

# Comhairle Cathrach Chorcaí Cork City Council

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

Suzanne Bailie  
Lafferty Architects  
Dundrum Town Centre  
Sandyford Road  
D16A4W6

22<sup>nd</sup> April 2021

**RE: R644/21 – Section 5 Declaration**  
**Property: Former Nualight Building, Cork Business & Technology Park, Model Farm Road**

Dear Sir/Madam,

With reference to your request for a section 5 Declaration at the above named property, I am advised to request further information

It is noted that a condition attached to the governing permission on site T.P. 90/15600 restricted the use of the structure to a light industrial use as defined in the 1977 Planning and Development Regulations. In order to determine your application please submit full details of the proposed user and the full nature of all processes to be carried out including any end product etc.

Yours faithfully,

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



We are Cork.

## SECTION 5 DECLARATION – PLANNER’S REPORT

<b>File Reference:</b>	R 644/21
<b>Description:</b>	Whether the change of use from industrial/office use to use as a laboratory is or is not development and is or is not exempted development.
<b>Applicant:</b>	Model Stack Co Ownership
<b>Location:</b>	The former Nualight building, IDA Business Park, Model Farm Road, Cork

### 1. PURPOSE OF REPORT

Under Section 5 of the Planning and Development Act, 2000 (as amended), if any question arises as to what, in any particular case, is or is not development and is or is not exempted development within the meaning of the 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.

### 2. SITE LOCATION

The site is located within the IDA Business Park which is located on the Model Farm Road.

### 3. SITE HISTORY

#### *On this site:*

T.P. 90/15600: Permission granted for the erection of an industrial and office premises.

T.P. 05/29696: Permission granted for the construction of a single storey structure for use as a forklift store/garage.

T.P. 20/39304: Permission granted for a change its use from industrial to office, with an additional disabled car parking space, a new roof light and signage.

### 4. RELEVANT PLANNING POLICY/OBJECTIVES

#### *Cork City Development Plan 2015-2021*

#### *5.1 Land-Use Zoning Objective*

The site is situated in an area zoned *ZO 7 Business and Technology* with the objective ‘to provide for high technology related office based industry’ (Ref: Map 8 of Volume 2).

### 5. RELEVANT LEGISLATION

#### *Planning and Development Act, 2000 as amended*

Section 2(1) of the Act Planning and Development Act, 2000 as amended proffers the following interpretations:

*‘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);*

*“unauthorised structure” means a structure other than—*

*(a) a structure which was in existence on 1 October 1964, or*

*(b) a structure, the construction, erection or making of which was the subject of a permission for development granted under Part IV of the Act of 1963 or deemed to be such under section 92 of that Act or under section 34 of this Act, being a permission which has not been revoked, or which exists as a result of the carrying out of exempted development (within the meaning of section 4 of the Act of 1963 or section 4 of this Act);*

*“unauthorised use” means, in relation to land, use commenced on or after 1 October 1964, being a use which is a material change in use of any structure or other land and being development other than—*

*(a) exempted development (within the meaning of section 4 of the Act of 1963 or section 4 of this Act), or*

*(b) development which is the subject of a permission granted under Part IV of the Act of 1963 or under section 34 of this Act, being a permission which has not been revoked, and which is carried out in compliance with that permission or any condition to which that permission is subject;*

*“unauthorised works” means any works on, in, over or under land commenced on or after 1 October 1964, being development other than—*

*(a) exempted development (within the meaning of section 4 of the Act of 1963 or section 4 of this Act), or*

*(b) development which is the subject of a permission granted under Part IV of the Act of 1963 or under section 34 of this Act, being a permission which has not been revoked, and which is carried out in compliance with that permission or any condition to which that permission is subject;*

*“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.*

Article 3 (1) of the Act offers the following meaning of “development”:

*‘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) of the Act relates to ‘exempted development and lists exempted development for the purposes of the Act including (h) *‘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 57 (1) states *‘Notwithstanding section 4(1)(h), the carrying out of works to a protected structure, or a proposed protected structure, shall be exempted development only if those works would not materially affect the character of—*

*(a) the structure, or*

*(b) any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest.’*

***Planning and Development Regulations, 2001 (as amended)***

Class 14 of Part 1 of Schedule 2 relates to exemptions for certain changes of use. None of these are relevant to the question under consideration.

