

Comhairle Cathrach Chorcaí Cork City Council

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

Apple Operations International Ltd.,
c/o Harry Walsh, HW Planning,
5 Joyce House,
Barrack Square,
Ballincollig,
Cork P31 KP84

26/09/2023

RE: Section 5 Declaration R796/23 Lands of Kilmore Heights,
Hollyhill, Cork

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 31st July 2023, and the further information received 06th September 2023, I wish to advise as follows:

In view of the above and the previous report on file dated 03/08/2023, and having regard to:

- Sections 2, 3 and 4 of the *Planning and Development Act 2000* (as amended), and
- Articles 6 and 9, and Classes 16 and 17 as set out in Schedule 2, Part 1 of the *Planning and Development Regulations 2001* (as amended),

The Planning Authority considers that –

the erection of a temporary site compound and associated material storage area to facilitate the construction of the permitted development for a four storey over partial lower ground floor level office building, commuter hub, security huts, surface car park and all ancillary site development works (Cork City Council Reg. Ref. 22/41-121), at lands identified as being off Kilmore Heights, Hollyhill, Cork IS DEVELOPMENT and IS EXEMPTED DEVELOPMENT.



We are Cork.

Under Section 5(3)(a) of the Planning and Development Act, 2000, you may, on payment of the appropriate fee, refer this declaration for review by An Bord Pleanála within 4 weeks of the date it is issued, 26th September 2023.

Is mise le meas,



Kate Magner
Development Management Section
Community, Culture and Placemaking Directorate
Cork City Council

PLANNER'S REPORT		Cork City Council Culture, Community and Placemaking
Ref. R796/23		
Application type	Section 5 Declaration	
Description	<i>Whether the erection of a temporary site compound and associated material storage area to facilitate the construction of the permitted development for a four storey over partial lower ground floor level office building, commuter hub, security huts, surface car park and all ancillary site development works (Cork City Council Reg. Ref. 22/41121), is or is not exempted development</i>	
Location	Lands off Kilmore Heights, Hollyhill, Cork (Road more correctly named as David McCarthy Road)	
Applicant	Apple Operations International Limited	
Date	25/09/2023	
Recommendation	Is development and is exempted development	

This report should be read in conjunction with the previous report on the file dated 02/11/2022. The applicant was asked to submit the following further information:

- Article 9 sets out restrictions on Article 6 exemptions, which includes Classes 16 and 17. Of key note in the assessment of this application is Articles 9(a)(ii) which states that the development to which Article 6 relates shall not be exempted development if the development would: consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width.*

The new access shown on the plans provided is outside of the red line boundary associated with permission 22/41121 and will provide access to a the David McCarthy Road which exceeds 4 metres in width. Please clarify under which exemption the access is being provided.

- The question posed to the Planning Authority includes the use of lands for 'material storage'. Does this include the topsoil storage identified on the plans provided as being outside of the construction compound? The Method Statement submitted indicates that this topsoil includes; both soil from the site of the proposed construction compound and topsoil from the car parking area permitted under 22/41121.*

Please clarify the nature and extent of the 'material storage' proposed. If this includes topsoil relating to permission 22/41121 please clarify; under what exempted development provision this is being stored and what will happen to the soil upon completion of construction.

The Response to Further Information consists of a letter, from HW Planning. No revised plans or reports have been submitted. The following is an assessment of the information provided in the response.

Item 1 – Access to Public Road

The FI response states:

No new access to the Dave McCarthy Road is proposed and the development, which is the subject of this Section 5 Declaration Request, does not consist of or comprise the formation, layout out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width.

However the response goes on to state:

Access will be via an existing temporary entrance and access from the Dave McCarthy Road constructed in accordance with the Construction Traffic Management Plan submitted to and agreed with the Planning Authority in compliance with Condition 10 of the Planning Application Reg. Ref. 22/41121. Furthermore the Planning Authority will note that the Dave McCarthy Road has been temporarily closed to facilitate the construction of the underpass and covered pedestrian pathway ...

In summary the proposed development does not consist of or comprise the formation, layout out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width and therefore, we do not consider that the restriction on exempted development as specified by Articles 9(a)(ii) applies.

I note that a review of historic aerial photography indicates that, while there was once an entrance into the northern field in this location, it was abandoned upon construction of the Dave McCarty Road. There is therefore no existing entrance through which access can be obtained. While access may have been agreed in principle under the *Construction Traffic Management Plan* it is outside of the redline boundary of application 22/41121.

I consider that the rationale set out, purporting that there is both no access and that there is an access, but is it exempt, is flawed. I do however note that the road, while shown on the plans submitted, did not form part of the question posed in the Section 5 Application. As such it is considered outside of the scope of this assessment.

Item 2 – Material Storage

The FI response clarifies that, in the opinion of the applicant, the placement of top spoil on the site is 'works' and once formed the topsoil mounds become structures. It states that as structures the topsoil mounds are exempted development in accordance with Class 16. This interpretation is considered to be flawed and I do not accept that the mounds can be defined as structures.

The applicant has clarified that the soil will be used for landscaping within the permitted car park and the reinstatement of the temporary construction compound upon completion of works. On balance it is considered that this part of the 'material storage' included in the question posed in this Section 5 Application, though not explicitly listed in the exemptions set out in Class 16 or 17, is a normal part of the development process and can, on balance, be considered to form part of the construction compound.

Conclusion

On balance it is considered that the *erection of a temporary site compound and associated material storage area to facilitate the construction of the permitted development for a four storey over partial lower ground floor level office building, commuter hub, security huts, surface car park and all ancillary site development works (Cork City Council Reg. Ref. 22/41121)*, is development and is exempted development in accordance with Article 6 and Classes 16 and 17 of the *Planning and Development Regulations 2001* (as amended) as empowered by section 4 of the *Planning and Development Act 2000* (as amended).

In coming to this conclusion I note that a screening exercise for Environmental Impact Assessment and Appropriate Assessment has been undertaken. The details are set out in the previous Planner's Report on the file dated 29/08/2023.

Recommendation

In view of the above and having regard to —

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

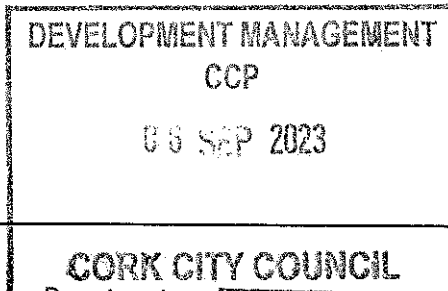
- Articles 6 and 9, and Classes 16 and 17 as set out in Schedule 2, Part 1, of the *Planning and Development Regulations 2001* (as amended),

It is considered that *the erection of a temporary site compound and associated material storage area to facilitate the construction of the permitted development for a four storey over partial lower ground floor level office building, commuter hub, security huts, surface car park and all ancillary site development works (Cork City Council Reg. Ref. 22/41121), at lands identified as being off Kilmore Heights, Hollyhill, Cork*

Is Development and Is Exempted Development.

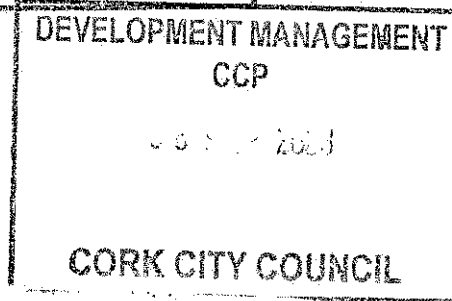


Martina Foley
A/Senior Executive Planner



Connecting people.
Connecting places.

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



6 September 2023

HW Planning
5 Joyce House,
Barrack Square,
Ballincollig,
Cork
P31 KP84

www.hwplanning.ie
info@hwplanning.ie
+353 (0)21 487 3250

Re: Request for Declaration under Section 5 of the Planning and Development Act 2000 on whether the construction of a temporary site compound and associated material storage area on lands off Kilmore Heights, Hollyhill, Cork, is or is not exempted development.

Directors:
Harold Walsh
Conor Frehill

Company Reg. No.
486211

Accreditations
ISO 9001:2015
ISO 14001:2015
ISO 45001:2018

Dear Sir/Madam,

We act on behalf of Apple Operations International Limited, who wish to respond to a Request of Further Information issued by Cork City Council on the 28th of August 2023 regarding the submitted Section 5 Declaration request.

In the interest of clarity, we have responded to the items raised in the Section 5 RFI below and in the order in which they appear in the letter dated 28th of August 2023.

1. *"Article 9 sets out restrictions on Article 6 exemptions, which includes Classes 16 and 17. Of key note in the assessment of this application is Articles 9(a)(ii) which states that the development to which Article 6 relates shall not be exempted development if the development would: consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width.*

The new access shown on the plans provided is outside of the red line boundary associated with permission 22/41121 and will provide access to the David McCarthy Road which exceeds 4 metres in width. Please clarify under which exemption the access is being provided."

