



Comhairle Cathrach Chorcaí

Cork City Council

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

Pat O'Leary

BJS Consultants

1 Marble Hill

Boreenmanna Road

Cork

10/03/2022

RE: Section 5 Declaration R703/22 Irish Pioneer Works, Kinsale Road, Cork

A Chara,

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

In view of the above and having regard to —

Articles 7 and to Class 22, Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended), sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended),

it is considered that the construction of this underground storm water attenuation tank at Irish Pioneer Works, Kinsale Road Industrial Estate, Kinsale Road, constitutes development within the meaning of the Planning and Development Act, 2000 (as amended) and is exempted development.

The development is development and is exempted development.

Is misa le meas,

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



We are Cork.

Description: Construction of a 520m³ underground stormwater attenuation tank
Applicant: Irish Pioneer Works (IPW)
Location: Irish Pioneer Works, Kinsale Road, Cork
Date: 08/03/2022

SUMMARY OF RECOMMENDATION

Constitutes development; is exempted development

PURPOSE OF REPORT

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

DESCRIPTION OF SITE

The site subject to the Section 5 referral is located within the Kindal Road Industrial Estate, Kinsale Road, Cork. The applicant is Irish Pioneer Works who provide Steel Fabrication, Galvanizing and Engineering Services in Cork and Ireland.

PLANNING HISTORY

Subject site:

031553 – Permitted extension to an individual unit 3, Kinsale Industrial Estate, Kinsale Rd, Cork.

045479 – Permitted 2 storey extension to premise

194854 – Permitted 1no single storey CNG (compressed natural gas) compressor installation with a floor area of 21m², 1no covered shelter with a floor area of 12m² and 57m of 2.9m high boundary wall and associated ground works.

DEVELOPMENT PLAN POLICY

The site is located in an 'Existing Built Up Area' as identified in the Ballincollig Carrigaline Municipal District Local Area Plan 2017. This LAP is part of the Cork County Development Plan 2014.

DETAILS OF WORKS

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

- Construction of a 520m³ underground stormwater attenuation tank

STATUTORY PROVISIONS

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

- Section 3(1) of the Planning and Development Act, 2000 – 2007 (“the Act”) establishes that **development** means “except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.”
- Section 2(1) of the Act establishes that **works** “includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.”
- Section 4(1)(h) establishes that “The following shall be exempted developments for the purposes of this Act... development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;
- Section 4(2) of the Act provides that the Minister may make regulations that provide for exempted development.
- Article 6(1) of the Planning and Development Regulations, 2001 to 2009 (“the Regulations”) establishes that, subject to other specified conditions and limitations, classes of development specified in Schedule 2, Part 1 of the Regulations constitute exempted development.

ASSESSMENT

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

I consider that the installation of the underground stormwater attenuation tank constitutes “development,” having regard to:

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

The applicant sets out the assertion in the application that the development is exempted having regard to the following in the Planning and Development Regulations, 2001 (as amended):

In Part 2, Article 7 which stated that “development under other enactments” i.e.

“(1) Works consisting of or incidental to the carrying out of development referred to in section 86(8) of the Environmental Protection Agency Act 1992 (No.7 of 1992), as amended for the

purpose of giving effect to a condition attached to a licence or revised licence granted by the Environmental Protection Agency under Part IV of the said Act shall be exempted development”.

(2) Works consisting of or incidental to the carrying out of development referred to in section 54(4) (a) of the Waste Management Act, 1996 (No. 10 of 1996) for the purpose of giving effect to a condition attached to a licence or revised licence granted by the Environmental Protection Agency under Part V of the said Act shall be exempted development”.

The applicant also asserts that the development is exempted development having regard to Class 22, Schedule 2, Part 1 of the Planning and Development Regulations, 2001 (as amended) which states:

Development for Industrial Purposes

<i>Storage within the curtilage of an industrial building, in connection with the industrial process carried on in the building, of raw materials, products, packing materials or fuel, or the deposit of waste arising from the industrial process.</i>	<i>The raw materials, products, packing materials, fuel or waste stored shall not be visible from any public road contiguous or adjacent to the curtilage of the industrial building.</i>
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Applying these findings to the subject Request for a Declaration,

- I concur with the applicant’s submission that the construction of this underground storm water attenuation tank is exempted development based on the provision of the planning regulations as set out above.