Part 4 of the Second Schedule outlines 'Classes of Use' with Class 2 and 3 relating to office use and 8 to medical services use (though not specifically laboratory):

**CLASS 2 -**

*'Use for the provision of—*

*(a) financial services,*

*(b) professional services (other than health or medical services),*

*(c) any other services (including use as a betting office),*

*where the services are provided principally to visiting members of the public.'*

**CLASS 3 -**

*'Use as an office, other than a use to which class 2 of this Part of this Schedule applies.'*

**CLASS 4:**

*'Use as a light industrial building'.*

**CLASS 8**

*'Use—*

*(a) as a health centre or clinic or for the provision of any medical or health services (but not the use of the house of a consultant or practitioner, or any building attached to the house or within the curtilage thereof, for that purpose),*

*(b) as a crèche,*

*(c) as a daynursery,*

*(d) as a day centre.'*

Article 6(1) of the Regulations states as follows:-

*"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) of the Regulations sets out circumstances in which development to which Article 6 relates shall not be exempted development, (a) if the carrying out of such development would:-

*(i) "Contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act"...*

Article 10 (1) of the regulations relates to 'Changes of use' and states as follows:

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.

## 6. PLANNING ASSESSMENT & RECOMMENDATION

Article 3 (1) of the Act offers the following meaning of "development":

*'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.'* It is clear that a change of use is proposed between two differing use classes – from Class 8 to either Class 2 or 3 (not defined in the application). The change of use is considered therefore to be a material change of use and 'development'.

It is not clear as to whether the development would be implemented under 20/39304 in compliance with all conditions attached to same or whether the question being asked ignores 20/39304 and is seeking to see whether the change of use is exempt from the existing structure (i.e. with no compliance with the conditions of 20/39304. As the question posed relates to a proposed change of use from industrial and office use to laboratory and office use it is assumed the most recent (unenacted) permission is excluded. General arrangement layout drawings are included in the application. This also implies that the 20/39304 permission would not be implemented and that the question seeks to establish whether a change from the 1990 permitted use would require planning permission.

A condition of T.P. 90/15600 restricts the uses on site to light industrial as defined in the 1977 Planning and Development Regulations. The definition given in the Regulations is as follows:

*'an industrial building (not being a special industrial building) in which the processes carried on or the machinery installed are such as could be carried on or installed in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit'.*

'special industrial building' means an industrial building used for one or more of the purposes specified in classes 5, 6, 7 and 8 in Part IV of the Third Schedule – see below:

CLASS 5—Use for any work which is registrable under the Alkali, etc. Works Regulation Act, 1906 except a process ancillary to the getting, dressing or treatment of minerals, carried on in or adjacent to a quarry or mine; use for any of the following processes, except as aforesaid, so far as not registrable under the above Act:—

(a) smelting, calcining, sintering or reduction of ores, minerals, concentrates or matter,

(b) converting, reheating, annealing, hardening, melting, carburising, forging or casting of iron or other metals or alloys,

- (c) recovering of metal from scrap or drosses or ashes,
- (d) galvanising,
- (e) pickling or treatment of metal in acid,
- (f) chromium plating.

CLASS 6—Use for any of the following processes so far as not included in class 5 of this Part of this Schedule and except a process ancillary to the getting, dressing or treatment of minerals, carried on in or adjacent to a quarry or mine—

- (a) burning of building bricks,
- (b) lime burning,
- (c) production of calcium carbide or zinc oxide,
- (d) foaming, crushing or screening of stone or slag.

CLASS 7—Use for any of the following purposes so far as not included in class 5 of this Part of this Schedule—

- (a) the production or employment of cyanogen or its compounds,
- (b) the manufacture of glass, where the sodium sulphate used exceeds 1.5 per cent of the total weight of the melt,
- (c) the production of zinc chloride.

CLASS 8—Use for any of the following purposes so far as not included in class 5 of this Part of this Schedule—

The distilling, refining or blending of oils, the production or employment of cellulose lacquers (except their employment in garages in connection with minor repairs), hot pitch or bitumen or pyridine; the stoving of enamelled ware; the production of amyl acetate, aromatic esters, butyric acid, caramel, hexamine, iodoform, B-naphthol, resin products (except synthetic resins, plastic moulding or extrusion compositions and plastic sheets, rods, tubes, filaments, fibres or optical components produced by casting, calendering, moulding, shaping or extrusion), salicylic acid or sulphonated organic compounds; paint and varnish manufacture (excluding mixing, milling and grinding); the production of rubber from scrap; or the manufacture of acetylene from calcium carbide for sale or for use in a further chemical process.

