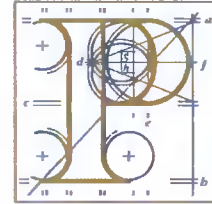


Our Case Number: ABP-313603-22

Planning Authority Reference Number: SD22A/0013



**An
Bord
Pleanála**

South Dublin County Council
Planning Department
County Hall
Tallaght
Dublin 24

**LAND USE, PLANNING
& TRANSPORTATION DEPT.**

20 MAY 2022

Date: 19 May 2022

Re: The installation of an energy storage unit at an existing data centre facility. The development involves the placement of three ISO 40ft. shipping containers containing back up storage units at Keppel Data Centre.
4033, Citywest Avenue, Citywest Business Park, Dublin 24

Dear Sir / Madam,

Enclosed is a copy of an appeal under the Planning and Development Act, 2000, (as amended).

Submissions of documents etc., to the Board. N.B. Copies of I-plans are not adequate, all drawings and maps should be to scale in accordance with the provisions of the permission regulations.

1. The planning authority is required to forward specified documents to the Board under the provisions of section 128 and section 37(1)(b) of the Planning and Development Act, 2000, (as amended). Please forward, **within a period of 2 weeks beginning on the date of this letter, the following documents:-**

(i) a copy of the planning application made to the planning authority and a copy of any drawings, maps (including ordnance survey number) particulars, evidence, a copy of any environmental impact statement, other written study or further information received or obtained by your authority in accordance with regulations under the Acts. If practicable, the original of any drawing with coloured markings should be provided or a coloured copy,

(ii) a copy of any technical or other reports prepared by or for the planning authority in relation to the application,

(iii) a certified copy of the relevant Manager's Order giving the decision of the planning authority,

(iv) a copy of the notification of decision given to the applicant,

(v) particulars of the applicant's interest in the land or structure, as supplied to the planning authority,

(vi) a copy of the published notice and a copy of the text of the site notice erected on the land or structure,

Teil	Tel	(01) 858 8100
Glaó Áitiúil	LoCall	1890 275 175
Facs	Fax	(01) 872 2684
Láithreán Gréasáin	Website	www.pleanala.ie
Riomhphost	Email	bord@pleanala.ie

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

authority decided to refuse permission, would be without prejudice to your authority's main submission in support of its decision.

Please quote the above appeal reference number in any further correspondence.

I hereby certify that the planning authority has complied with section 128 and section 37(1)(b) of the 2000 Act, (as amended), and that all material relevant to (ABP-313603-22) the request at 1 on page 1 of this letter has been forwarded.

Signed: _____

Print:(_____)

Date: _____

Yours faithfully,

Yvonne McComack

Liam Halpin
Direct Line: 01-8737280

BP07

Teil
Glao Áitiúil
Facs
Láithreán Gréasáin
Riomhphost

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LoCall 1890 275 175
Fax (01) 872 2684
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64 Sráid Maoilbhríde 64 Marlborough Street
Baile Átha Cliath 1 Dublin 1
D01 V902 D01 V902

Project No. 55.05/2022



1st Party Appeal

RE: Condition No. 2 attached to a Grant of Permission for Development of an Energy Storage Unit at Keppel Data Centre, Citywest Avenue, Citywest Business Park, Dublin 24. SDCC Reg. Ref. SD22A/0013

DATE: 17th May 2022 on behalf of: Energy Optimisation Solutions Limited

AN BORD PLEANÁLA	
LDG-	<u>053469 - C2</u>
ABP-	_____
17 MAY 2022	
Fee: €	<u>1500</u> Type: <u>CLG</u>
By:	<u>hand</u>

An Bord Pleanála,
64 Marlborough Street,
Dublin 1

Date: 17th May 2022

RE: 1st Party Appeal relating to Condition 2 of a decision to grant planning permission under planning reg. ref. SD22A/0013 made by South Dublin County Council on 20th April 2022.

Dear Sir/Madam,

This First Party Appeal has been prepared by RW Nowlan & Associates, 37 Lower Baggot Street, Dublin 2 on behalf of our client Energy Optimisation Solutions Limited, Kemp House, City Road, London. This First Party Appeal is against the attachment of certain conditions by South Dublin County Council in relation to following development proposed under Planning Reg. Ref. SD22A/0013:

"The installation of an energy storage unit at an existing data centre facility. The development involves the placement of three ISO 40ft. shipping containers containing back up storage units at Keppel Data Centre, Citywest Avenue, Citywest Business Park, Dublin 24".