RECOMMENDATION

Having regard to the provisions of:

Articles 7 and to Class 22, Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended), sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended), it is considered that the construction of this underground storm water attenuation tank at Irish Pioneer Works, Kinsale Road Industrial Estate, Kinsale Road, constitutes development within the meaning of the Planning and Development Act, 2000 (as amended) and is exempted development.

The development is development and is exempted development.

Gwen Jordan McGee
Senior Executive Planner
09.03.2022



BJS/PO'L/1706

Development Management Section,
Community, Culture & Placemaking Directorate,
Cork City Council
Planning Department,
City Hall,
Cork

31 January 2022

Re: Irish Pioneer Works, Section 5 Declaration Application

Dear Sirs,

On behalf of our Client Irish Pioneer Works, we attach a section 5 declaration application form together with relevant drawings and €80 fee.

In August/September 2018 Irish Pioneer Works (IPW) constructed a 520m³ underground stormwater attenuation tank on their site at Kinsale road, Eircode T12 K7 XR. Please see attached urban place map showing site location and location of the attenuation tank and also Drawing No 1237-CE-25 showing details of the tank.

The attenuation tank was constructed solely to enable IPW to comply with a requirement of their EPA discharge License to reduce the level of Zinc in the rainwater runoff from the site. IPW store newly galvanised products in their yard and this can give rise to elevated levels of zinc in the rainwater runoff. Using the Attenuation tank, IPW now collect all rainwater from their open yard area and roofs and discharge it to the Tramore valley sewer (which crosses the site) at a maximum zinc content and flow rate as agreed with Irish Water and the EPA. This means that rainwater from the site no longer discharges to the adjacent Tramore river.

IPW were of the opinion that the construction of the Attenuation tank was an Exempted development under

*“Planning & Development Regulations, 2001. Part 2
Section 7 Development under other enactments.*

- (1) Works consisting of or incidental to the carrying out of development referred to in [section 84 \(4\) \(a\) of the Environmental Protection Agency Act, 1992 \(No. 7 of 1992\)](#) for the purpose of giving effect to a condition attached to a licence or revised licence granted by the

Environmental Protection Agency under Part IV of the said Act shall be exempted development.

- (2) Works consisting of or incidental to the carrying out of development referred to in [section 54 \(4\) \(a\) of the Waste Management Act, 1996](#) (No. 10 of 1996) for the purpose of giving effect to a condition attached to a licence or revised licence granted by the Environmental Protection Agency under Part V of the said Act shall be exempted development.

And

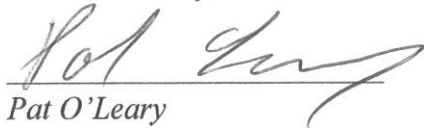
Schedule 2 Part 1 – Exempted developments - General
Class 22

Storage within the curtilage of an industrial building, in connection with the industrial process carried on in the building, of raw materials, products, packing materials or fuel, or the deposit of waste arising from the industrial process.

The raw materials, products, packing materials, fuel or waste stored shall not be visible from any public road contiguous or adjacent to the curtilage of the industrial building.

Irish Pioneer Works are now seeking a Section 5 Declaration for the Attenuation tank and enclose relevant documents.

Yours Sincerely,



Pat O'Leary
BJS Consultants
Civil and Structural Engineers



**Member of the Association of
Consulting Engineers of Ireland**

COMHAIRLE CATHRACH CHORCAÍ
CORK CITY COUNCIL

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

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

Fón/Tel: 021-4924762

Lionra/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

IRISH PIONEER WORKS (IPW)
KINSALE ROAD, CORK
T12 K7XR.

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.

THE CONSTRUCTION OF A 520 M³ UNDERGROUND
STORMWATER ATTENUATION TANK AT IRISH PIONEER
WORKS, KINSALE ROAD, CORK T12 K7XR.

