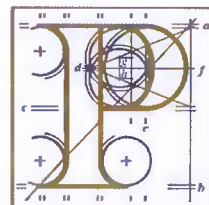


Our Case Number: ABP-313787-22

Planning Authority Reference Number: SD21A/0241



**An
Bord
Pleanála**

South Dublin County Council
Planning Department
County Hall
Tallaght
Dublin 24

PLANNING COUNTER

15 JUN 2022

RECEIVED

Date: 14 June 2022

Re: demolition of house and outbuildings and the construction of two Data Centres and ancillary buildings, plant, and site development works. A revised EAIR was submitted as part of the Additional Information response to the council.

In the townlands of Ballybane & Kilbride within Profile Park, Clondalkin, Dublin 22

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
Glaoinn Áitiúil	LoCall	1890 275 175
Facs	Fax	(01) 872 2684
Láithreán Gréasáin	Website	www.pleanala.ie
Ríomhphost	Email	bord@pleanala.ie

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

Supplementary Development Contributions) including any special condition which might be appropriate under section 48(2)(c) of the Act. Any such contingency submission, in circumstances which your 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-313787-22) the request at 1 on page 1 of this letter has been forwarded.

Signed: _____

Print:(_____)

Date: _____

Yours faithfully,



Sihead White
Administrative Assistant
Direct Line: 01-8737202

BP07

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D01 V902 D01 V902

MARSTON

PLANNING CONSULTANCY

The Secretary
An Bord Pleanála
64 Marlborough Street
Dublin 1

9th June 2022

Time:	By:
Fee: €	Type:
ABP-	LDG-
AN BORD PLEANÁLA	
13 JUN 2022	

Our Ref: 21047

Re : Planning and Development Act 2000-2021 and the statutory regulations (as amended). First part appeal by Vantage Data Centers DUB11 Ltd. against Condition no. 2 of the decision of the Planning Authority that granted permission for development that consists of the demolition of the abandoned single storey dwelling and associated outbuildings (206sqm); and the construction of 2 no. two storey data centers with plant at roof level of each facility and associated ancillary development that will have a gross floor area of 40,589sqm, plus a temporary gas powered generation plant if required; at this site of 8.7 hectares to the south of the New Nangor Road (R134); and on land within the townlands of Ballybane and Kilbride within Profile Park, Clondalkin, Dublin 22.

South Dublin County Council Reg. Ref. SD21A/0241

Date of decision: 16th May 2022

Four week period for making appeal on or before: end of 13th June 2022

Dear Sir / Madam,

We, Marston Planning Consultancy, 23 Grange Park, Foxrock, Dublin, D18 T3Y4; are instructed by Vantage Data Centers DUB11 Ltd., 1-2 Victoria Buildings, Haddington Road, Dublin, D04 XN32; to lodge this first party appeal against Condition no. 2 of the decision made by South Dublin County Council to grant permission. In compliance with the statutory regulations, we enclose herewith a cheque payable to An Bord Pleanála for the sum of €3,000.00 as the appropriate appeal fee in this instance, as an Environmental Impact Assessment Report (EIAR) was submitted with the application, and within the statutory four week period for making the appeal.

Our clients welcome the positive overall nature of the decision to grant permission with conditions for the proposed development. The premise of the condition that is the subject of this appeal appears, based on the Chief Executive's Report and reason provided as part of the condition, to be to protect the amenities of the area and in the interests of the proper planning and sustainable development of the area. We refer the Board to page 50 of the Chief Executive Report, in which the Planning Officer considers the First Party's response to Item 3 of the Additional Information request that relates to the Multi-Fuel Generation Plant (MFGP) in which the planner states that despite the Department of Defence having no objections in terms of the height of the flues; that the Planning Authority remained concerned regarding the visual impact

However, it is contended that the visual impact of the flues at 30m compared to 25m is one that is not readily definable when considered from the verified views as submitted as part of the revised EIAR submitted as part of the Additional Information response to the Council.