"industrial process" means any process which is carried on in the course of trade or business other than agriculture and which is for or incidental to the making of any article or part of an article, or the altering, repairing, ornamenting, finishing, cleaning, washing, packing or canning, or adapting for sale, or breaking up or demolition of any article, including in particular the getting, dressing or treatment of minerals;

"article" means an article or substance of any description, including a vehicle, aircraft, ship or vessel;

I note the following definitions under the current Regulations:

"light industrial building" means an industrial building in which the processes carried on or the plant or machinery installed are such as could be carried on or installed in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit;

"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 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;

"industrial undertaker" means a person by whom an industrial process is carried on and "industrial undertaking" shall be construed accordingly;

It should be noted that the use classes in the Regulations in 1977 were not exhaustive (and did not include for example medical uses which were later added). Light industrial use was in Class 3 at that time.

It is not clear whether a laboratory use could be described as a light industrial use as defined in the Regulations – the nature of the use and the processes have not been defined in the application and it could for instance have different planning considerations in terms of waste generation and management and in terms of parking requirements given that it would be a likely more labour intensive use. The floor plans show numerous consultant rooms, a cytology room, microtomy room,

molecular room, seminar room in addition to a 'cut up area' all on the ground floor. In addition office space is shown on the first floor – it is marked as warehouse in the existing floorplans – the section A-A and the floor plan indicate this as additional office floorspace which would result in a change of use (an internal stairs is proposed to access same).

It is considered that at this stage Further Information is required as to the exact nature and use of the proposed structure.

**REQUEST FOR FURTHER INFORMAITON**

It is noted that a condition attached to the governing permission on site T.P. 90/15600 restricted the use of the structure to a light industrial use as defined in the 1977 Planning and Development Regulations. In order to determine your application please submit full details of the proposed user and the full nature of all processes to be carried out including any end product etc.

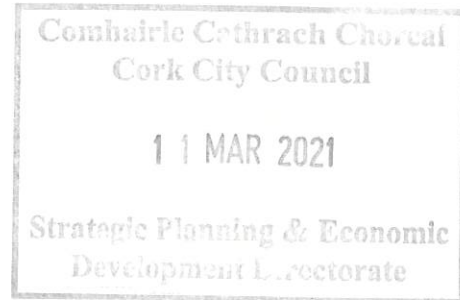


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Dublin 16, Ireland

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02 March 2021

Planning Department  
Cork City Council,  
City Hall,  
Anglesea Street  
Cork T12 T997



**Re: Former Nualight Building**

**At: Cork Business & Technology Park, Model Farm Road**

Dear Sir/ Madam,

On behalf of Model Stack Co-Ownership, we wish to apply for section 5 application for the above-mentioned development.

**Enclosures:**

We enclose 2 nr. sets of the following hardcopy information in support of the application:

Documents

- 1 x Completed and signed Planning Application Form
- 1 x Receipt for Planning Application Fee for the amount of €80.

Drawings

- 1 x P101 - SITE LOCATION PLAN, SCALE 1:1000
- 1 x P102 - SITE LAYOUT PLAN, SCALE 1:500
- 1 x P103 - EXISTING GROUND FLOOR SCALE 1:250
- 1 x P104 - EXISTING FIRST FLOOR, SCALE 1:250
- 1 x P105 - EXISTING ROOF PLAN, SCALE 1:250
- 1 x P106 - PROPOSED GROUND FLOOR, SCALE 1:250
- 1 x P107 - PROPOSED FIRST FLOOR, SCALE 1:250
- 1 x P108 - PROPOSED ROOF PLAN, SCALE 1:250
- 1 x P109 - PROPOSED ELEVATIONS, SCALE 1:200

- 1 x P110 - PROPOSED ELEVATIONS, SCALE 1:200
- 1 x P111 - EXISTING SECTIONS , SCALE 1:200
- 1 x P111 - PROPOSED SECTIONS , SCALE 1:200

We trust that the enclosed is in order and look forward to hearing from you in due course.

Yours sincerely,

*Suzanne Bailie*

Suzanne Bailie

Lafferty

**COMHAIRLE CATHRACH CHORCAÍ  
CORK CITY COUNCIL**

Community, Culture & Placemaking Directorate,  
Cork City Council, City Hall, Anglesea Street, Cork.



