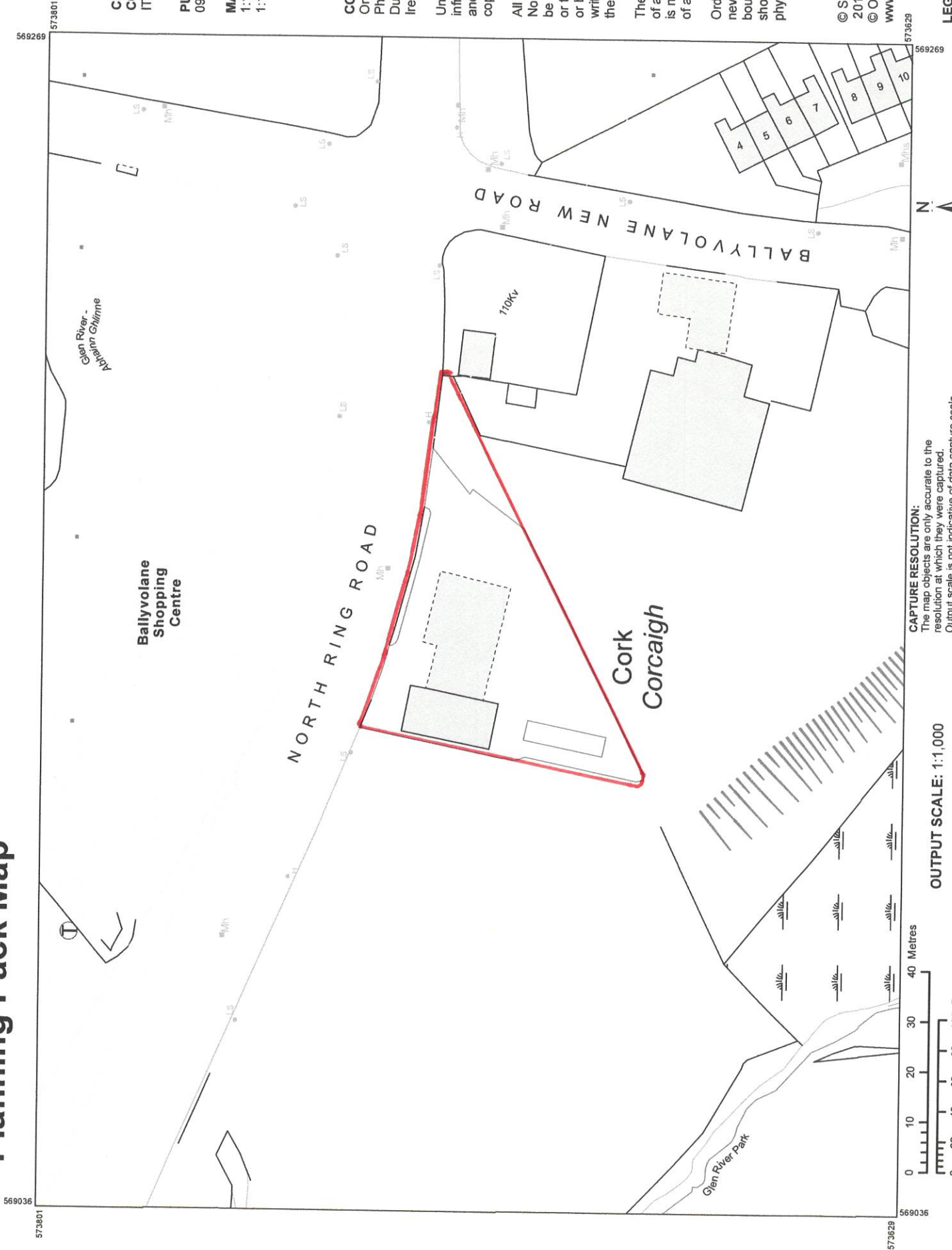
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3. APPLICATION DETAILS

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) N/A
(c) If concerning a change of use of land and / or building(s), please state the following:	
Existing/ previous use (please circle) N/A	Proposed/existing use (please circle) N/A

4. APPLICANT/ CONTACT DETAILS

Name of applicant (principal, not agent):		Petrogas Group Ltd.	
Applicants Address		17 Joyce Way Parkwest, Dublin 12	
Person/Agent acting on behalf of the Applicant (if any):	Name:	Danny Keohane	
	Address:	Keohane Consulting Engineers Stoneview, Blarney, Co. Cork	
	Telephone:	[REDACTED]	
	Fax:	[REDACTED]	
	E-mail address:	[REDACTED]	
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	Leaseholder	
If you are not the legal owner, please state the name and address of the owner if available	[REDACTED]	

6. I / We confirm that the information contained in the application is true and accurate:

Signature: 

Date: 8 MAY 2018

7. ADDITIONAL CONTACT DETAILS

The provision of additional contact information such as email addresses or phone numbers is voluntary and will only be used by the Planning Authority to contact you should it be deemed necessary for the purposes of administering the application.