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

THE ATTENUATION TANK WAS CONSTRUCTED SOLELY TO
ENABLE IPW TO COMPLY WITH REQUIREMENTS
OF THEIR IEPA DISCHARGE LICENSE. PLEASE
SEE ATTACHED COVERING LETTER FOR FURTHER
DETAILS

DEVELOPMENT MANAGEMENT

CCP

01 FEB 2022

CORK CITY COUNCIL

3. Are you aware of any enforcement proceedings connected to this site?

If so please supply details:

NO

4. Is this a Protected Structure or within the curtilage of a Protected Structure? NO

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

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

If so please supply details:

NO

6. APPLICATION DETAILS

Answer the following if applicable. Note: Floor areas are measured from the inside of the external walls and should be indicated in square meters (sq. M)

(a) Floor area of existing/proposed structure/s	
(b) If a domestic extension, have any previous extensions/structures been erected at this location after 1 st October, 1964, (including those for which planning permission has been obtained)?	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, please provide floor areas. (sq m) _____
(c) If concerning a change of use of land and / or building(s), please state the following:	
Existing/ previous use (please circle)	Proposed/existing use (please circle)
_____	_____
_____	_____
_____	_____

8. LEGAL INTEREST

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

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

Signature: _____

Date: _____

31 / JANUARY 2022

CONTACT DETAILS

10. Applicant:

Name(s)	IRISH PIONEER WORKS
Address	KINSALE ROAD CORK T12 K7 XR

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

Name(s):	BSS CONSULTANTS
Address:	1 MARBLE HILL BOREENMANNA ROAD CORK
Telephone:	[REDACTED]
E-mail address:	[REDACTED]
Should all correspondence be sent to the above address? <small>(Please note that if the answer is 'No', all correspondence will be sent to the Applicant's address)</small>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

12. ADDITIONAL CONTACT DETAILS

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

ADVISORY NOTES:

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

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

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

The application should be sent to the following address:

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

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

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

DATA PROTECTION

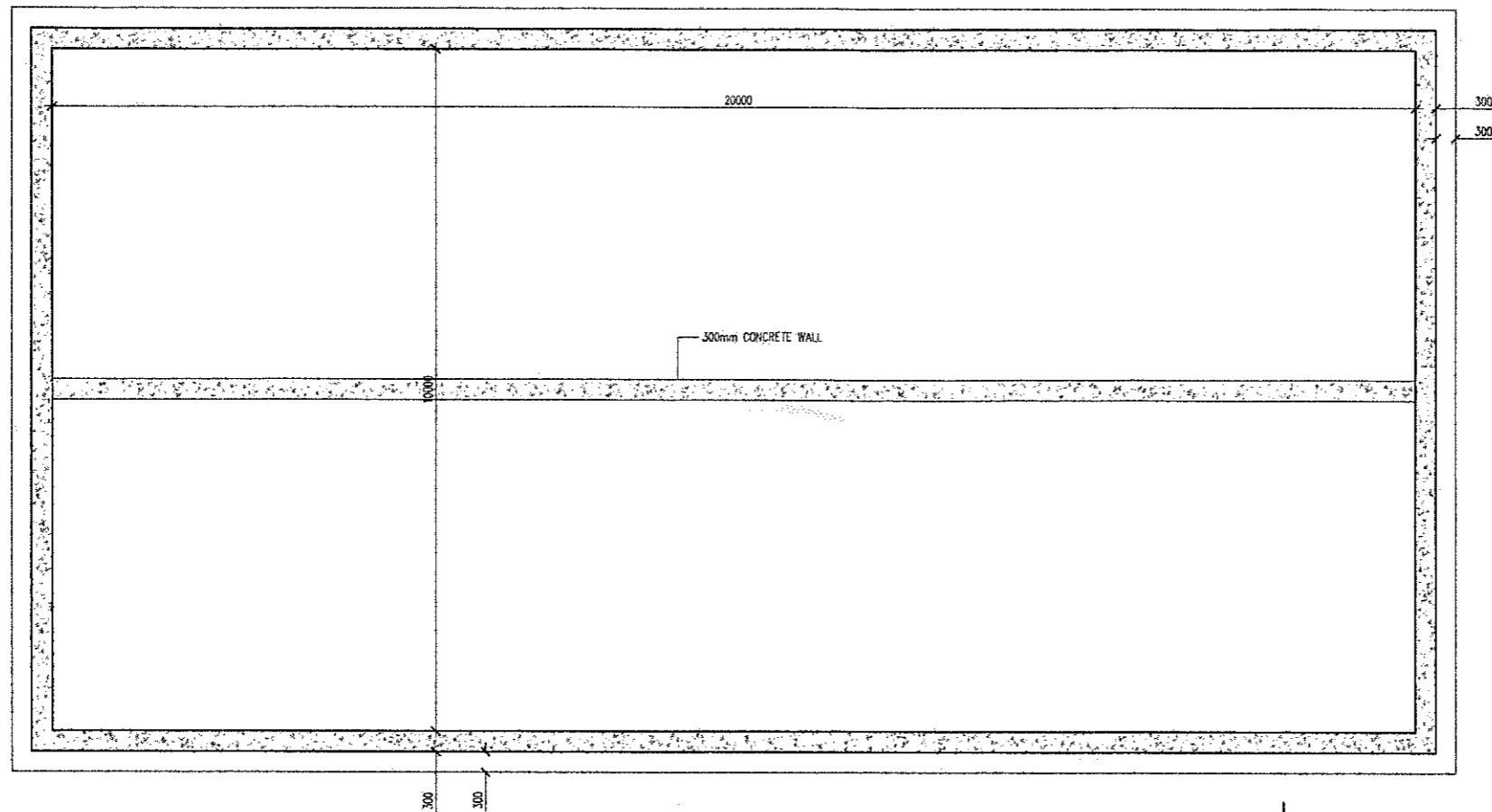
"Cork City Council is committed to fulfilling its obligations imposed by the Data Protection Acts 1988 to 2018 and the GDPR. Our privacy statement and data protections policy is available at <https://www.corkcity.ie/en/council-services/public-info/gdpr/>.