R-Post/E-Mail: [planning@corkcity.ie](mailto:planning@corkcity.ie)  
Fón/Tel: 021-4924762  
Líonra/Web: [www.corkcity.ie](http://www.corkcity.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**

Former Nualight building, Cork Business & Technology Park,  
Model Farm Road, 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.*

A Declaration of Exemption is sought in relation to the proposed Change of Use of the former Nualight building FROM industrial and office use TO laboratory and office use as indicatively outlined in the general arrangement drawings enclosed.

**ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:**  
*(Use additional sheets if required).*

3. Are you aware of any enforcement proceedings connected to this site?  
 If so please supply details:

n/a

4. Is this a Protected Structure or within the curtilage of a Protected Structure?  N

If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 been requested or issued for the property by the Planning Authority?

5. Was there previous relevant planning application/s on this site?  Y

If so please supply details:

2039304 & 0529696

**6. 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	2,435sq.m
(b) If a domestic extension, have any previous extensions/structures been erected at this location after 1 <sup>st</sup> 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)	Proposed/existing use (please circle)
Industrial & Office	Laboratory & Office

**8. LEGAL INTEREST**

Please tick appropriate box to show applicant's legal interest in the land or structure	A. Owner <input checked="" type="checkbox"/> x	B. Other <input type="checkbox"/>
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	n/a	

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

Signature: *Suzanne Bailis*

02/03/2021

Date:

*Suzanne Bailis*  
2/3/2021

## CONTACT DETAILS

### 10. Applicant:

<b>Name(s)</b>	Model Stack Co-Ownership
<b>Address</b>	C/o Capstack Limited ----- 39 Fitzwilliam Square ----- Dublin ----- ----- -----

### 11. Person/Agent acting on behalf of the Applicant (if any):

<b>Name(s):</b>	Suzanne Bailie		
<b>Address:</b>	Lafferty Architects, ----- Dundrum Town Centre, ----- Sandyford Road, ----- D16A4W6 -----		
<b>Telephone:</b>	[REDACTED]		
<b>E-mail address:</b>	[REDACTED]		
<b>Should all correspondence be sent to the above address?</b> (Please note that if the answer is 'No', all correspondence will be sent to the Applicant's address)	Yes	<input checked="" type="checkbox"/>	No <input type="checkbox"/>

### 12. 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.

#### 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, Community, Culture & Placemaking 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.

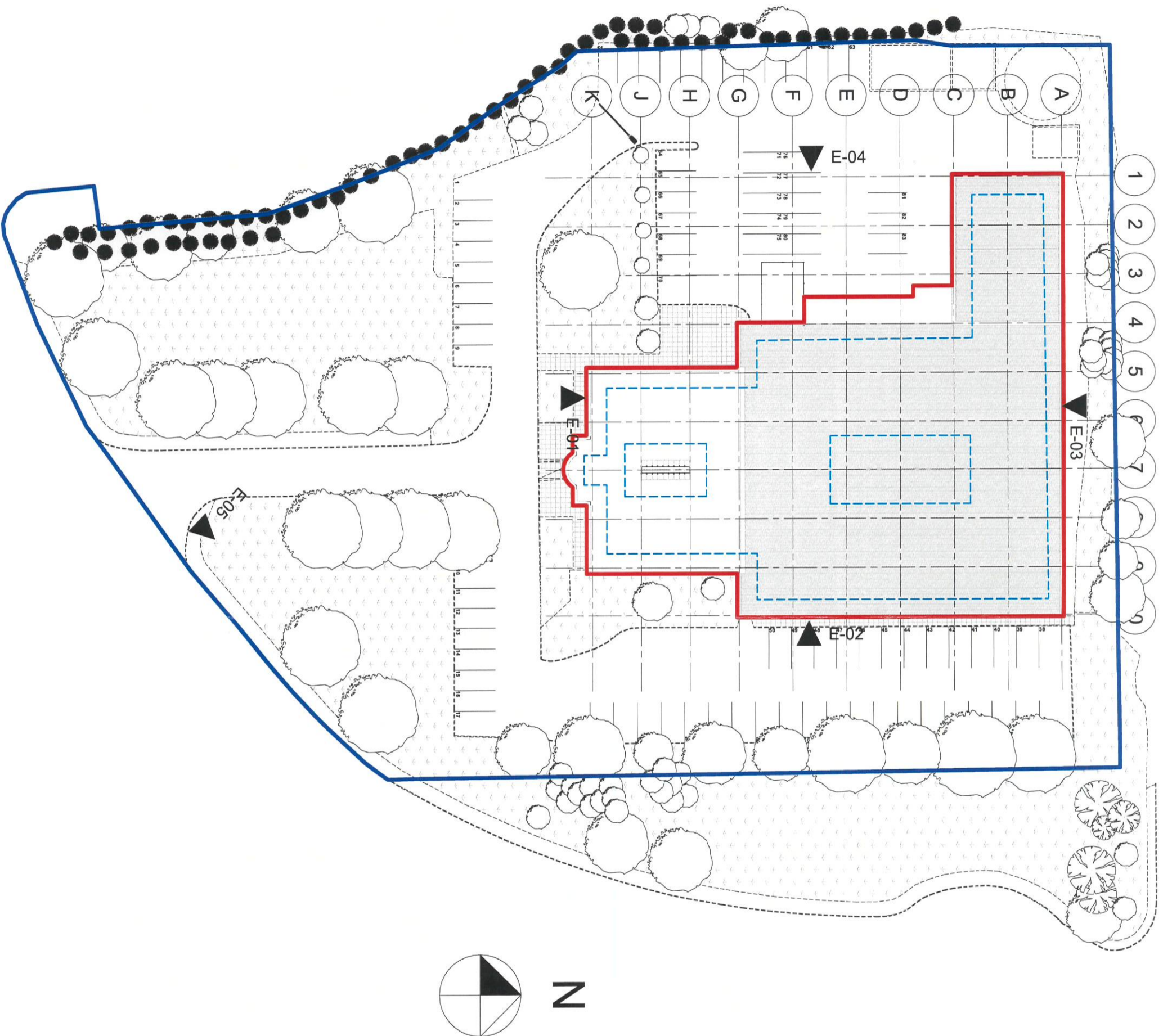
*The application form and advisory notes are non-statutory documents prepared by Cork City Council for the purpose of advising as to the type information is normally required to enable the Planning Authority to issue a declaration under Section 5. This document does not purport to be a legal interpretation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