Contact number	
Email address	

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.

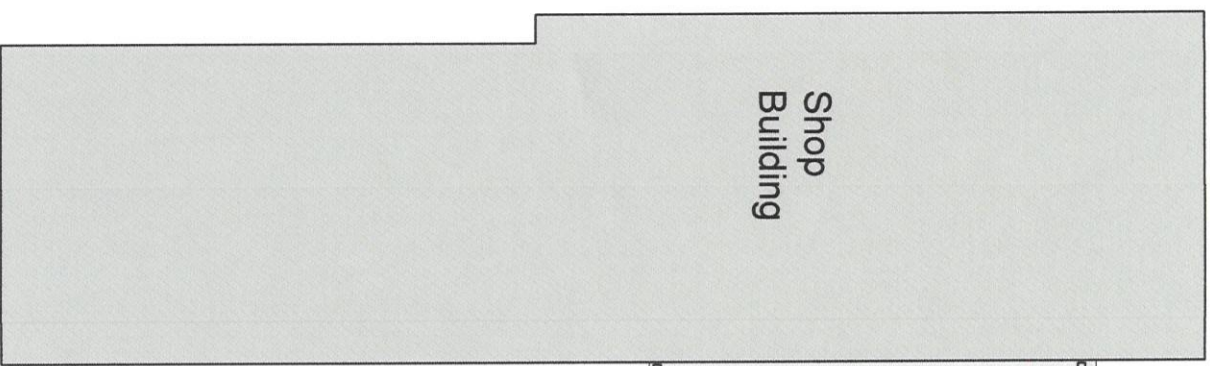
Sufficient information should be submitted to enable the Planning Authority to make a decision. If applicable, any plans submitted should be to scale and based on an accurate survey of the lands/structure in question.

The application should be sent to the following address:

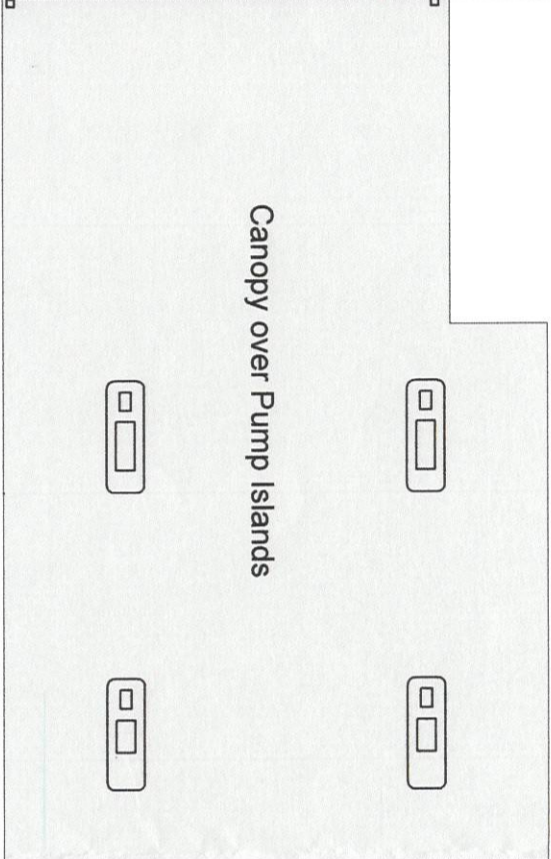
The Development Management Section, Strategic Planning & Economic Development
Directorate, Cork City Council, City Hall, Anglesea Street, Cork.

- 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.

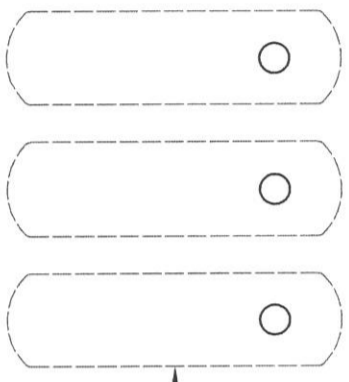
The application form and advisory notes are non-statutory documents prepared by Cork City Council for the purpose of advising as to the type information is normally required to enable the Planning Authority to issue a declaration under Section 5. This document does not purport to be a legal interpretation 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.



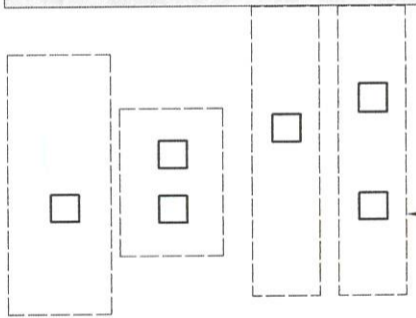
Shop Building



Canopy over Pump Islands



Proposed New 3 No.
40,000 litre Underground
Fuel Tanks



Decommission 4 No. Existing
Underground Fuel Tanks in accordance
with Fire Officer Requirements