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

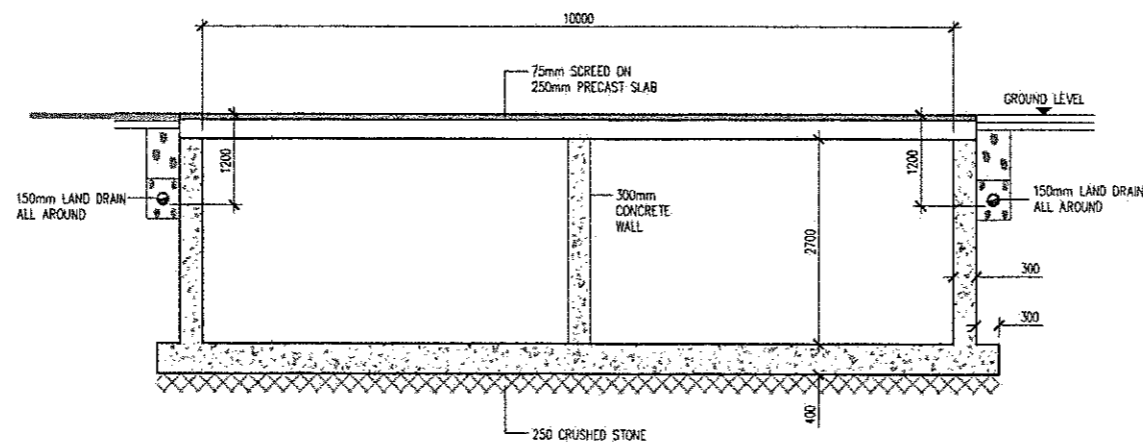
1. Plan, drawings and maps accompanying an application for a Section 5 Declaration on exempted development shall all be in metric scale and comply with the following requirements:-