*"Cork City Council is committed to fulfilling its obligations imposed by the Data Protection Acts 1988 to 2018 and the GDPR. Our privacy statement and data protections policy is available at <https://www.corkcity.ie/en/council-services/public-info/gdpr/>*

*We request that you read these as they contain important information about how we process personal data.*



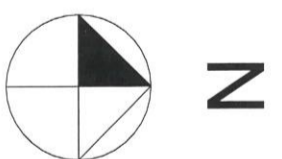


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2. Work to figured dimensions only. Do not scale the drawing.
3. The contractor is responsible for checking all dimensions and levels on site and shall refer all discrepancies to the Project Architect.
4. Drawings to be read in conjunction with all relevant engineers drawings. Mechanical and electrical, any structural or services information shown on this drawing is indicative only.
5. The contractor shall be responsible for the coordination of all structure, services and finishes.
6. Proprietary items shall be fixed in strict accordance with manufacturers instructions.
7. This drawing shall only be used for the work stage as denoted and no subsequent stage.

**LEGEND:**

- CURRENT SITE BOUNDARY THE SUBJECT OF THIS APPLICATION
- LANDS IN THE OWNERSHIP OF THE APPLICANT

Committee of Cork City Council  
 Cork City Council  
 11 MAR 2021  
 Strategic Planning & Economic  
 Development & Infrastructure



Rev	Date	Description	Issued By	Checked By

**LAFFERTY**  
 ARCHITECTS  
 Design Team Centre  
 Sandford Road  
 Dundrum, Dublin 16  
 T: +353 (0)1 286 8660  
 E: info@lafferty.ie

**SECTION 5 APPLICATION**

Client	Model Stack Co-Ownership	
Project	Nuallight HSE Fit-out	
Drawing	Site Layout	
Issue No.	Issue	Revision
20075	1:500	
NL - LAF - XX - ZZ - DR - A - P102		