This First Party Appeal sets out a planning rationale as to why Condition no. 2 attached is unreasonable, inappropriate and would be to the detriment of the development if enforced.

Accordingly, we request the Board amends the Council's decision by removing the unnecessarily onerous condition. The appeal is accompanied by the statutory appeal fee of €1,500 and a copy of the original planning application Decision.

1.0 Decision of the Planning Authority

The Council's decision to grant permission for the above referenced application was issued on the 20th April 2022 and subject to 6 no. conditions.

This appeal specifically relates to Condition no. 2 contained in the Decision Notice;

"2. Duration of permission. This permission shall be for a temporary period of three years, starting on the date of the final grant of permission. Any continued use after this date shall be the subject of a new planning application. Reason: To ensure that the shipping container structures do not remain as a permanent feature in this area of the Citywest Business Park."

2.0 Site Context

The site is that of an existing two storey office/industrial building that was built originally as an advance facility and is currently in use as a data centre facility. The site is located in the Citywest Business Campus with road frontage along the southern site boundary onto Citywest Avenue but with vehicular access from the west from the internal campus road Lake Drive.



Figure 1: Aerial view of the site

The site is rectangular in shape with the data centre building in the centre with double sloped roof. Car parking is provided on the western side of the building. The subject area of the site is currently a yard area with no formal use in place.

3.0 Development Management Guidelines for Planning Authorities

The Development Management Guidelines for Planning Authorities sets out that ‘great care should be taken, however, to ensure that standard conditions are used only where they actually apply or that they are properly adapted to meet the needs of particular cases, and that the availability of sets of standard conditions does not lead to the automatic inclusion of unnecessary conditions in particular cases’.

This guidance provides certain basic criteria in deciding whether to impose a condition to a grant of planning permission. These include whether the condition is;

- Necessary;

- Relevant to planning;
- Relevant to the development to be permitted;
- Enforceable;
- Precise;
- Reasonable.

As further examined below, it is considered that condition 2 does not meet these requirements.

4.0 Grounds of Appeal

The following section outlines the basis of this appeal and why the attached condition is not appropriate to this development. Condition 2 states the following:

“Duration of permission. This permission shall be for a temporary period of three years, starting on the date of the final grant of permission. Any continued use after this date shall be the subject of a new planning application. Reason: To ensure that the shipping container structures do not remain as a permanent feature in this area of the Citywest Business Park”.

It is considered that the above Condition does not meet the basic criteria outlined in Section 3 in terms of necessity, relevance to the development and is, ultimately, not reasonable. The development of the proposed energy storage facility requires a high level of investment and cannot reasonably be funded if the planning permission would expire in three years.

Based on the modest size of the proposed development and the positive policy towards management of energy consumption and peak demand, particularly as it relates to data centre facilities, it is considered that the proposed development supports sustainable development in both the County and Country and should be supported. The limiting of time that has been put in place through Condition no. 2 attached to the grant of permission undermines policy objectives relating to energy conservation and could threaten the feasibility of future projects of this nature in Ireland.

The proposed energy storage facility is to be housed in 3 no. ISO 40 foot shipping containers so that if there are any issues with the storage unit, the container can be removed and repaired safely before being returned on site. It is standard within energy storage compounds to use containers for energy storage. The time limiting Condition has not been applied to other similar projects across Dublin and it is considered unreasonable that it has been applied in this case.

Similar projects include;

South Dublin County Council Reg. Ref.SD20A/0058 – This project includes an energy storage compound of 3,300sq.m. containing 15 battery containers. There was no time limiting Condition attached by South Dublin County Council.

Fingal County Council Reg. Re. FW19A/0015 – This project consists of a Battery Energy Storage System which includes 9 no. containerised battery storage modules. There was no time limiting Condition attached by Fingal County Council.

It is also noted that the site in which the development is proposed has very high security in place and is not accessible to the public. The proposed containers would not be visible from any location outside of the site and as such, there would be no visual or landscape impact for the wider Business Park (Figure 2).