* NOTE 2 COPIES OF PLANS AND PARTICULARS ARE REQUIRED

- (a) site or layout plans shall be drawn to a scale of not less than 1:500 (which shall be indicated thereon), the site boundary shall be clearly delineated in red, and buildings, roads, boundaries, septic tanks and percolation areas, bored wells, significant tree stands and other features on, adjoining or in the vicinity of the land or structure to which the application relates shall be shown, land which adjoins, abuts or is adjacent to the land to be developed and which is under the control of the applicant or the person who owns the land, which is subject of the application, shall be outlined in blue and wayleaves shall be shown in yellow,
 - (b) other plans, elevations and sections shall be drawn to a scale of not less than 1:200 (which shall be indicated thereon), or such scale as may be agreed with the Planning Authority prior to the submission of the application in any particular case,
 - (c) the site layout plan and other plans shall show the level or contours, where applicable, of any land and the proposed structures relative to Ordnance survey datum or a temporary local benchmark,
 - (d) drawings of elevations of any proposed structure shall show the main features of any buildings which would be contiguous to the proposed structure if it were erected, whether on the application site or in the vicinity at a scale of not less than 1:200, as may be appropriate,
 - (e) plans relating to works comprising reconstruction, alteration or extension of a structure shall be so marked or coloured as to distinguish between the existing structure and the works proposed,
 - (f) plans and drawings of floor plans, elevations and sections shall indicate in figures the principal dimensions (including overall height) of any proposed structure and the site, and site layout plans shall indicate the distances of any such structure from the boundaries of the site,
 - (g) any map or plan which is based on an Ordnance Survey map shall indicate the relevant Ordnance survey sheet number,
 - (h) the north point shall be indicated on all maps and plans other than drawings of elevations and sections,
 - (i) plans and drawings shall indicate the name and address of the person by whom they were prepared.
2. An application for development consisting of or comprising the carrying out of works to a protected structure, or proposed protected structure or to the exterior of a structure which is located within an architectural conservation area in a draft of a proposed development plan or a proposed variation of a development plan, shall, in addition to meeting the requirements above, be accompanied by such photographs, plans and other particulars as are necessary to show how the development would affect the character of the structure.
3. A planning authority may, by notice in writing, require an applicant to provide additional copies of any plan, drawing, map, photograph or other particular, which accompanies the application.



PLAN ON TANK
SCALE 1:50 @ A1, 1:100 @ A3



SECTION A-A
SCALE 1:50 @ A1, 1:100 @ A3

A	ISSUED FOR INFORMATION	DK	POL	04.07.2018	
Rev	Description	Drawn by	Chk'd by	Date	Client app date
	Designed PCL	Drawn DK	Checked POL	Approved	
Client IRISH PIONEER WORKS					
Paradise Court, Rockboro Avenue, Old Blackrock Road, Cork		BJS CONSULTANTS		Tel : 021-4818810 Fax : 021-4915603 E-Mail : csc@bjiconsultants.com	
Project Name		IRISH PIONEER WORKS DRAINAGE REMEDIATION WORKS			Project Number 1237
Title STORMWATER ATTENUATION TANK PLAN & SECTION					
Scale	AS NOTED	Size	A1 A3	Drawing Number	1237-CE-25 Rev.: A

Surveyed 1973-1974
Revised 2013
Levelled 1973

Urban PLACE Map



ITM CENTRE PT. COORDS.