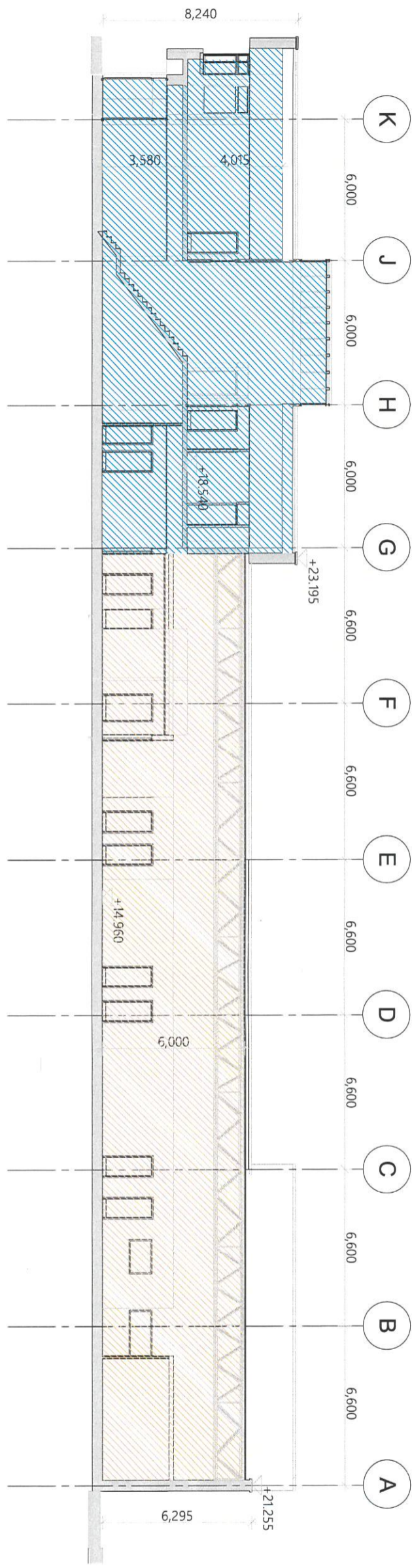










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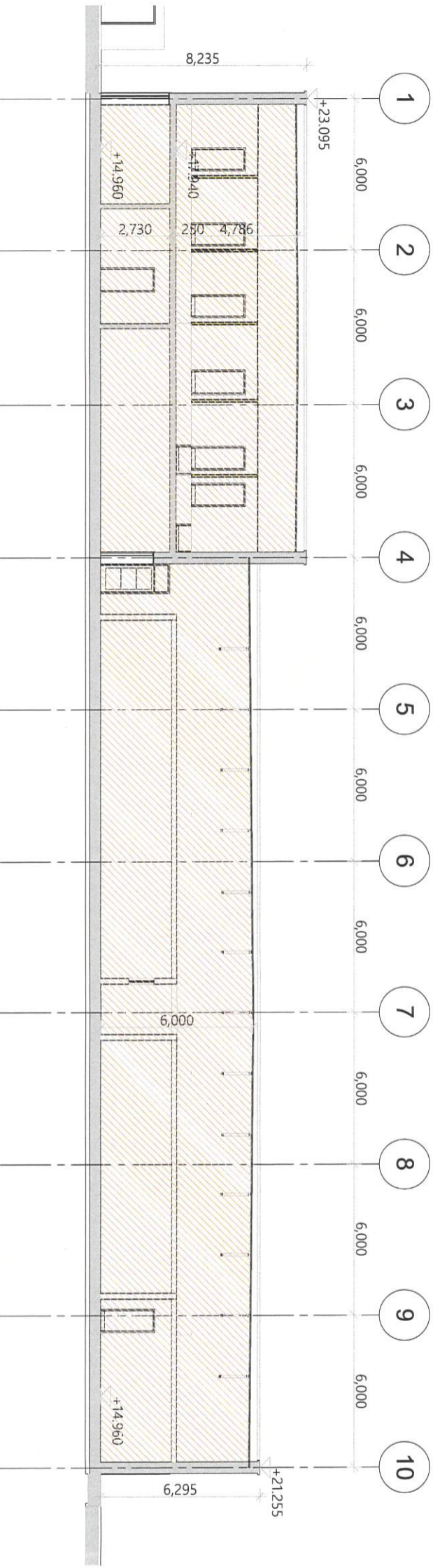


## Section B-B

SCALE:1:200

Indicative layout for reference only

-  Administrative office accommodation to support proposed laboratory use
-  Proposed Laboratory use in former industrial production area



## Section A-A

SCALE:1:200

Rev	Date	Description	Issued By	Checked By

**LAFFERTY** ARCHITECTS  
 Dundrum Town Centre  
 Sandycove Road  
 Dundrum, Dublin 16  
 T: +353 (0)1 296 3600  
 E: info@lafferty.ie

### SECTION 5 APPLICATION

Client: Model Stack Co-Ownership  
 Project: Nualight HSE Fit-out

Drawing	Scale @ A3	Status	Revision
Proposed Section	1:200		
Job No	20075		
Drawn	NL - LAF - XX - ZZ - DR - A - P112		