ENTRANCE/EXIT

FOOTPATH

ENTRANCE/EXIT

Grassed Area

KERB

Site Boundary Outlined in Red

SITE PLAN

1:125

REVISION	DESCRIPTION	DATE

Drawn by: D. KEOHANE BEE MIEI
 Date: 25 April 2018
 Scale: 1:200 @ A3

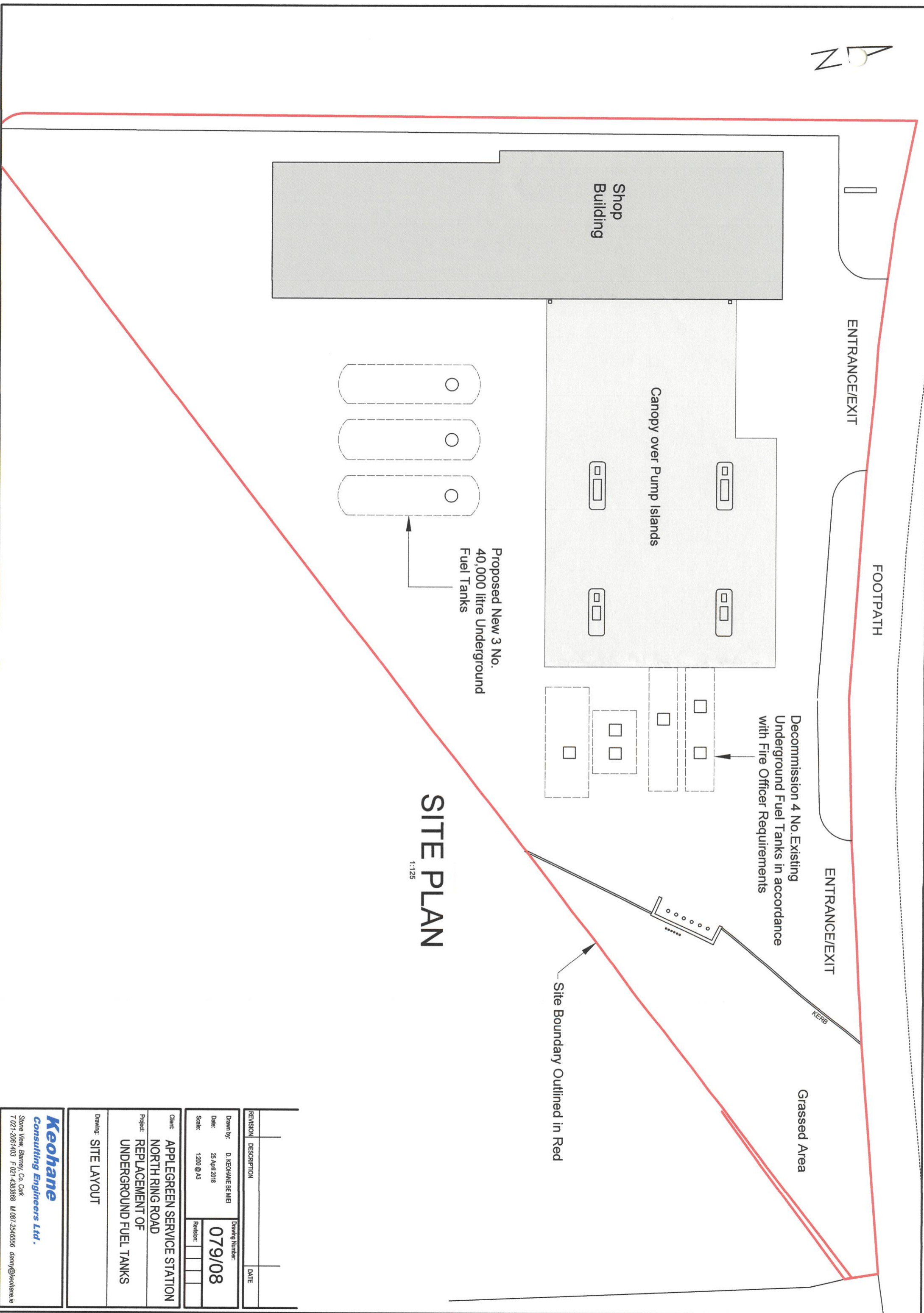
Client: APPLEGREEN SERVICE STATION
 NORTH RING ROAD

Project: REPLACEMENT OF
 UNDERGROUND FUEL TANKS

Drawing: SITE LAYOUT

Drawing Number: **079/08**
 Reviser:

Keohane
 Consulting Engineers Ltd.
 Stone View, Blaney, Co. Cork
 T 021-2061403 F 021-4383888 M 087-2946556 damj@keohane.ie



SITE PLAN

1:125

REVISION	DESCRIPTION	DATE

Drawn by:	D. KEOHANE BE MIEI	Drawing Number:	079/08
Date:	25 April 2018	Revised:	
Scale:	1:200 @ A3		

Client:	APPLEGREEN SERVICE STATION NORTH RING ROAD
Project:	REPLACEMENT OF UNDERGROUND FUEL TANKS
Drawing:	SITE LAYOUT