The comments of the Planning Authority are noted, and the applicants acknowledge and are aware of the restrictions on exempted development outlined by Article 9 of the Planning and Development Regulations, 2001 (As amended) and Article 9(a)(ii) in particular. No new access to the Dave McCarthy Road is proposed and the development, which is the subject of this Section 5 Declaration Request, does not consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width.

Access will be via an existing temporary entrance and access from the Dave McCarthy Road constructed in accordance with the Construction Traffic Management Plan submitted to and agreed with the Planning Authority in compliance with Condition 10 of Planning Application Reg. Ref: 22/41121. Furthermore, the Planning Authority will note that the Dave McCarthy Road has been temporarily closed to facilitate the construction of the underpass and covered pedestrian pathway linking the proposed new car park to the north of the David McCarthy Road with the main Apple campus to the south and therefore is not at present functioning as a public road.

In summary the proposed development does not consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width and therefore, we do not consider that the restriction on exempted development as specified by Articles 9(a)(ii) applies.

2. *"The question posed to the Planning Authority includes the use of lands for 'material storage'. Does this include the topsoil storage identified on the plans provided as being outside of the construction compound? The Method Statement submitted indicates that this topsoil includes; both soil from the site of the proposed construction compound and topsoil from the car parking area permitted under 22/41121.*

Please clarify the nature and extent of the 'material storage' proposed. If this includes topsoil relating to permission 22/41121 please clarify; under what exempted development provision this is being stored and what will happen to the soil upon completion of construction."

The Planning Authority will note that Schedule 2, Part 1, Class 16 defines the carrying out of temporary works or the temporary placing of structures on lands adjoining lands which development is being carried out pursuant to a permission as exempted development, for the period during which construction is being carried out.

Description of Development	Conditions and Limitations
<p><i>Temporary structures and uses:</i></p> <p>CLASS 16</p> <p>The erection, construction or placing on land (a) in, over or under which, or on land adjoining which, development consisting of works (other than mining) is being or is about to be carried out pursuant to a permission under the Act or as exempted development, of structures, works, plant or machinery needed temporarily in connection with that development during the period in which it is being carried out.</p>	<p>Such structures, works, plant or machinery shall be removed at the expiration of the period and the land shall be reinstated save to such extent as may be authorised or required by a permission under the Act.</p>

The material storage referred to in the question posed to the Planning Authority relates to topsoil stripped from the site compound and that relating to permission 22/41121. The works required to strip the soil and place the topsoil within the defined area constitute 'works' in accordance with Schedule 2, Part 1, Class 16 of the Planning and Development Regulations 2001 (as amended). Once formed the topsoil mounds would be structures which are also defined as exempted development by Class 16.

A structure is defined by Planning and Development Act 2000 (as amended), as follows:

"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);

Upon completion of construction, the temporary site compound will be reinstated using the topsoil stripped from the site to make way for the site compound, and grass re-laid. The topsoil associated with Planning Permission Reg. Ref: 22/41121 will be re-used as part of the overall landscape works.

Conclusion

We consider that this submission provides a comprehensive response to the issues raised in the Request for Further Information dated 28th of August 2023.

Please do not hesitate to contact us if you have any queries.

Yours Sincerely



Harry Walsh
HW Planning



Comhairle Cathrach Chorcaí Cork City Council

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

Apple Operations International Ltd.,
c/o Harry Walsh, HW Planning,
5 Joyce House,
Barrack Square,
Ballincollig,
Cork P31 KP84

28/08/2023

**RE: Section 5 Declaration R796/23 Lands of Kilmore Heights,
Hollyhill, Cork**

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 31st July 2023, I wish to advise under the provisions of section 5(2)(b) of the Planning and Development Act 2000, as amended, that further information is required in order to properly assess this application.

1. Article 9 sets out restrictions on Article 6 exemptions, which includes Classes 16 and 17. Of key note in the assessment of this application is Articles 9(a)(ii) which states that the development to which Article 6 relates shall not be exempted development if the development would: *consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width.*

The new access shown on the plans provided is outside of the red line boundary associated with permission 22/41121 and will provide access to the David McCarthy Road which exceeds 4 metres in width. Please clarify under which exemption the access is being provided.

2. The question posed to the Planning Authority includes the use of lands for 'material storage'. Does this include the topsoil storage identified on the plans provided as being



We are Cork.

outside of the construction compound? The Method Statement submitted indicates that this topsoil includes; both soil from the site of the proposed construction compound and topsoil from the car parking area permitted under 22/41121.

Please clarify the nature and extent of the 'material storage' proposed. If this includes topsoil relating to permission 22/41121 please clarify; under what exempted development provision this is being stored and what will happen to the soil upon completion of construction.

Is mise le meas,



Kate Magner
Development Management Section
Community, Culture and Placemaking Directorate
Cork City Council

PLANNER'S REPORT		Cork City Council Culture, Community and Placemaking
Ref. R796/23		
Application type	Section 5 Declaration	
Description	<i>Whether the erection of a temporary site compound and associated material storage area to facilitate the construction of the permitted development for a four storey over partial lower ground floor level office building, commuter hub, security huts, surface car park and all ancillary site development works (Cork City Council Reg. Ref. 22/41121), is or is not exempted development</i>	
Location	Lands off Kilmore Heights, Hollyhill, Cork (Road more correctly named as David McCarthy Road)	
Applicant	Apple Operations International Limited	
Date	29/08/2023	
Recommendation	<i>Further information requested</i>	

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

1. Requirements for a Section 5 Declaration

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

5.—(1) If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.

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

2. The Question before the Planning Authority

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

Whether the erection of a temporary site compound and associated material storage area to facilitate the construction of the permitted development for a four storey over partial lower ground floor level office building, commuter hub, security huts, surface car park and all ancillary site development works (Cork City Council Reg. Ref. 22/41121), is or is not exempted development

3. Site Description

The subject site is located in Hollyhill on the north western edge of the built up area of Cork City. The site consists of a greenfield site to the north east of the David McCarthy Road. It slopes downward from the road with the lowest part of the site being on its northern boundary. The River Bride is located in a valley further to the north.

There are established hedgerows on what appear to be the boundaries of the site. I note that the Site Location Map provided (Drawing Number ACE-STW-ZZ-ZZ-DR-A-10202) identifies a red-line boundary, stated on the legend to be the *Outline of Site – Section 5* with a site area of 0.96 ha. The drawing however also shows the storage of materials to the north of this area – labelled *Main Contractor Topsoil Storage Area*. It is unclear therefore where the actual site boundaries are located.

4. Planning History

There is no planning history associated with the subject lands.

Lands adjoining the subject site to the east, north and south are associated with a grant of planning permission ref. no. 22/41121. Permission was granted, by Cork City Council, on 8 August 2022, for:

Permission for the construction of a four storey over partial lower ground floor level office building providing office space, meeting rooms, staff welfare, service areas and all ancillary site development works. The proposed office building will be constructed within the existing carpark and will connect to an existing office building known as ‘HH4’ to the southeast by way of a cantilevered link corridor at first floor level resulting in façade amendments and internal reconfigurations to the existing ‘HH4’ building. A central pedestrian avenue will also be provided between the existing and proposed building. The proposed development includes a single storey commute hub building providing bicycle/scooter parking, storage and staff facilities serving the wider Apple campus, a single storey energy centre building and 2 no. single storey security huts. A new surface car park on lands to the north of the David McCarthy Road is proposed to accommodate the relocation of the displaced car parking spaces resultant from the construction of the proposed office building and provision of additional car parking spaces, in addition to the reconfiguration of the existing car park to the south of the David McCarthy Road. The proposed carpark to the north of the David McCarthy Road will be linked with the main campus via a pedestrian underpass under David McCarthy Road and a covered pedestrian pathway. 2 no. new vehicular accesses are proposed off the David McCarthy Road. Ancillary site development works include hard and soft landscaping, boundary treatments, lighting, public realm upgrades, signage, plant and photovoltaic panels and all other site development works above and below ground.

5. Legislative Provisions

5.1 *The Act*

Interpretation – section 2 (1)

“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

Development – section 3

(1) In this Act, “development” means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land’

Exempted Development – section 4

(2) (a) The Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act

Screening for appropriate assessment – 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.