We respectfully submit that the applicant has already outlined in their response to the Additional Information sought by the Planning Authority (which is appended to this appeal), that they have future proofed the MFGP to be able to utilise more renewable sources of fuel when they become readily available in Ireland. The rationale and justification for the increase in the height of the flues is three-fold. Firstly, it is to ensure compliance with EU emission guidelines under EN15259. Secondly, it is to ensure that the air quality impacts of the proposal are mitigated for in the design of the MFGP that decreases air quality impacts of the proposed development on nearby sensitive receptors. Thirdly, it will significantly reduce the annual carbon emissions of the MFGP by 59.3 tonnes CO₂ per year. We respectfully submit that there is no environmental reason why the flues of the MFGP should be reduced from 30m to 25m as we will clearly set out under this appeal.

AN BORD PLEANÁLA	
LDG-	054478 - 22
ABP-	
13 JUN 2022 OK	
Fee: €	3000.00 Type: CHEQUE
Time: 14.28	By: HAND

The condition currently states:

"2. Amendments.

Prior to the commencement of development the applicant, owner or developer shall submit the following for the written agreement of the Planning Authority:

Revised plans that incorporate all of the following amendments-

- (a) *the proposed flues, associated with the multi fuel generation plant, shall be reduced in height to no more than 25m unless otherwise agreed in writing by the Planning Authority. The location of the flues within the multi fuel generation plant may be altered to accommodate this; Flue Details. The applicant shall submit for the written agreement of the Planning Authority details of the flues at a scale of not less than 1:20.*

REASON: To protect the amenities of the area and in the interests of the proper planning and sustainable development of the area."

We respectfully submit that if the Board are mindful to uphold the arguments set out in this appeal of Condition no. 2 then we request that they condition that the subject development be undertaken in accordance with the revised conditions.

In addition, given that this is an appeal of a condition of the permission that does not in any way affect the overall nature and extent of the permission granted, we request that the Board exercise its discretion and consider the appeal under s.139 of the Planning and Development Act 2000 (as amended). We respectfully submit that this is fully appropriate given that the application was determined positively by the Planning Authority in granting permission for the development. Prior to addressing the condition specifically it is important given the complexity of the application to set the appeal in context.

1. The appeal in context

The location and description of subject site

The proposed Data Center facility and MFGP are to be located on a site of c. 8.7 hectares that consists of a primarily greenfield site within the Profile Park Business Park. The site includes the abandoned and unoccupied single storey property and outbuilding (206sqm) that is located to the south of, and abounding the New Nangor Road, Dublin 22. This property and associated outbuilding are proposed to be demolished as part of the Proposed Development. The northern boundary with the New Nangor Road remains rural in form.

The site is an irregular parcel of land and is relatively flat at between 72m and 73.5m Above Ordnance Datum (m AOD) with the lowest part of the site being where the stream enters the culvert under the site to the west.

The site is bounded by the recently realigned New Nangor Road (R134) to the north with further industrial development (Kilcarbery Park and other developments) to its north that includes the Microsoft data center campus; by a residential property and undeveloped EE zoned lands to the east; by Falcon Avenue and further lands within Profile Park to the south; and the Grange Castle Motor Company site to the west. There is an existing vehicular access that includes some road works, off a roundabout on Falcon Avenue within Profile Park into the site to the south / south-east. Further access points into the site are located to the south-west within Profile Park.

The existing Baldonnel stream runs through the site in a south-east to north-west direction, flowing towards the north-west; where it enters into an underground culvert below the Grange Castle Motor Company site that is a section 22 landfill site. This culvert offers a significant restriction to the natural flow of the stream. The stream borders but is located outside of the site to the south-east. The stream passes through a low quality environment and offers little in terms of the quality of its biodiversity.

There are strong hedgerows along the western and eastern boundaries that includes some trees. Further trees are located around the abandoned residential property to the north of the site, as well as forming stubs of trees at the east and west boundary where the townland boundary between Ballybane and Kilbride crossed the center of the site.