567716,569357

DESCRIPTION

MAP SHEETS

1:1000

6427-05 6427-10

6428-01 6428-06

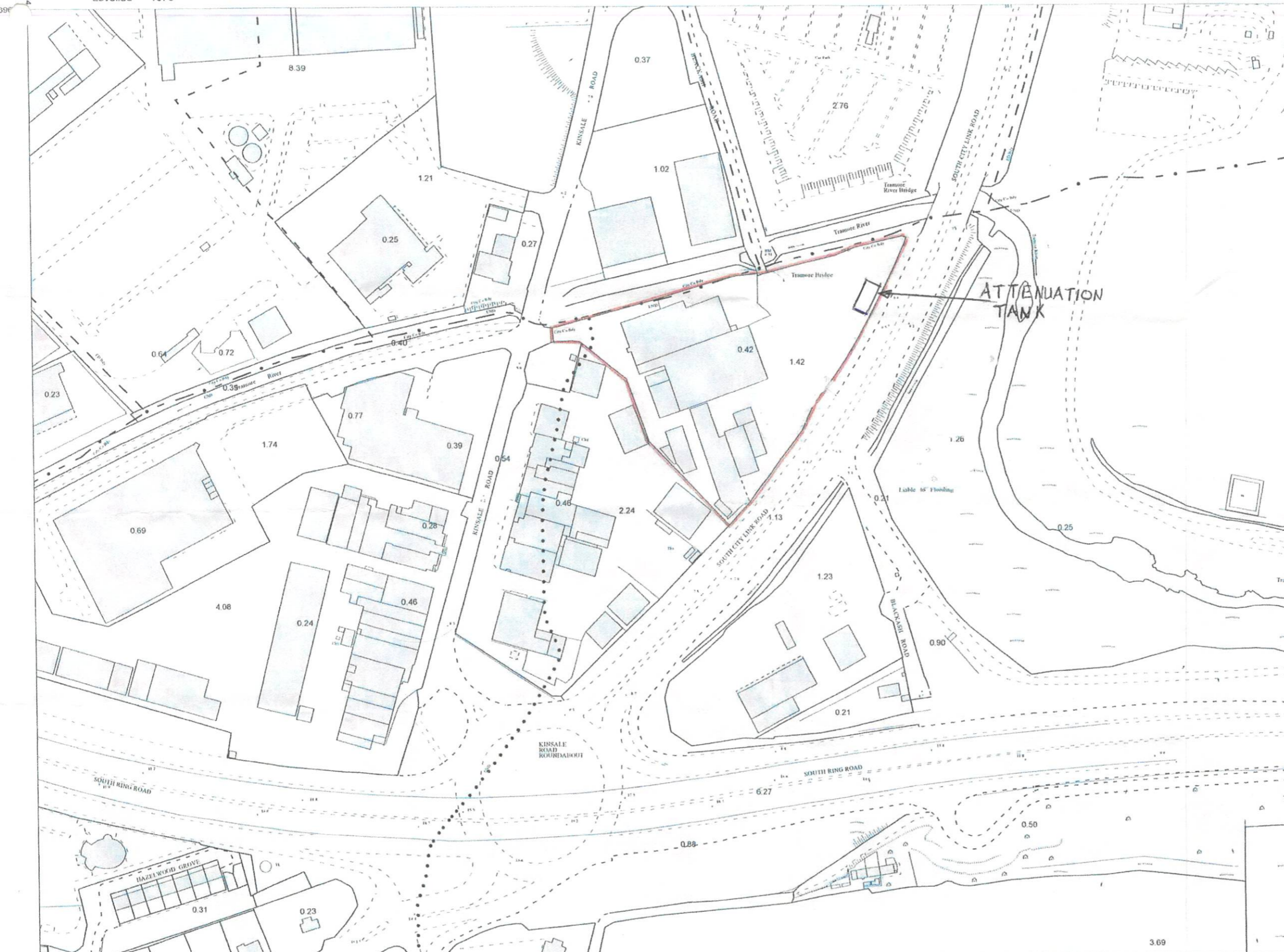


Produced by National Map Services,
Unit 7, South Ring Business Park,
Kinsale Road,
Co. Cork
On behalf of Ordnance Survey Ireland,
Phoenix Park, Dublin 8.