Part X – Environmental Impact Assessment

Section 172 (Requirement for Environmental Impact Assessment)

(1) An environmental impact assessment shall be carried out by the planning authority or the Board, as the case may be, in respect of an application for consent for proposed development where either—

- (a) the proposed development would be of a class specified in—
- (i) Part 1 of Schedule 5 of the Planning and Development Regulations 2001, and either—
 - (I) such development would equal or exceed, as the case may be, any relevant quantity, area or other limit specified in that Part, or
 - (II) no quantity, area or other limit is specified in that Part in respect of the development concerned, or
 - (ii) Part 2 (other than subparagraph (a) of paragraph 2) of Schedule 5 of the Planning and Development Regulations 2001 and either—
 - (I) such development would equal or exceed, as the case may be, any relevant quantity, area or other limit specified in that Part, or
 - (II) no quantity, area or other limit is specified in that Part in respect of the development concerned, or
- (b) (i) the proposed development would be of a class specified in Part 2 of Schedule 5 of the Planning and Development Regulations 2001 but does not equal or exceed, as the case may be, the relevant quantity, area or other limit specified in that Part, and
- (ii) it is concluded, determined or decided, as the case may be,—
 - (I) by a planning authority, in exercise of the powers conferred on it by this Act or the Planning and Development Regulations 2001 (S.I. No. 600 of 2001),
 - (II) by the Board, in exercise of the powers conferred on it by this Act or those regulations,
 - (III) by a local authority in exercise of the powers conferred on it by regulation 120 of those regulations,
 - (IV) by a State authority, in exercise of the powers conferred on it by regulation 123A of those regulations,
 - (V) in accordance with section 13A of the Foreshore Act, by the appropriate Minister (within the meaning of that Act), or
 - (VI) by the Minister for Communications, Climate Action and Environment, in exercise of the powers conferred on him or her by section 8A of the Minerals Development Act 1940, that the proposed development is likely to have a significant effect on the environment.

Prescribed classes of development requiring assessment – section 176

- (1) —The Minister shall, for the purpose of giving effect to the Environmental Impact Assessment Directive, make regulations—
- (a) identifying development which may have significant effects on the environment, and
 - (b) specifying the manner in which the likelihood that such development would have significant effects on the environment is to be determined.

5.2 The Regulations

Exempted Development – 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.
- (2)(a) Subject to article 9, development consisting of the use of a structure or other land for the exhibition of advertisements of a class specified in column 1 of Part 2 of Schedule 2 shall be exempted development for the purposes of the Act, provided that—
- (i) such development complies with the conditions and limitations specified in column 2 of the said Part 2 opposite the mention of that class in the said column 1, and

Restrictions on Exemption – 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—

- (i) contravene a condition attached to a permission under the Act or be inconsistent with a use specified in a permission under the Act,
- (ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,
- (iii) endanger public safety by reason of traffic hazard or obstruction of road users,
- (iiia) endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft,
- (iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which 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, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,
- (v) consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies,
- (vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,
- (vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,
- (viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12 (1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,
- (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,
- (viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.
- (viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,
- (ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

(x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,
 (xi) obstruct any public right of way,
 (xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area,

(b) in an area to which a special amenity area order relates, if such development would be development:—

(c) if it is development to which Part 10 applies, unless the development is required by or under any statutory provision (other than the Act or these Regulations) to comply with procedures for the purpose of giving effect to the Council Directive,

(d) if it consists of the provision of, or modifications to, an establishment, and could have significant repercussions on major accident hazards.

Prescribed development – Article 93

~~The prescribed classes of development for the purposes of section 176 of the Act are set out in Schedule 5.~~

Schedule 2, Part 1, Exempted Development – General

<p style="text-align: center;">Column 1 Description of Development</p>	<p style="text-align: center;">Column 2 Conditions and Limitations</p>
<p>Class 16 The erection, construction or placing on land on, in, over or under which, or on land adjoining which, development consisting of works (other than mining) is being or is about to be, carried out pursuant to a permission under the Act or as exempted development, of structures, works, plant or machinery needed temporarily in connection with that development during the period in which it is being carried out.</p>	<p>Such structures, works, plant or machinery shall be removed at the expiration of the period and the land shall be reinstated save to such extent as may be authorised or required by a permission under the Act.</p>
<p>Class 17 The erection, construction or placing on land on, in, over or under which, or on land adjoining which, development (other than mining) is being, or is about to be, carried out, pursuant to any permission, consent, approval or confirmation granted under the Act or any other enactment or as exempted development, of temporary on-site accommodation for persons employed, or otherwise engaged, in connection with the carrying out of the development, during the period in which it is being carried out.</p>	<p>Such accommodation shall be removed at the expiration of the period and the land shall be reinstated save to such extent as may be authorised or required by the permission, consent, approval or confirmation granted under the Act or any other enactment.</p>

Schedule 5 – Development for the Purposes of Part 10

Part 2, 10. Infrastructure Projects

- (a) *Industrial estate development projects, where the area would exceed 15 hectares.*
- (b) (i) *Construction of more than 500 dwelling units.*
- (ii) *Construction of a car-park providing more than 400 spaces, other than a car-park provided as part of, and incidental to the primary purpose of, a development.*
- (iii) *Construction of a shopping centre with a gross floor space exceeding 10,000 square metres.*
- (iv) *Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere. (In this paragraph, "business district" means a district within a city or town in which the predominant land use is retail or commercial use.)*

Part 2, 13. Changes, extensions, development and testing

- (a) *Any change or extension of development already authorised, executed or in the process of being executed (not being a change or extension referred to in Part 1) which would:-*
 - (i) *result in the development being of a class listed in Part 1 or paragraphs 1 to 12 of Part 2 of this Schedule, and*
 - (ii) *result in an increase in size greater than –*
 - 25 per cent, or
 - an amount equal to 50 per cent of the appropriate threshold, whichever is the greater.
- (b) *Projects in Part 1 undertaken exclusively or mainly for the development and testing of new methods or products and not used for more than 2 years.*
(In this paragraph, an increase in size is calculated in terms of the unit of measure of the appropriate threshold.)
- (c) *Any change or extension of development being of a class listed in Part 1 or paragraphs 1 to 12 of Part 2 of this Schedule, which would result in the demolition of structures, the demolition of which had not previously been authorised, and where such demolition would be likely to have significant effects on the environment, having regard to the criteria set out under Schedule 7.*

6. ASSESSMENT

It should be stated at the outset that the purpose of this report is not to determine the acceptability or otherwise of the proposal at this location in respect to the proper planning and sustainable development of the area, but rather whether or not the matter in question constitutes development, and if so falls within the scope of exempted development.

6.1 Development

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

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

'Works' is defined in section 2(1) of the Act as *'the carrying out of any works on, in, over, or under land' including 'any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal, and in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.'*

I consider that the proposed temporary use of lands as a construction compound with associated material storage constitutes development as it comprises of works and a change of use.

6.2 Exempted development

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

The application describes the proposed development as:

temporary use of lands as a construction compound with associated material storage

There are two elements in this description – a construction compound and material storage. In addition I note, from a review of the plans, that the construction compound includes multiple temporary structures, such as canteen, offices, welfare pods etc. associated with the proposed use. Additionally, outside of the red line boundary on the plans and outside of the red line boundary associated with planning permission 22/41121, new vehicular and pedestrian access is proposed onto the David McCarthy Road and a topsoil storage is identified to the north of the compound.

The applicant has indicated that the proposed development is exempt as it accords with Classes 16 and 17 as set out in Schedule 2, Part 1 of the *Planning and Development Regulations 2001* (as amended). Schedule 2 classes are exempted by Article 6. The following is a review of the proposal against the conditions / limitations set out in Classes 16 and 17.

<p>Class 16 <i>The erection, construction or placing on land on, in, over or under which, or on land adjoining which, development consisting of works (other than mining) is being or is about to be, carried out pursuant to a permission under the Act or as exempted development, of structures, works, plant or machinery needed temporarily in connection with that development during the period in which it is being carried out.</i></p>	<p><i>Such structures, works, plant or machinery shall be removed at the expiration of the period and the land shall be reinstated save to such extent as may be authorised or required by a permission under the Act.</i></p>	<p>The application has indicated that the construction compound is temporary and details regarding the proposed reinstatement of the lands.</p> <p>This limitation is met.</p>
<p>Class 17 <i>The erection, construction or placing on land on, in, over or under which, or on land adjoining which, development (other than mining) is being, or is about to be carried out, pursuant to any permission, consent, approval or confirmation granted under the Act or any other enactment or as exempted development, of temporary on-site accommodation for persons employed, or otherwise engaged, in connection with the carrying out of the development,</i></p>	<p><i>Such accommodation shall be removed at the expiration of the period and the land shall be reinstated save to such extent as may be authorised or required by the permission, consent, approval or confirmation granted under the Act or any other enactment.</i></p>	<p>The application has indicated that the construction compound, and the structures to be erected thereon are temporary and details regarding the proposed reinstatement of the lands.</p> <p>This limitation is met.</p>

<i>during the period in which it is being carried out.</i>		
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Article 9 sets out further restrictions on Article 6 exemptions. Of key note in the assessment of this application is Articles 9(a)(ii) which states that the development to which Article 6 relates shall not be exempted development if the development would: *consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width.*

The David McCarthy Road is over 4 metres in width. This element of the development is not mentioned in the question posed by the applicant. It is outside of the red line of the development permitted under 22/41121. I can not find any exemption under which the access can be constructed. Accordingly, it is considered appropriate to request that the applicant clarify this aspect of their application, under which exemption the access is being provided and give them an opportunity to revise this aspect of the plans, if no such exemption exists.