View to North along eastern length of the Baldonnal stream (left) with poor quality tree line and northern part of stream looking east (right)

The lands have been previously subject to a geophysical survey by Archaeological Consultancy Services Ltd. under licence no. 20R0080 that indicated a number of anomalies that are unlikely to form archaeological features. Further investigation trenching was undertaken under licence from the National Monuments Service, Department of Culture, Heritage and the Gaeltacht on behalf of South Dublin County Council.



Aerial view of Proposed Development site in context (source: Google Earth)

Large areas of the surrounding lands to the south and north within the Grange Castle Business Park and Profile Park have been developed in the past 10-15 years and are occupied by industrial campuses including pharmaceutical, data centers and food manufacturing uses and therefore the local area is overwhelmingly industrial and of generally low sensitivity from a visual amenity perspective. The closest residential property is located c. 15m east of the north-east boundary of the site along the New Nangor Road.

The overall site is located between the N4 and N7 national primary roads and is served by a road network that has recently undergone an upgrade as well as Falcon Avenue within Profile Park that provides access into this part of the Business Park from the New Nangor Road.

Planning history of the site

An extant permission granted in December 2020 under Reg. Ref. SD20A/0124 exists on the site for the construction Distribution Warehouse Building comprising warehousing and ancillary areas at ground floor and support offices, staff areas and plant across two floors; and car parking, cycle parking, security gatehouse, landscaping and boundary treatments (including security fencing and gates). The permission also includes for the demolition of the abandoned dwelling that forms part of the current application. The road infrastructure in place within Profile Park was granted under the permission consented under Reg. Ref. SD06A/0568. This application also proposed the diversion of the stream but with no biodiversity mitigation, and this element of the application was subsequently withdrawn at Further Information stage.

The current application will run concurrently with a Strategic Infrastructure Development (SID) application that will facilitate a new 110kV GIS Substation (to be known as Kilcarbery) that is proposed to be located to the south of the proposed development and to the south of Falcon Avenue within Profile Park. The SID application also include 2 no. underground 110kV transmission lines between the new substation and the existing 110kV Barnakyle substation c. 274m to the west and to the existing 110kV underground Castlebaggot - Barnakyle circuit some 492m to the west (ABP Ref. ABP-312793-22). This case is due to be decided by the 17th August 2022.

South Dublin County Development Plan 2016-2022

The South Dublin County Development Plan is the statutory planning document that covers the entire South Dublin administrative area. The Plan was adopted in June 2016. The Proposed Development is to be located within an area zoned EE (Enterprise and Employment) under the County Development Plan with the stated aim:

"To provide for enterprise and employment related uses."

The proposed use is an established permitted use under this zoning. Significant precedent exists for the establishment of this use on other EE zoned lands in the area. EE zoned areas are established economic industrial areas running essentially in an arc northwards from City West to Grange and Grange Castle. The northern part of the lands is zoned RU. No element of the proposed development is proposed within this zoning that will contain the landscape berms and the attenuation ponds; as well as a public park.

South Dublin County Development Plan 2022-2028

The County Development Plan is currently undertaking a final review of submissions following the publication of the Material Alterations of the Plan. This followed a motion to alter the status of a 'data center' from being open for consideration to being not permitted under the EE zoning. Our client's made a submission on these Material Alterations as did a number of other data center operators. We also note that the Office of the Planning Regulator (OPR) also made a submission on the Material Alterations, and specifically Amendment 13.3 that relates to the consideration of data centers under the EE zoning. Their submission outlines that the Material Alteration 13.3; which is relevant in this instance would not be consistent with RPO 8.25 of the RSES for Eastern and Midland Regional Authority and issues a recommendation that data centers be considered as an open for consideration use in EE zoning objective area. This appeal is therefore made on the basis that this recommendation is upheld and that data centers are considered an open for consideration use under the adopted South Dublin County Development 2022-2028, which is due to be adopted in c. August 2022.