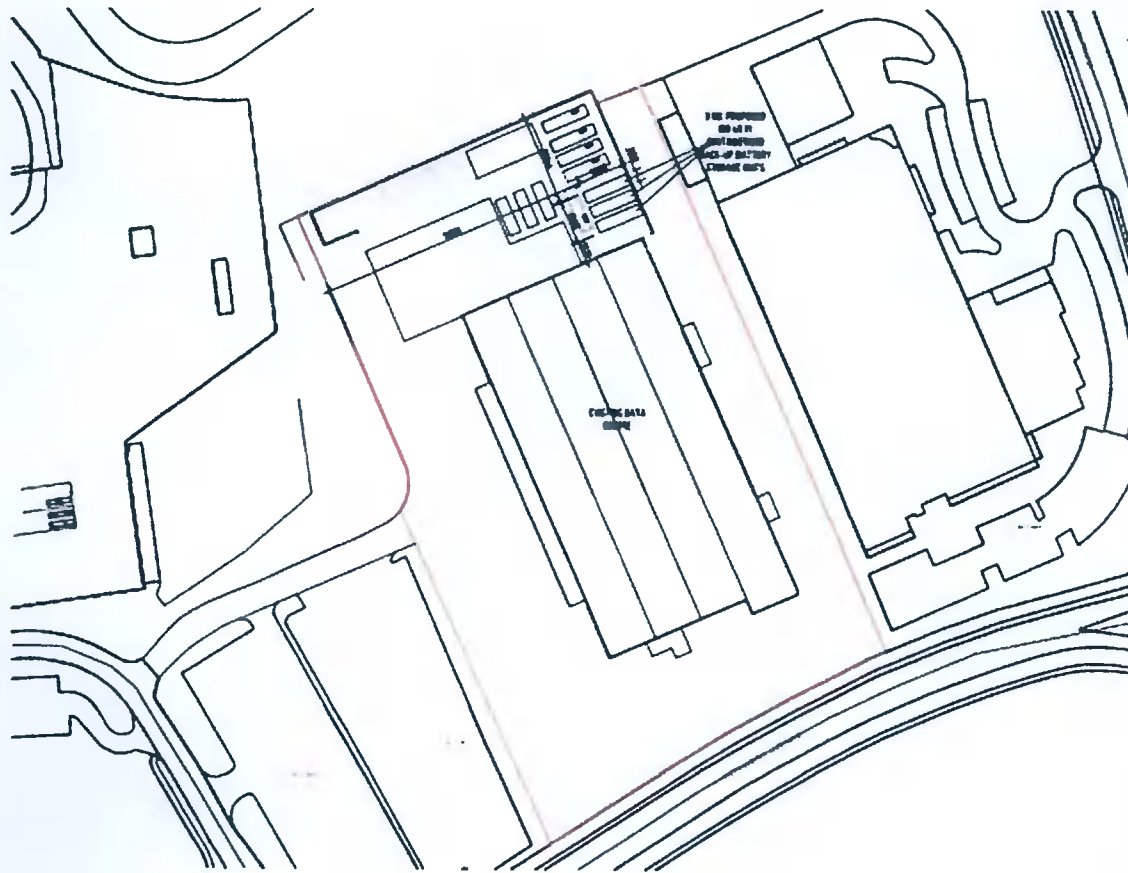


Figure 2: Extract from Proposed Site Layout Plan

5.0 Conclusion

Planning permission has been granted for the development Energy Storage Facility at an existing datacentre building consisting of the placement of three ISO 40 ft. shipping containers containing back up battery storage units at Keppel Data Centre, Citywest Avenue, Citywest Business Park, Dublin 24.

The proposed development is minor in nature has been designed in accordance with the proper planning and development of the area. Appropriate management of energy use and storage should be supported for the long term and not limited to a three year period.

It is unreasonable to attach this Condition to the subject proposal due to the inclusion of shipping containers which are standard, best practice, across energy storage facilities for safety as they can be removed and repaired if any issues occur.

It is considered that Condition no. 2 attached to the Grant of Permission is unduly onerous and should be removed as set out in this 1st Party Appeal.

Signed,



R.W. Nowlan & Associates

RW Nowlan & Associates
37, Lower Baggot Street
Dublin 2.