Article 9(c) states that the development to which Article 6 relates shall not be exempted development *if it is development to which Part 10 applies.* Additionally, the *Planning and Development Act 2000* (as amended) in section 177U(9) states that: *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.*

I note that the environmental assessments set out in Section 7 below concludes that:

- An environmental impact statement is not required to be submitted. Accordingly the limitation set out in Article 9(c) does not apply to the proposed development.
- The proposed development will have no significant effects upon either the Cork Harbour Special Protection Area (site code 004030) or the Great Island Channel Special Area of Conservation (site code 001058).

It is considered therefore that these environmental limitations do not apply to the proposed development.

I note that none of the exemptions identified by the applicant expressly exempt the temporary use of lands for the storage of materials. If this was contained within the proposed construction compound then it could be considered as ancillary to the Class 16 use. However, the only storage area identified on the plans is located to the north of the identified compound and outside of the red line of the development permitted under 22/41121. Further the Method Statement sets out that this topsoil storage will consist of soil removed both from the construction compound and the car park permitted under 22/41121. It is considered appropriate to request this matter be clarified by the applicant.

This report recommends that further information is sought as follows:

1. Article 9 sets out restrictions on Article 6 exemptions, which includes Classes 16 and 17. Of key note in the assessment of this application is Articles 9(a)(ii) which states that the development to which Article 6 relates shall not be exempted development if the development would: *consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width.*

The new access shown on the plans provided is outside of the red line boundary associated with permission 22/41121 and will provide access to a the David McCarthy Road which exceeds 4 metres in width. Please clarify under which exemption the access is being provided.

2. The question posed to the Planning Authority includes the use of lands for ‘material storage’. Does this include the topsoil storage identified on the plans provided as being outside of the construction compound? The Method Statement submitted indicates that this topsoil includes; both soil from the site of the proposed construction compound and topsoil from the car parking area permitted under 22/41121.

Please clarify the nature and extent of the ‘material storage’ proposed. If this includes topsoil relating to permission 22/41121 please clarify; under what exempted development provision this is being stored and what will happen to the soil upon completion of construction.

7. ENVIRONMENTAL ASSESSMENT

7.1 Screening for Environmental Impact Assessment

Introduction

The cover letter submitted with this Section 5 Declaration Application postulates that the proposed erection of a temporary site compound and associated material storage area accords with the exemption set out under Classes 16 and 17 as set out in Schedule 2, Part 1, Exempted Development – General, in the *Planning and Development Regulations 2001* (as amended).

Schedule 2 is empowered by Article 6 of the Regs. Article 9(1)(c) states that any development to which Article 6 relates shall not be exempted development, for the purposes of the Act, *if it is development to which Part 10 applies*. ~~I note that no differentiation is made between temporary and other forms of development.~~

The proposed erection of a temporary site compound and associated material storage area relates to development permitted under Cork City Council Planning Permission Ref. No. 22/41121. As stated in the Section 5 application documentation an Environment Impact Assessment was undertaken as part of the determination of this application.

The cover letter submitted with this Section 5 Declaration Application states, on page 7, that:

The proposed development does not relate to development to which Part 10 applies nor any other statutory provision as these works were not included in the project description for the EIAR prepared to support the planning application as granted by Cork City Council (Reg. Ref. No. 22/41121).

I consider this statement to be deeply flawed and contrary to the both the legal framework and case law associated with environmental impact assessments under Part 10. Section 3.2.3, of the EPA’s 2022 *Guidelines on the information to be contained in Environmental Impact Assessment Reports*, states:

The project needs to be considered in its entirety for screening purposes. This means that other related projects need to be identified and assessed at an appropriate level of detail. This will identify the likely significance of cumulative and indirect impacts, thus providing the CA with a context for their determination.

Dividing the project into separate parts so that each part is below an applicable threshold needs to be avoided. This is project-splitting and is not compliant with the Directive. (Ref. summary of C-142/07 below.)

Off-site or secondary projects also need to be considered at the screening stage....

Applications for changes to or extensions of relevant projects should also be screened with regard to specified thresholds.

The temporary site compound and associated material storage area, in order to be deemed to be exempted development, must therefore be screened with regard to the specified thresholds.

Requirement for EIA for Parent Permission

The Planner’s Report for application 22/41121, dated 18/07/2022, states that:

“Under Section 172 of the Planning and Development Act 2000, as amended, a planning application which comes within a class of development specified under Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended, requires that an Environmental Impact Assessment be carried out for the project type proposed. The relevant classes of development are under Part 2 (10) (b) of the Schedule relating to:

- (i) Construction of more than 500 dwelling units.*
- (ii) Construction of a car-park providing more than 400 spaces, other than a car-park provided as part of, and incidental to the primary purpose of, a development.*
- (iii) Construction of a shopping centre with a gross floor space exceeding 10,000 square metres.*
- (iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.”*

Permission was granted under 22/41121 for 801 no. car parking spaces. The proposed development site was stated to be c.13.98 hectares. Accordingly EIA was required.

Screening of Proposed Development against Thresholds under Part 10

The proposed temporary site compound and associated material storage area, as a related ‘project’ to facilitate development permitted under 22/41121, is therefore an extension to this permission. Part 2 of Schedule 5 of the *Planning and Development Regulations 2001*, as amended, requires, under Part 2 (13)(a), that an Environmental Impact Assessment be carried out for certain changes, extensions, development and testing to any development set out in Part 2 of the schedule if it would:¹

- (i) result in the development being of a class listed in Part 1 or paragraphs 1 to 12 of Part 2 of this Schedule, and*
- (ii) result in an increase in size greater than –*
 - 25 per cent, or*
 - an amount equal to 50 per cent of the appropriate threshold,*
 - whichever is the greater.*

I note that the OPR have confirmed that in assessing Part 2 Class 13 – where the existing development has already been subject to EIA this first requirement is automatically met¹.

The Class under which an EIA was prepared for the parent permission is Part 2 (10) (b) under categories (i) car-park providing more than 400 spaces, and (ii) development on an area greater than 10 hectares. Part 2 (13)(a)(i) is automatically met.

There are 120 no. car parking spaces proposed. This is less than 25 per cent of the total number of car parking spaces permitted by 22/41121. It is also less than 50 of the threshold set out under Class 10 (i) which would be 200 spaces.

The Site Location Map (Drawing No. ACE-STW-ZZ-ZZ-DR-A-01202) indicates in the legend that the site area is 0.96 and identified by a red line boundary. A review of the map however shows that the ‘Main Contractor Topsoil Storage Area’ is outside of the red line boundary as is a new vehicular access to the lands. The site

¹ This is stated on Page 21 of a presentation made by the OPR to the CCMA LUTS Committee in May 2020 which can be accessed here: <https://www.opr.ie/wp-content/uploads/2020/08/2020.05-IPI-online-Training-EIA-Presentation.pdf>

area given therefore is incorrect as it does not include all of the works proposed. It is estimated that, if the boundary extends to include the storage area and a proposed access, the site area could be closer 2.5ha.

The total site area of the development permitted by 22/41121 is c.13.98. The new site is less than 25 per cent of this area. It is also less than 50 per cent of the 10 hectare threshold set out under Class 10 (iv) which would be 5 hectares.

I am satisfied therefore that the proposed temporary site compound and associated material storage area is a sub-threshold development.

EIA Screening Determination

The development is considered a 'sub-threshold development' and Schedule 7A information has been submitted by the applicant. A preliminary investigation of the nature, size and location of the development to conclude if there is a likelihood of significant effects on the environment must be carried out. The Office of the Planning Regulator, in 2021's *OPR Practice Note PN02 Environmental Impact Assessment Screening*, has set out a template sub threshold EIA screening. The following screening is based on that template.

SCREENING DETERMINATION:		
A. Case Details:		
Application Reference No.:	R796/23	
Brief Development Summary:	<p>A Section 5 Determination is requested as follows:</p> <p><i>Whether the erection of a temporary site compound and associated material storage area to facilitate the construction of the permitted development for a four storey over partial lower ground floor level office building, commuter hub, security huts, surface car park and all ancillary site development works (Cork City Council Reg. Ref. 22/41121), is or is not exempted development</i></p>	
	Yes / No / N/A:	Comment (if relevant):
Does the application include information specified in Schedule 7A?	Yes	Information contained within EIA Screening Report
Other relevant information submitted:	Yes	Report in Support of Appropriate Assessment and Method Statement
Does the application include a NIS and/or other reports to enable AA screening?	No	See section 7.2 of this report below
Is an IED/IPC/Waste Licence or Waste Water Discharge Authorisation (or review of licence/authorisation) required	No	

from the EPA for the subject development?		
If YES has the EPA been consulted?	N/A	
Have any other relevant assessments of the effects on the environment been carried out pursuant to other relevant Directives –for example SEA or AA?	Yes	Lands are zoned for development in the CCDP which was subject to SEA.