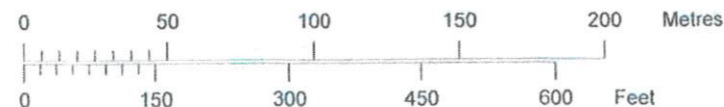
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cead i scríbhinn roimh ré ó úinéirí an chóipchirt.
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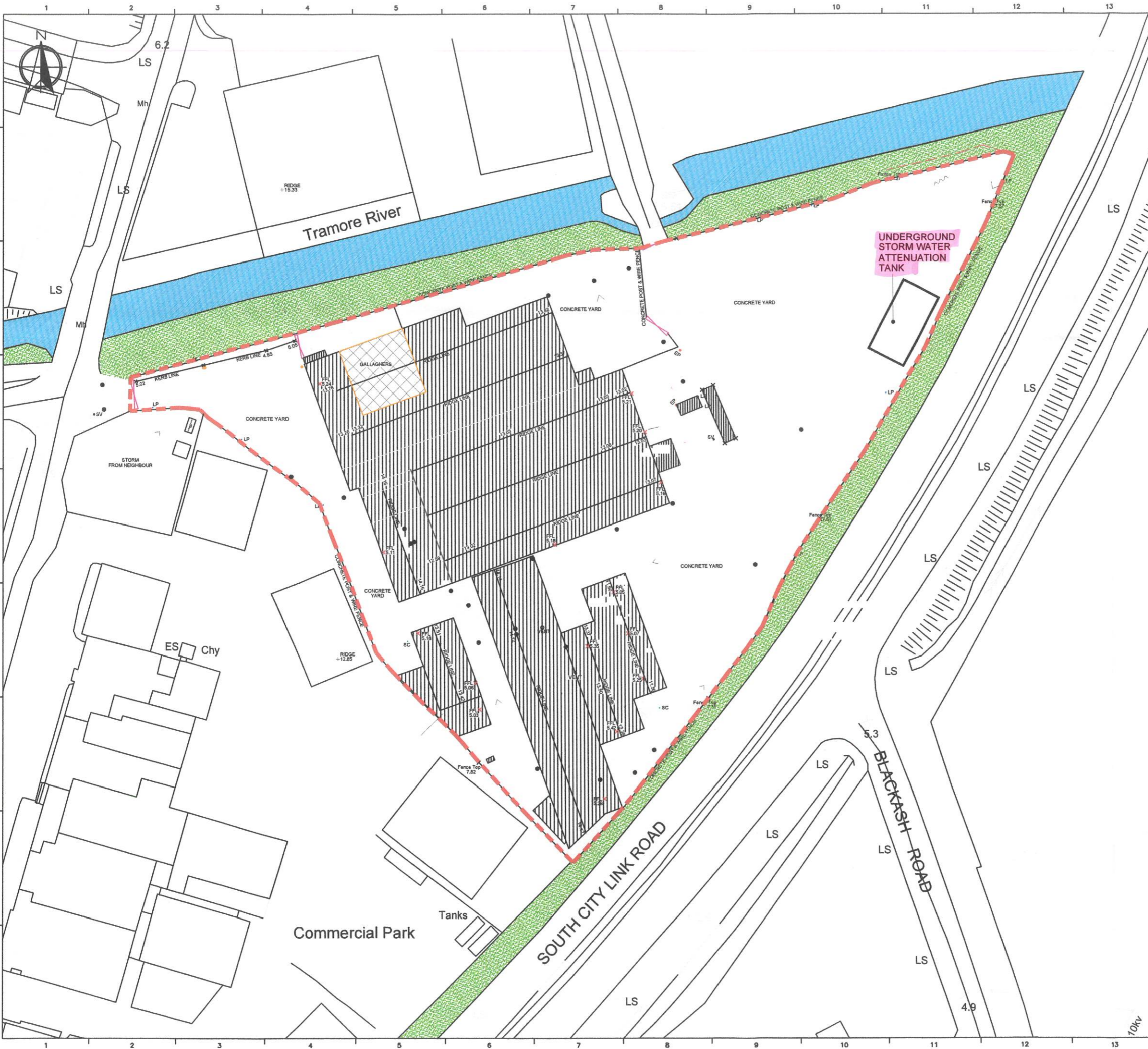
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© Ordnance Survey Ireland, 2014



Scale:- 1:2,500
Scála:- 1:2,500



Plot Ref. No. 25194161_1_1
Plot Date 14-MAY-2014



NOTES

A	ISSUED FOR INFORMATION	DK	PO'L	28.01.2022	
Rev	Description	Drawn by	Chk'd by	Date	Client app date
	Designed PO'L	Drawn DK	Checked PO'L	Approved	
Client IRISH PIONEER WORKS					
1 Marble Hill Boreenmanna Road Cork BJ'S CONSULTANTS Tel: 021-4315610 Fax: 021-4315623 E-Mail: cad@bjconsultants.com					
Project Name IRISH PIONEER WORKS DRAINAGE REMEDIATION WORKS					Project Number 1237
Title SITE LAYOUT					
Scale: 1:1000	Size A3	Drawing Number: 1237-CE-30		Rev.: A	