**NOTIFICATION OF DECISION TO GRANT PERMISSION
PLANNING AND DEVELOPMENT ACT 2000 (as amended) & PLANNING
REGULATIONS THEREUNDER**

Decision Order Number: 0522	Date of Decision: 20-Apr-2022
Register Reference: SD22A/0013	Date: 24-Mar-2022

Applicant: Energy Optimisation Solutions Limited

Development: The installation of an energy storage unit at an existing data centre facility. The development involves the placement of three ISO 40ft. shipping containers containing back up storage units at Keppel Data Centre, Citywest Avenue, Citywest Business Park, Dublin 24

Location: 4033, Citywest Avenue, Citywest Business Park, Dublin 24

Floor Area:

Time extension(s) up to and including:

Additional Information Requested/Received: 14-Mar-2022 /24-Mar-2022

DECISION TO: Pursuant to the Planning & Development Act 2000 (as amended), it is hereby decided, for the reasons set out in the First Schedule hereto, to **GRANT PERMISSION** for the said development in accordance with the said plans and particulars, subject to the conditions specified in the Second Schedule hereto, the reasons for the imposition of the said conditions being as set out in the said Second Schedule and the said decision is subject to the said conditions.

FIRST SCHEDULE

It is considered that the proposed development accords with the policies and objectives of South Dublin County Council, as set out in the South Dublin County Council Development Plan 2016 - 2022 and subject to the condition(s) set out hereunder is thereby in accordance with the proper planning and sustainable development of the area.

SECOND SCHEDULE

Conditions and Reasons:

1. Development to be in accordance with submitted plans and details.
The development shall be carried out and completed in its entirety in accordance with the plans, particulars and specifications lodged with the application, and as amended by Further Information received on 24th March 2022, save as may be required by other conditions herewith.
REASON: To ensure that the development shall be in accordance with the permission, and that effective control be maintained.
2. Duration of permission.
This permission shall be for a temporary period of three years, starting on the date of the final grant of permission. Any continued use after this date shall be the subject of a new planning application.
Reason: To ensure that the shipping container structures do not remain as a permanent feature in this area of the Citywest Business Park.
3. Drainage - Irish Water.
 - (a) The water supply and drainage infrastructure, shall comply with the requirements of Irish Water.
 - (b) There shall be complete separation of the foul and surface water drainage systems, both in respect of installation and use. All new precast surface water manholes shall have a minimum thickness surround of 150mm Concrete Class B.
REASON: In the interests of public health, the proper planning and sustainable development of the area and in order to ensure adequate water supply and drainage provision.
4. Operational Noise.
 - (a) Noise due to the normal operation of the proposed development, expressed as L_{Aeq} over 15 minutes at the façade of any noise sensitive location, shall not exceed the daytime background level i.e. 0700 – 1900 by more than 10 dB(A) and shall not exceed the background level for evening and night time (currently 19:00 – 07:00) as determined in S.I. No. 140/2006 - Environmental Noise Regulations 2006 .
Clearly audible and impulsive tones at noise sensitive locations during evening and night as determined in S.I. No. 140/2006 - Environmental Noise Regulations 2006 shall be avoided irrespective of the noise level.
 - (b) Noise levels from the proposed development shall not be so loud, so continuous, so repeated, of such duration or pitch or occurring at such times as to give reasonable cause for annoyance to a person in any residence, adjoining premises or public place in the vicinity.
 - (c) All mechanical plant and ventilation inlets and outlets should be sound insulated and/or fitted with sound attenuators as necessary to ensure that the noise level as expressed as L_{Aeq} over 15 minutes at 1 meter from the façade of any noise sensitive location does not exceed the background level by more than 10 dB(A) for daytime and shall not exceed the background level for evening and night time (currently 19:00 –

07:00) as determined in S.I. No. 140/2006 - Environmental Noise Regulations 2006.

REASON: In the interest of public health by the prevention of unacceptable levels of noise pollution which could interfere with normal sleep and rest patterns and/or when people could reasonably expect a level of quietness, and to uphold the Council's amenity policies set out in the South Dublin County Council Development Plan.