B. Examination:**1. Characteristics of proposed development (including demolition, construction, operation or decommissioning):**

	If relevant, briefly describe the characteristics of the development (i.e. the nature and extent):
(a) The size and design of the whole of the proposed development (including any demolition works):	<p>Works described in detail in Method Statement. In summary:</p> <ul style="list-style-type: none"> • Project scheduled to be completed by 2nd quarter 2025 when compound will be demobilised and lands returned to their current state • Temporary fencing • Construction entrance off David McCarthy Road • Stripping for top soil (stored to the north – storage also includes topsoil from car park permitted under 22/41121) • Terram layer to be laid on subsoil before spreading stone for hardstanding • Parking will be laid out with marker posts and signage • Pit will be excavated for placement of foul collection tanks – to be pumped out by disposal contractor at suitable intervals. Application made to Irish Water for future foul disposal • Office units, meeting room and engineering hubs will be double stacked with external walkways and stairs • Other units – canteen, toilet block and storage containers – will be single level • Mechanical and electrical area to north will have double stacked accommodation units • Double bunded 100KVA generator and double bunded diesel tanks with cabling to units – access to mains power feed in future which will require cable connection • LED lighting will be erected on perimeter fence and will be used only during site planning hours • Hard standing stone and Terram will be removed and disposed of at appropriate waste facility

	<ul style="list-style-type: none"> • Topsoil will be reinstated and area seeded • Construction entrance will be removed and kerb line, pedestrian and cycle ways reinstated
(b) Other existing or permitted projects (including under other legislation that is subject to EIA) that could give rise to cumulative effects:	Linked to permission 22/41121 which was subject to EIA
(c) Use of natural resources, in particular land, soil, water and biodiversity: <i>Will construction or the operation of the proposal use natural resources such as land, soil, water, materials or energy, especially any resources which are non-renewable or are in short supply?</i>	No
(d) Production of waste: <i>Will the proposal produce solid wastes during construction, operation, or decommissioning?</i>	Yes <ul style="list-style-type: none"> • Hard standing stone and Terram to be disposed of upon completion • Unclear how topsoil from permitted car park will be disposed of
(e) Pollution and nuisances: <i>Will the proposal release pollutants to ground or surface water, or air (including noise and vibrations) or water, or lead to exceeding environmental standards set out in other Directives?</i>	None
(f) Major accidents and disasters: <i>In accordance with scientific knowledge, is there a risk of major accidents and/or disasters which are relevant to the project, including those caused by climate change?</i>	None
(g) Risks to human health, for example due to water contamination or air pollution:	None
2. Location of proposed development:	

<p>The environmental sensitivity of geographical areas likely to be affected by the proposed development:</p>	<p>If relevant, briefly describe the characteristics of the location (with particular regard to the (a) existing and approved land use, (b) the relative abundance, availability, quality and regenerative capacity of natural resources, and (c) the absorption capacity of the environment):</p>
<p>(a) Generally describe the location of the site and its surroundings:</p>	<p>The subject site is located in Hollyhill on the north western edge of the built up area of Cork City. The site consists of a greenfield site to the north east of the David McCarthy Road. It slopes downward from the road with the lowest part of the site being on its northern boundary. The River Bride is located in a valley further to the north.</p> <p>There are established hedgerows on site and in the vicinity</p>
<p>(b) Is the project located within, close to or has it the potential to impact on any site specified in Article 103(3)(a)(v) of the Regulations: European site NHA/pNHA Designated Nature Reserve Designated refuge for flora or fauna Place, site or feature of ecological interest, the preservation, conservation, protection of which is an objective of a development plan/ local area plan/ draft plan or variation of a plan.</p>	<p>No See section 7.2 below</p>
<p>(c) Are there any other areas on or around the location that are important or sensitive for reasons of their ecology e.g. wetlands, watercourses or other waterbodies (including riparian areas and river mouths), the coastal zone and the marine environment, mountains, forests or woodlands, that could be affected by the project?</p>	<p>The Bride River is located to the north of the subject site. This is an important habitat and is know to be the home to otters.</p>
<p>(d) Is the proposal likely to be highly visible to many people? Are there any areas or features of high landscape or scenic value on or around the location, or are there any routes or facilities that are used by the public for recreation or other facilities which could be affected by the proposal?</p>	<p>The site is elevated and can be for a significant to the north and north west. There are some protected views in the vicinity of the site as ser out in Volume 2 of the Cork city Development Plan 2022.</p> <p>The Water Tower, Hollyhill, located approximately 550m to the east of the subject site, is identified as a Local Landmark Building in View Management Framework - Map 4. Blarney Caste, located in the valley to the north of the subject site, is identified as a Strategic Landmark Building in View Management Framework - Map 6.</p>
<p>(e) Are there any areas or features of historic or cultural importance on or</p>	<p>None – Blarney Castle is located approximately 4 kilometres from the site.</p>

around the location that could be affected by the project?		
(f) Are there areas within or around the location which are densely populated or built-up, or occupied by sensitive land uses e.g. hospitals, schools, places of worship, community facilities that could be affected by the proposal?	St. Anthony’s residential estate is located approximately 100 metres to the south of the site. There are no other sensitive receptors in the vicinity.	
(g) Are there any areas within or around the location which contain important, high quality or scarce resources e.g. groundwater, surface waters, forestry, agriculture, fisheries, tourism, minerals, that could be affected by the proposal?	None	
(h) Are there any areas within or around the location which are already subject to pollution or environmental damage, and where there has already been a failure in environmental standards that could be affected by the proposal e.g. the status of water bodies under the Water Framework Directive?	The River Bride, which is approximately 400 metres to the north of the site has been identified in Water Framework Directive reporting as being of moderate status but is classified as being at risk.	
(i) Is the site located in an area susceptible to subsidence, landslides, erosion, or flooding which could cause the proposal to present environmental problems?	No	
(j) Are there any additional considerations that are specific to this location?	The presence of mature hedgerows is noted on site, particularly the hedgerow between the subject site and the proposed car park. No mention is made in the Method Statement of the removal of vegetation but the plans provided show that the haul road will have a direct impact on at least part of the hedgerow	
2. Types and Characteristics of Potential Impacts:		
If relevant, briefly describe the characteristics of the potential impacts under the headings below. (including where relevant the magnitude and spatial extent of the impact (e.g. geographical areas and	If relevant, briefly describe any mitigation measures proposed to avoid or prevent a significant effect.	Is this likely to result in significant effects on the environment?

size of population likely to be affected), nature of impact, intensity and complexity of impact, probability of impact, and duration, frequency and reversibility of the impact):		
<i>Population and human health:</i>		
There will be relatively low impact from the proposed development upon amenity and the principle impact will be on St. Anthony's Estate 100 metres to the south	The Method Statement has confirmed that the operating hours will accord with those indicated in application. This should significantly mitigate any disturbance, subject to compliance which I note in this instance would be voluntary as the permission does not include the subject site.	No
<i>Biodiversity, with particular attention to species and habitats protected under the Habitats Directive and the Birds Directive:</i>		
The site is potentially hydraulically linked to Natura Sites	See section 7.2 below.	No
The removal of hedgerow to provide vehicular access will result in the loss of habitat.	The loss is however considered to be minor and will only have a local impact	No
It is unclear if the topsoil taken from the adjoining permitted car park will be retained on site	Even if soil is to remain on site it may impact on the immediate receiving environment. Given the distance to the River Bride it is unlikely to enter the water course.	No
<i>Land, soil, water, air and climate:</i>		
It is unclear if the topsoil taken from the adjoining permitted car park will be retained on site	Even if soil is to remain on site it may impact on the immediate receiving environment. Given the distance to the River Bride it is unlikely to enter the water course.	No
Providing parking on site for workers will promote this form of transport to site, rather than active travel or public transport options	The levels of traffic proposed are not considered to be detrimental	No
The loss of grassland	This is a temporary impact as the topsoil will be replaced and re-seeded	No

Material assets, cultural heritage and landscape:		
There are no cultural or heritage assets in the vicinity of the subject site.	Visual impacts will be temporary and the lands will be restored	No
There will be an impact upon the pedestrian and cycleway servicing on the David McCarthy Road	The road is actually closed, by licence, to facilitate the development. While the footpath and cycleway remains open it is not very busy	No
Cumulative Effects:		
No cumulative effects are identified	N/A	No
Transboundary Effects:		
No transboundary effects are identified	N/A	No
4. Additional Considerations:		
Further relevant information, if any, relating to how the results of any other relevant assessments of the effects on the environment have been taken into account (e.g. SEA, AA screening, AA):	The site is zoned industrial in the CCDP,2022 which was subject to SEA. No likely significant effects on the environment arising from this zoning objective were identified through that process. The site was not identified as flood zone A or B in the SFRA. See section 7.2 below for AA.	
Other relevant information/ considerations of note:	None	
C. Determination:		
No real likelihood of significant effects on the environment.	<input checked="" type="checkbox"/>	EIAR is not required
Real likelihood of significant effects on the environment.	<input type="checkbox"/>	EIAR is required
D. Main Reasons and Considerations:		
Having regard to the criteria in Schedule 7, the information provided in accordance with Schedule 7A of the Planning and Development Regulations 2000, as amended, and the following:		
(a) The nature and scale of the proposed development, which is significantly below the threshold in respect of Classes 10(ii) and (iv) (Infrastructure Projects) of the Planning and Development Regulations 2001 (as amended),		
(b) The location of the site on lands that are zoned for Business & Technology use under the provisions of the Cork City Development Plan 2022 and the results of the strategic environmental assessment of this Plan undertaken in accordance with the SEA Directive (2001/42/EC),		

- (c) The location of the site in an established industrial area and the existing pattern of development in the vicinity,
- (d) The location of the site outside of any sensitive location specified in Article 103(3)(a) of the Planning and Development Regulations 2001 (as amended),
- (e) The appropriate assessment to be carried out of likely significant effects on European sites,
- (f) The separation distance between the site and the nearest residential properties or other sensitive receptors, and the information submitted with the application with regard to visual, noise, and shadow flicker impacts,
- (g) The mitigation measures set out in the Method Statement
- (h) The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003).

It is considered that the proposed development **would not** be likely to have significant effects on the environment and that the preparation and submission of an environmental impact report is **not** therefore required.

Conclusion

It is considered that an environmental impact statement is not required to be submitted. Accordingly the limitation set out in Article 9(c) does not apply to the proposed development.

7.2 Screening for Appropriate Assessment

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

I note that an Appropriate Assessment screening exercise was undertaken as part of the issuing of permission for application 22/41121. It was determined that there was no likelihood of significant effects arising and that an Natura Impact Statement was not required.

A *Report in Support of Appropriate Assessment (AA) Screening*, prepared by DixonBrosnan, was submitted as part of this Section 5 determination application.

The Office of the Planning Regulator, in 2021’s *OPR Practice Note PN01 Appropriate Assessment Screening for Development Management*, has set out a template sub threshold EIA screening. The following screening is based on that template.

1. Description of the project/proposal and local site characteristics:

Application Reference No.:	R796/23
Brief description of the project or plan:	A Section 5 Determination is requested as follows: <i>Whether the erection of a temporary site compound and associated material storage area to facilitate the construction of the permitted development for a four storey over partial lower ground floor level office building, commuter hub, security huts, surface car park and all ancillary site development works (Cork City Council Reg. Ref. 22/41121), is or is not exempted development</i>

Brief description of site characteristics:	The subject site is located in Hollyhill on the north western edge of the built up area of Cork City. The site consists of a greenfield site to the north east of the David McCarthy Road. It slopes downward from the road with the lowest part of the site being on its northern boundary. The River Bride is located in a valley further to the north. There are established hedgerows on site and in the vicinity
Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), IFI, EPA, OPW, etc...	None
Response to consultation:	N/A

2. Identification of relevant Natura 2000 sites using Source-Pathway-Receptor model and compilation of information Qualifying Interests and conservation objectives.

European Site (code)	List of Qualifying Interest/Special Conservation Interest	Distance from proposed development (km)	Connections (Source-Pathway-Receptor)	Considered further in screening Y/N
Great Island Channel Special Area of Conservation (site code 001058)	<p>Conservation Objective: To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p> <p>Qualifying Interests: Annex I listed habitats: mudflats, sandflats not covered by seawater at low tide, estuaries, spartina swards, Atlantic salt meadows.</p>	Approx. 11.5 (direct) East	No River Bride which is located approximately 400m to the north of the subject site, is hydrologically linked to the SAC	No
Cork Harbour Special Protection Area (site code 004030)	<p>Conservation Objective: To maintain or restore the favourable conservation condition of the bird species listed as special conservation interests for this SPA.</p> <p>Qualifying Interests: Annex I-listed bird species: bar-tailed godwit, common tern</p>	Approx. 7.6km (direct) East	River Bride which is located approximately 400m to the north of the subject site, is hydrologically linked to the SPA	Yes

	<p>(breeding), golden plover, ruff, whooper swan. Other birds of special conservation interest include black-headed gull, black-tailed godwit, common gull, curlew, dunlin, great crested grebe, grey heron, grey plover, lapwing, lesser black-backed gull, little grebe, oystercatcher, pintail, red-breasted merganser, redshank, shelduck, shoveler, teal, and widgeon. This site is an internationally important wetland site supporting > 20,000 wintering waterfowl.</p>			
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3. Assessment of Likely Significant Effects

<p>a) Identify all potential direct and indirect impacts that may result in significant effects on the conservation objectives of a European site, taking into account the size and scale of the project under the following headings:</p>	
<p>Impacts:</p>	<p>Significance of Impacts: (duration/magnitude/etc.)</p>
<p>Construction phase e.g.</p> <ul style="list-style-type: none"> • Vegetation clearance • Demolition • Surface water runoff from soil excavation/infill/landscaping (including borrow pits) • Dust, noise, vibration • Lighting disturbance • Impact on groundwater/dewatering • Storage of excavated/construction materials • Access to site • Pests 	<p>All construction works for buildings are sufficiently distant from the subject site to negate impacts. There are no regular roosting or foraging grounds for the SCI species of the SPA on the subject lands.</p> <p>The hydrological link for the construction is the key consideration. Given the distance between the subject lands, which I note includes the storage of top soil, the river it is consider that there in no likelihood of significant impacts.</p>
<p>Operational phase e.g.</p> <ul style="list-style-type: none"> • Direct emission to air and water • Surface water runoff containing contaminant or sediment • Lighting disturbance • Noise/vibration • Changes to water/groundwater due to drainage or abstraction 	<p>The proposed development is temporary in nature and the operational phase will be brief. Given the distance between the subject site and the Natura sites it is considered that the is no likelihood of significant impacts.</p>

<ul style="list-style-type: none"> • Presence of people, vehicles and activities • Physical presence of structures (e.g. collision risks) • Potential for accidents or incidents 	
<p>In-combination/Other</p>	<p>No likely significant in-combination effects are identified.</p>
<p>b) Describe any likely changes to the European site:</p>	
<p>Examples of the type of changes to give consideration to include:</p> <ul style="list-style-type: none"> • Reduction or fragmentation of habitat area • Disturbance to QI species • Habitat or species fragmentation • Reduction or fragmentation in species density • Changes in key indicators of conservation status value (water quality etc.) • Changes to areas of sensitivity or threats to QI • Interference with the key relationships that define the structure or ecological function of the site • Climate change 	<p>It is considered unlikely that the proposed development will bring about any changes to a European Site.</p>
<p>(c) Are ‘mitigation’ measures necessary to reach a conclusion that likely significant effects can be ruled out at screening?</p>	
<p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>	<p>Mitigation measures are not relied upon to reach a conclusion of no likely significant effects on any European site.</p>

4. Screening Determination Statement

The assessment of significance of effects:
 Describe how the proposed development (alone or in-combination) is/is not likely to have significant effects on European site(s) in view of its conservation objectives.

Based on the information on file, I am satisfied that the proposed development (alone or in combination) is unlikely to have significant effects on European Sites in view of their conservation objectives.		
Conclusion:		
	Tick as Appropriate:	Recommendation
(i) It is clear that <u>no likelihood</u> of significant effects arises.	<input checked="" type="checkbox"/>	The proposal can be screened out: Appropriate assessment not required.
(ii) It is <u>uncertain</u> whether the proposal, will have a significant effect on a European site	<input type="checkbox"/>	<input type="checkbox"/> Request further information to complete screening <input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
(iii) <u>Significant effects</u> are likely.	<input type="checkbox"/>	<input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
Recommending Officer:		
Name: Position: Date:	Martina Foley Executive Planner 23/08/2022	

To conclude this report finds that the proposed development will have no significant effects upon either the Cork Harbour Special Protection Area (site code 004030) or the Great Island Channel Special Area of Conservation (site code 001058).

8. Conclusion

The question has been asked:

Whether the erection of a temporary site compound and associated material storage area to facilitate the construction of the permitted development for a four storey over partial lower ground floor level office building, commuter hub, security huts, surface car park and all ancillary site development works (Cork City Council Reg. Ref. 22/41121), is or is not exempted development/.

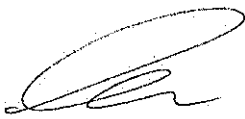
This report recommends that the following further information in order to aid in the assessment:

1. Article 9 sets out restrictions on Article 6 exemptions, which includes Classes 16 and 17. Of key note in the assessment of this application is Articles 9(a)(ii) which states that the development to which Article 6 relates shall not be exempted development if the development would: *consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width.*

The new access shown on the plans provided is outside of the red line boundary associated with permission 22/41121 and will provide access to a the David McCarthy Road which exceeds 4 metres in width. Please clarify under which exemption the access is being provided.

2. The question posed to the Planning Authority includes the use of lands for 'material storage'. Does this include the topsoil storage identified on the plans provided as being outside of the construction compound? The Method Statement submitted indicates that this topsoil includes; both soil from the site of the proposed construction compound and topsoil from the car parking area permitted under 22/41121.