5. Construction Noise and Hours.

To control, limit and prevent the generation of unacceptable levels of Environmental Noise Pollution from occurring during construction activity, no Equipment or Machinery (to include pneumatic drills, on-site construction vehicles, generators, etc.) that could give rise to unacceptable levels of noise pollution as set out generally for evening and night-time in S.I. No. 140/2006 - Environmental Noise Regulations 2006 shall be operated on the site before 7.00 hours on weekdays and 9.00 hours on Saturdays nor after 19.00 hours on weekdays and 13.00 hours on Saturdays, nor at any time on Sundays, Bank Holidays or Public Holidays.

Any construction work outside these hours that could give rise to unacceptable levels of noise pollution shall only be permitted following a written request to the Planning Authority and the subsequent receipt of the written consent of the Planning Authority, having regard to the reasonable justification and circumstances and a commitment to minimise as far as practicable any unacceptable noise outside the hours stated above. In this respect, the applicant or developer shall also comply with BS 5228:2009 Noise and Vibration Control on Construction and Open Sites, and have regard to the World Health Organisation (WHO) – Guidelines for Community Noise (1999).

The applicant or developer shall also endeavour to engage in local consultation in respect of any noise sensitive location within 30 metres of the development as approved prior to construction activity commencing on site. Such noise sensitive locations should be provided with the following:

- Schedule of works to include approximate timeframes
- Name and contact details of contractor responsible for managing noise complaints
- Hours of operation- including any scheduled times for the use of equipment likely to be the source of significant noise.

REASON: In the interest of public health by the prevention of unacceptable levels of noise pollution which could interfere with normal sleep and rest patterns and/or when people could reasonably expect a level of quietness, the proper planning and sustainable development of the area and to uphold the Council's amenity policies set out in the South Dublin County Council Development Plan.

6. Minimise Air Blown Dust.

During the construction and or demolition phase of the development, Best Practicable Means shall be employed to minimise air blown dust being emitted from the site. This shall include covering skips and slack-heaps, netting of scaffolding, daily washing down of pavements or other public areas, and any other precautions necessary to prevent dust nuisances. The applicant/developer shall comply with British Standard B.S. 5228 Noise Control on Construction and Open sites and British Standard B.S. 6187 Code of Practice for demolition.

REASON: In the interest of public health and to uphold the Council's policies set out in the South Dublin County Council Development Plan.

NOTE: The applicant is advised that under the provisions of Section 34 (13) of the Planning and Development Act 2000 (as amended) a person shall not be entitled solely by reason of a permission to carry out any development.

NOTE: The developer should ascertain and comply with the requirements of Eirgrid and any connection agreements in place or which are required to be agreed.

NOTE: The applicant or developer should ensure that all necessary measures shall be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works and to ensure that any such instances arising are remedied immediately.

NOTE: The applicant is advised that where industrial effluent is produced or stored a licence may be required under the provisions of the Waste Management Act.

NOTE: A Roads Opening Licence must be obtained from South Dublin County Council prior to the commencement of any works in the public domain in order to comply with the Roads Act 1993, Section 13, paragraph 10. Under this Act, non-compliance constitutes an offence.

NOTE: The applicant/developer is advised that the most up to date South Dublin County Council Taking in Charge Policy and associated documents can be found at the following location <https://www.sdcc.ie/en/services/planning/commencement-and-completion/completion/taking-in-charge-policy-standards>.

NOTE: The applicant shall notify the Irish Aviation Authority and the Department of Defence regarding any cranes likely to penetrate ICAO surfaces.

The Developer is advised that under the provisions of the Construction Products Regulation 2013 (No.305/2011-CPR) All products sourced for use in building process must conform with the statutory requirements of the CPR. For more information on these responsibilities see <http://ec.europa.eu/enterprise/sectors/construction/legislation>.

From March 1, 2014 the Building Control (Amendment) Regulations 2013 (SI 80 of 2013) come into effect. All Commencement Notices for works greater than 40sq.m are obliged to be accompanied by a number of certified undertakings as described by these Regulations.

Please note that upon receipt of this document you are obliged to remove the planning site notice in compliance with Article 20 of the Planning and Development Regulations 2001, as amended.

Please note that any valid submissions or observations received in accordance with the provisions of the Planning and Development Regulations 2001, as amended, have been considered in the determination of this application.

Signed on behalf of the South Dublin County Council.



for Senior Planner

22-Apr-2022