Please clarify the nature and extent of the 'material storage' proposed. If this includes topsoil relating to permission 22/41121 please clarify; under what exempted development provision this is being stored and what will happen to the soil upon completion of construction.



Martina Foley
Executive Planner

COMHAIRLE CATHRACH CHORCAÍ
CORK CITY COUNCIL

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

R-Phost/E-Mail planning@corkcity.ie

Fón/Tel: 021-4924564/4321

Líonra/Web: 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

Lands off Kilmore Heights, Hollyhill, Cork.

2. QUESTION/ DECLARATION DETAILS

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

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

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

Whether the erection of a temporary site compound and associated material storage area to facilitate the construction of the permitted development for a four storey over partial lower ground floor level office building, commuter hub, security huts, surface car park and all ancillary site development works (Cork City Council Reg. Ref: 22/41121), is or is not exempted development.

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

Please refer to the Cover Letter prepared by HW Planning.

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 checked="" 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)
N/A	N/A

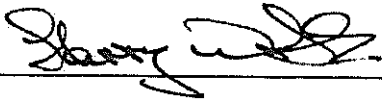
4. APPLICANT/ CONTACT DETAILS

Name of applicant (principal, not agent):		Apple Operations International Limited	
Applicants Address		Apple Operations International Limited, Holyhill Industrial Estate, Holyhill, Cork.	
Person/Agent acting on behalf of the Applicant (if any):	Name:	Harry Walsh - HW Planning	
	Address:	5 Joyce House, Barrack Square, Ballincollig, Cork, P31 KP84.	
	Telephone:	021 - 487 3250	
	Fax:	N/A	
	E-mail address:	info@hwplanning.ie	
Should all correspondence be sent to the above address? <small>(Please note that if the answer is 'No', all correspondence will be sent to the Applicant's address)</small>		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

5. LEGAL INTEREST

Please tick appropriate box to show applicant's legal interest in the land or structure	A. Owner	B. Other <input checked="" type="checkbox"/>
Where legal interest is 'Other', please state your interest in the land/structure in question	Land is in ownership of Cork City Council	
If you are not the legal owner, please state the name and address of the owner if available	Cork City Council, City Hall, Anglesea Street, Cork City, T12 T997	

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

Signature:  _____

Date: 28/07/2023

.....

ADVISORY NOTES:

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

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

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

The application should be sent to the following address:

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

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

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

DATA PROTECTION

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

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

28 July 2023

HW Planning
5 Joyce House,
Barrack Square,
Ballincollig,
Cork
P31 KP84

Re: Request for Declaration under Section 5 of the Planning and Development Act 2000 on whether the construction of a temporary site compound and associated material storage area on lands off Kilmore Heights, Hollyhill, Cork, is or is not exempted development.

www.hwplanning.ie
info@hwplanning.ie
+353 (0)21 487 3250

Directors:
Harold Walsh
Conor Frehill

Company Reg. No.
486211

Accreditations
ISO 9001:2015
ISO 14001:2015
ISO 45001:2018

Dear Sir/Madam,

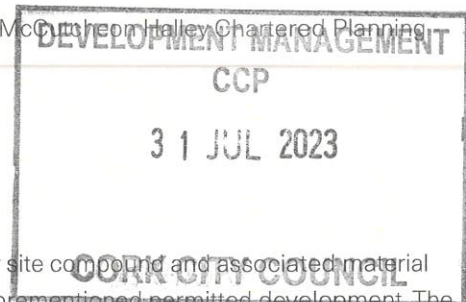
We act on behalf of Apple Operations International Limited, who request a declaration from Cork City Council on whether the erection of a temporary site compound and associated material storage area to facilitate the construction of the permitted development for a four storey over partial lower ground floor level office building, commuter hub, security huts, surface car park and all ancillary site development works (Cork City Council Reg. Ref: 22/41121), is or is not exempted development.

The following plans and particulars accompany this request:

- 4 no. copies of completed application form.
- 4 no. copies of this cover letter prepared by HW Planning.
- 4 no. copies of site location map prepared by prepared by Scott Tallon Walker Architects.
- 4 no. copies of Construction Method Statement prepared by PJ Hegarty Building Contractors.
- 4 no. copies of AA Screening Report prepared by HW Planning.
- 4 no. copies of EIAR Screening prepared by McCune Environmental Chartered Planning Consultants.
- Statutory fee of €80.

Development Context

Apple Operations are seeking to erect a temporary site compound and associated material storage area to facilitate the construction of the aforementioned permitted development. The





applicant is keen to commence the construction of the development as granted and has been positively engaging with the council to comply with all conditions associated with this planning permission. We wish to highlight to the Council that the use of the site for a temporary site compound, to which this Section 5 refers, was agreed as part of the compliance submission made in respect of Condition 10 (Construction Traffic Management Plan) and Condition 20 (Construction Management Plan and Construction and Environmental Waste Management Plan) in April 2023.

The proposed temporary site compound and associated material storage area will facilitate the construction of the development in an efficient manner and will allow for it to be constructed in one phase, assisting in the delivery of much needed office space, commuter hub and additional car parking required to further expand Apple's Cork City Campus. This land associated with the temporary site compound will be reinstated back to its original condition once the construction of the permitted development is complete.

Legislative Context

Planning and Development Act 2000 (as amended)

Section 3 of the Planning and Development Act 2000 defines development as:

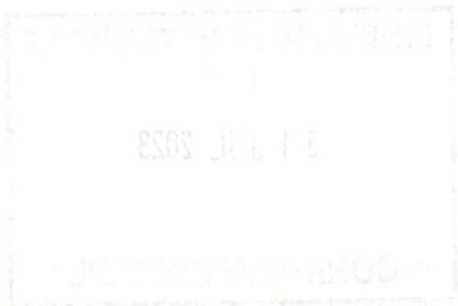
In this Act, "development" means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.

Section 2 of the Planning and Development Act, 2000 defines a structure as follows:

"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,

Planning and Development Regulations, 2001 (as amended)

Schedule 2, Part 1, Class 16 and 17 of the Planning and Development Regulations 2001 specifies that the following development pursuant to a permission under the Act is exempted development:



Description of Development	Conditions and Limitations
<p><i>Temporary structures and uses:</i></p> <p>CLASS 16</p> <p>The erection, construction or placing on land on, in, over or under which, or on land adjoining which, development consisting of works (other than mining) is being or is about to be, carried out pursuant to a permission under the Act or as exempted development, of structures, works, plant or machinery needed temporarily in connection with that development during the period in which it is being carried out.</p>	<p>Such structures, works, plant or machinery shall be removed at the expiration of the period and the land shall be reinstated save to such extent as may be authorised or required by a permission under the Act.</p>

Assessment

We consider that the issues to be considered when assessing whether a proposed development complies with Class 16 are as follows:

1. Is the proposed development being carried out pursuant to a permission under the Act.
2. Can the proposed development be defined structures, works, plant or machinery needed temporarily in connection with a permitted development during the period in which it is being constructed.

Article 9(1) of the Planning and Development Regulations 2001 (as amended) outlines restrictions on exemptions in respect of development. An assessment of the proposed works against the restrictions criteria set out in Article 9(1) is outlined below:

9(1)(a)(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,

The temporary site compound and associated material storage area will not contravene any condition attached to the permission as granted by Cork City Council (Reg. ref: 22/41121) for the permitted development.

(ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,

The temporary site compound and associated material storage area does not comprise the formation, laying out or material widening of any access to a public road. Access into the temporary site compound will be facilitated through the creation of a private access into the site which will be used by construction vehicles associated with the construction of the development permitted under Cork City Council Reg. Ref: 22/41121.

(iii) endanger public safety by reason of traffic hazard or obstruction of road users,

The temporary site compound and associated material storage area will be erected on private lands and accessed via the existing road network which will be subject to traffic management in line with the agreed Construction Traffic Management Plan, Construction Management Plan and Construction and Environmental Waste Management Plan to ensure there is no endangerment to public safety as a result of the proposed development.

(iia) endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft,

This section is not applicable to the construction of a temporary site compound and associated material storage area as proposed.

(iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which 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, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

This section is not applicable to the construction of a temporary site compound and associated material storage area as proposed.

(v) consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies,

This section is not applicable to the construction of a temporary site compound and associated material storage area as proposed.

(vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

The site to facilitate the temporary site compound and associated material storage area is not located in an area classified as 'High Value Landscape' and is zoned 'ZO 10 – Business and Technology' in the Cork City Development Plan 2022 - 2028. It is therefore considered that the proposed development will not interfere with the character of the landscape, view or prospect of an area with a special amenity value or special interest, the preservation of which is included in an Objective of the Cork City Development Plan 2022-2028.

(vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,

The temporary site compound and associated material storage area does not comprise the excavation, alteration or demolition on lands which are of archaeological, geological, historic, scientific or ecological interest which is an objective of the current Cork City Development Plan 2022-2028.

(viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12 (1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,

The temporary site compound and associated material storage area does not consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places.

(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,

The temporary site compound and associated material storage area does not comprise of development where a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment where the works are likely to have a significant effect on the integrity of a European site. The temporary site compound was not described in the development description or EIAR prepared for the application as granted by Cork City Council (Reg. Ref: 22/41121).

(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.

The temporary site compound and associated material storage area does not comprise of development which would be likely to have an adverse impact on an area designated as a natural heritage area.

(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,

The temporary site compound and associated material storage area does not comprise of any work to a structure or building.

(ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

The temporary site compound and associated material storage area does not comprise of any work to a structure or building.

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

The temporary site compound and associated material storage area will not consist of the fencing or enclosure of any land used by the public for recreational purposes or for access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility.

(xi) obstruct any public right of way,

The temporary site compound and associated material storage area will not obstruct any public rights of way.

(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area,

The proposed temporary site compound and associated material storage area does not comprise of any work to a structure.

(b) in an area to which a special amenity area order relates, if such development would be development:—

(i) of class 1, 3, 11, 16, 21, 22, 27, 28, 29, 31, (other than paragraph (a) thereof), 33 (c) (including the laying out and use of land for golf or pitch and putt or sports involving the use of motor vehicles, aircraft or firearms), 39, 44 or 50(a) specified in column 1 of Part 1 of Schedule 2, or

(ii) consisting of the use of a structure or other land for the exhibition of advertisements of class 1, 4, 6, 11, 16 or 17 specified in column 1 of Part 2 of the said Schedule or the erection of an advertisement structure for the exhibition of any advertisement of any of the said classes, or (iii) of class 3, 5, 6, 7, 8, 9, 10, 11, 12 or 13 specified in column 1 of Part 3 of the said Schedule, or (iv) of any class of Parts 1, 2 or 3 of Schedule 2 not referred to in subparagraphs (i), (ii) and (iii) where it is stated in the order made under section 202 of the Act that such development shall be prevented or limited,

The location of the temporary site compound and associated material storage area is not located in an area to which a special amenity order relates.

(c) if it is development to which Part 10 applies, unless the development is required by or under any statutory provision (other than the Act or these Regulations) to comply with procedures for the purpose of giving effect to the Council Directive,

The proposed development does not relate to development to which Part 10 applies nor any other statutory provision as these works were not included in the project description for the EIAR prepared to support the planning application as granted by Cork City Council (Reg. Ref: 22/41121).

(d) if it consists of the provision of, or modifications to, an establishment, and could have significant repercussions on major accident hazards.

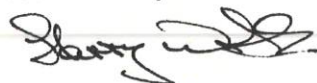
The erection of a temporary site compound and associated material storage area at this location, due to its nature, will not result in any significant repercussions or major accidents hazards as all materials stored within the compound will be managed in accordance with the submitted and approved Construction Traffic Management Plan, Construction Management Plan and Construction and Environmental Waste Management Plan.

Conclusion

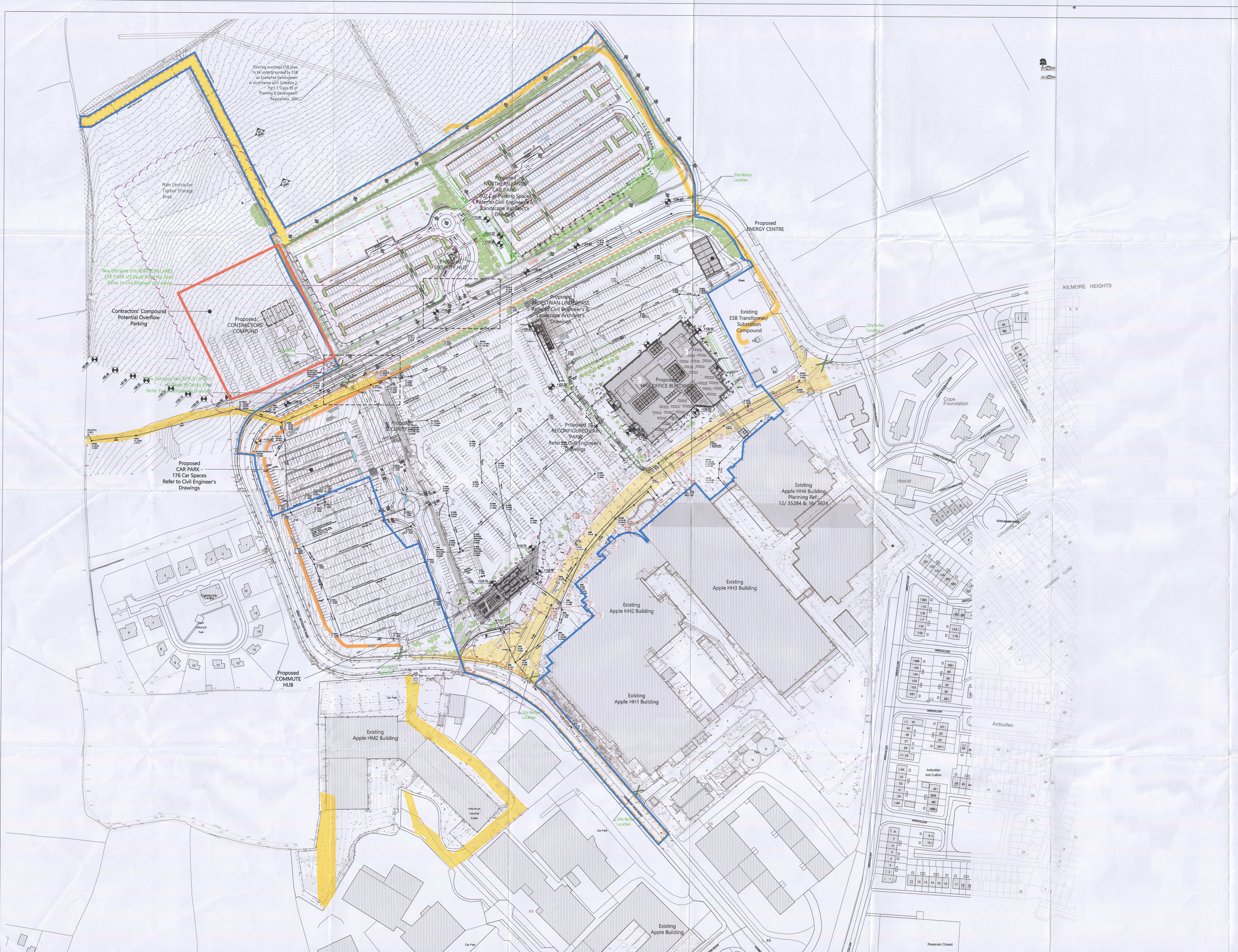
Having regard to Section 2 and 3 of the Planning and Development Act 2000 (as amended), Schedule 2, Part 1, Class 16 of the Planning and Development Regulations 2001 (as amended), we consider that the construction of a site compound and associated material storage area to facilitate the construction of the permitted development (Cork City Council Reg. Ref: 22/41121) is development and is exempted development.

Please do not hesitate to contact us if you have any queries.

Yours Sincerely



Harry Walsh
HW Planning



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 Levels and contours are relative to an Ordnance Survey Datum.
 Figured dimensions are in metres.
 NOTES:
 Ordnance Survey Ireland License No AR 009412 © Government of Ireland
 Map Sheet Nos. 6382-01, 6382-02, 6382-06, 6382-07 & 6337-C
 Levels and contours are relative to an Ordnance Survey

KEY

- Outline of Site - SECTION 5 [Site Area: Planning - 0.96 Ha]
- Outline of Adjoining Land [Site Area: Planning - 13.98 Ha]
- Site Notice Location X
- Wayleave Retained by Cork City Council
- Lands Owned by Cork City Council within Applicant Site

REVISION SCHEDULE

NO.	DATE	ISSUED BY	DESCRIPTION
P01	15/1/22	CK	TENDER ISSUE
P02	15/05/22	CK	SIGNED FOR CONTRACT. N.L. UPDATED
P03	27/7/23	CK	SECTION 5: GC COMPOUND SHOWN

APPLE CORK CAMPUS EXPANSION

CLIENT
Apple Operations Europe Ltd

STW
 Scott Tallon Walker
 ARCHITECTS

19 Merrion Square, Dublin 2, Ireland
 Tel: +353 (0)1 669 3000
 Email: info@stwalter.com
 Web: www.stwalter.com

DRAWING
SITE LOCATION MAP - PROPOSED
 1:1000 @ A0

SCALE @A0
 1:1000

ISSUED:
 2022/05/22

DRAWN BY:
 CK

CHECKED BY:
 CK

PROJECT NO.
 21113

PROJECT ARCHITECT
 DAVID FLANNERY

DRAWING NO.
ACE-STW-ZZ-DR-A-01202

REVISION
 P03