2. Permitted development

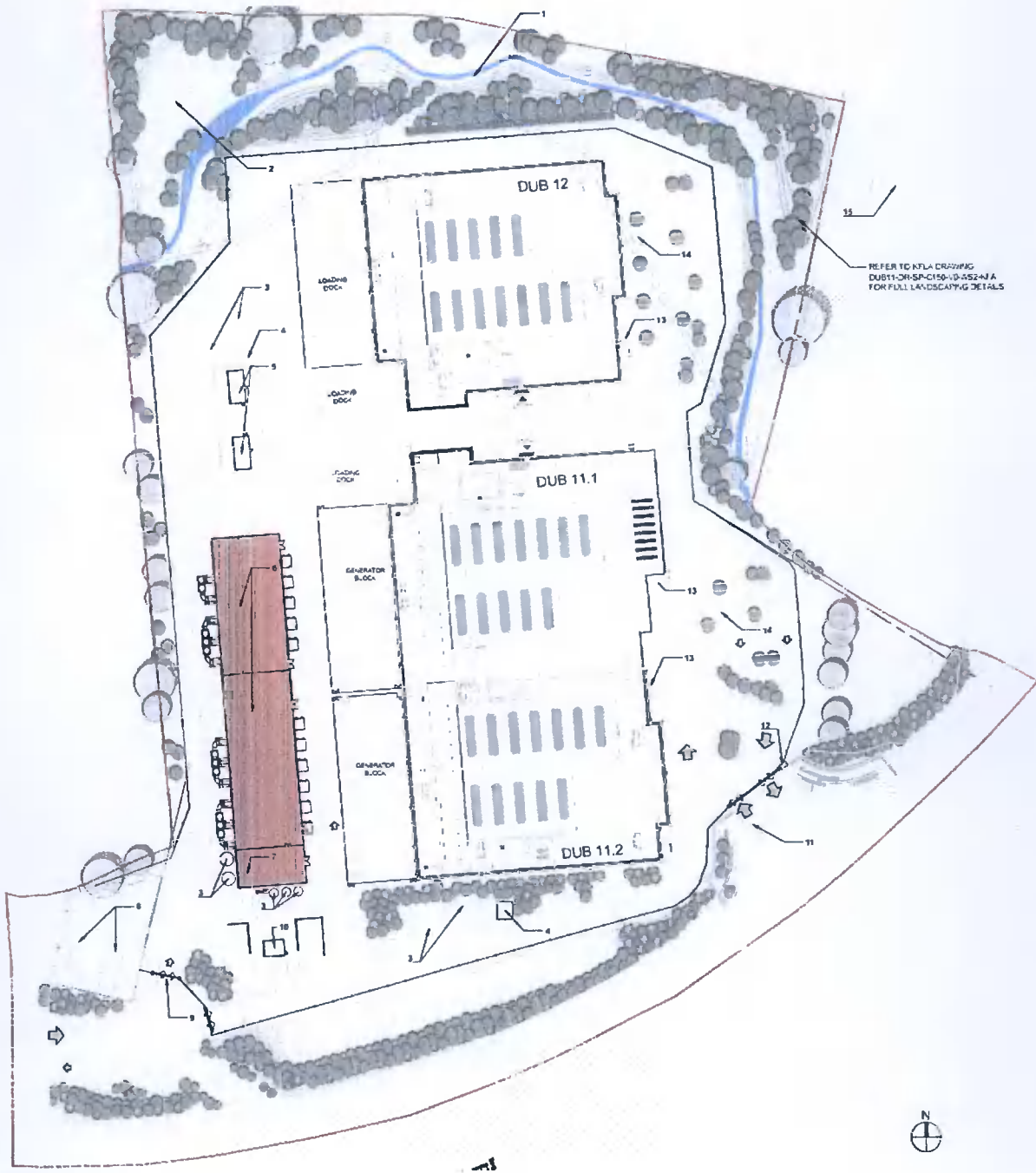
The decision of the Planning Authority to grant permission was made on the 16th May 2022, following a request for Additional Information from the Council and a comprehensive response to each request. We refer the Board to the fact that the scale of development was not materially amended under this response. The originally applied for application was described in the planning notices as follows, with the originally applied for power plant highlighted for clarity purposes:

The development will consist of the demolition of the abandoned single storey dwelling and associated outbuilding (206sqm); and the construction of 2 no. two storey data centers with plant at roof level of each facility and associated ancillary development that will have a gross floor area of 40,589sqm that will consist of the following:

- 1 no. two storey data center (Building 11) that will be located to the south of the site and will have a gross floor area of 24,667sqm. It will include 22 no. emergency generators located at ground floor level within a compound to the western side of the data center with associated flues that will be 22.3m in height;
- 1 no. two storey data center (Building 12) that will be located to the north of the site, and to the immediate north of Building 11 and will have a gross floor area of 12,915sqm. It will include 11 no. emergency generators located at ground floor level within a compound to the western side of the data center with associated flues that will be 22.3m in height;
- Each of the two data centers will includes data storage rooms, associated electrical and mechanical plant rooms, loading bays, maintenance and storage spaces, office administration areas, and plant including PV panels at roof level as well as a separate house generator for each facility that will provide emergency power to the admin and ancillary spaces. Each generator will include a diesel tank and there will be a refuelling area to serve the proposed emergency generators;
- The overall height of each data center apart from the flues and plant at roof level is c. 14.23m above the finished floor level;
- Construction of internal road network and circulation areas, with main entrance off Falcon Avenue to the south, as well as a secondary vehicular access off Legacy Drive to the south-west, both from within Profile Park; footpaths, provision of 144 no. car parking spaces, and 66 no. cycle parking spaces;
- single storey step-up substation (38sqm) as well as 2 no. single storey switch substations (121sqm);
- AGI Gas Regulator compound that include 3 no. single storey buildings (134sqm)
- **construction of a gas powered generation plant in the form of a 13m high single storey building with a gross floor area of 2,714sqm that will contain 10 gas generators with associated flues that will be 25m in height, and grouped in pairs and threes. The Gas Plant will be located to the west of Building 11;**
- Ancillary site development works, that will include reorientation of the Baldonnel Stream, biodiversity management initiatives, attenuation ponds and the installation and connection to the underground foul and storm water drainage network, and installation of utility ducts and cables, that will include the drilling and laying of ducts and cables under the internal road network within Profile Park. Other ancillary site development works will include hard and soft landscaping, lighting, fencing, signage, services road, entrance gates, sprinkler tanks and pump room; and
- A temporary gas powered generation plant within a fenced yard containing 21 no. generator units in containers, each with associated flues (each 25m high), 12 transformers and 10 containers of controls to be located to the west of, and associated with the first phase of Building 11, and will be required for a period of up to 2 years if connection to the national grid is delayed. This temporary plant will not be built if the connection to the national grid is in place prior to the operation of Building 11.

The development will be accessed from Falcon Avenue and Legacy Drive from within the Profile Park Business Park that contains an access from the New Nangor Road (R134). An Environmental Impact Assessment Report (EIAR) has been submitted with this application. (own emphasis)

The originally proposed site layout plan is shown on the following page:



1 DUB-1 PROPOSED SITE PLAN

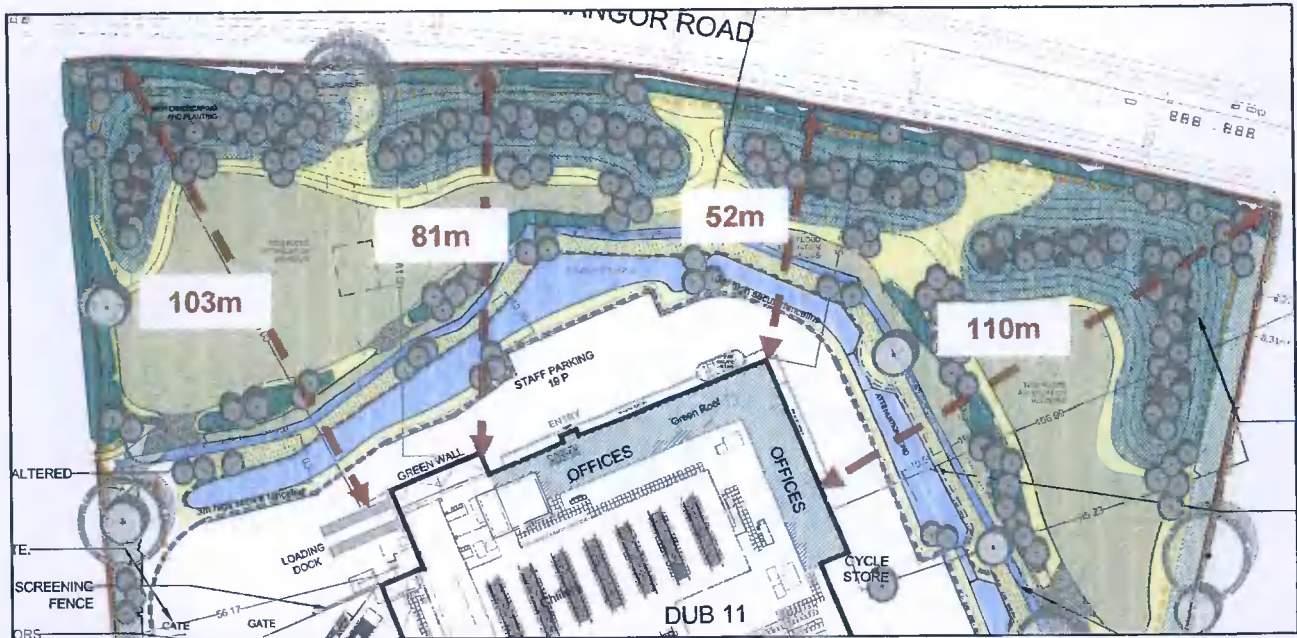
Originally proposed site plan with original power plant with 25m flues highlighted in red

Response to Additional Information Request

A number of changes were made to the layout of the proposed development as part of the AI response. The revised master planning layout for the site enabled the applicant to retain the stream in its current alignment with the data centers now being located to the south and west of the existing stream. The revised layout also repositioned the main buildings on the site.

This revised layout resulted in DUB11 being relocated to the north so that its further animated north and north-east elevation, that contains its office component, faces the New Nangor road; and that DUB 12 is relocated to the south so that its southern and south-east elevation faces onto Falcon Avenue. This change also required a slight realignment of the data centers so that they do not sit in a north to south alignment. DUB 11 is now aligned in a north-west to south-east alignment; which as well as aiding the focussing the animated elevations towards the New Nangor Road to the north when viewed from all directions; it also enables the emergency generators (which are now double stacked) to be hidden; which will have a double height screen to the north.

These changes pushed the most northern data center (DUB11) a significant distance away from the public road and enabled the retaining of a 10m riparian strip either side of the existing alignment of the Baldonnell stream, which was not to now be realigned, fully in accordance with Policy G3, Objectives 1, 2 and 5 of the County Development Plan.



Northern part of the Revised Proposed Site Layout Plan indicating increased distances to northern boundary (Drawing no. DUB11-DR-SP-A004-V1-PL-BMD)

The revised layout resulted in the most northern data center (DUB11 now) having been pushed 16.15m further away from the northern boundary, so that it is now 52.74m away from the boundary with the New Nangor Road at its nearest point. By rotating the alignment of the building, the north-west corner of the building has been moved c. 26m away from this same boundary so that it is now c. 81m from the New Nangor Road and 103m away from the north-west corner of the site.

These changes to the overall proposed site layout plan required additional flood and surface water attenuation that has been incorporated within the wider design with a revised landscaping design ensuring that the good principles of the screening and biodiversity gains proposed under the original application were further enhanced under the AI response.

Phasing of development

The data center element of the application is to be built in two buildings – DUB 11 and DUB 12. DUB11 being the larger and will contain four data halls at ground floor and four data halls at first floor. The currently projected phasing of construction works can be summarised as:

Phase 1 – DUB 11 and 50% of the Multi-Fuel Generation Plant projected to be completed in Q3, 2023, and the start of operation in Q4, 2023; and

Phase 2 – DUB12 and 50% of the Multi-Fuel Generation Plant projected to be completed in Q4, 2024, and the start of operation in Q1, 2025.

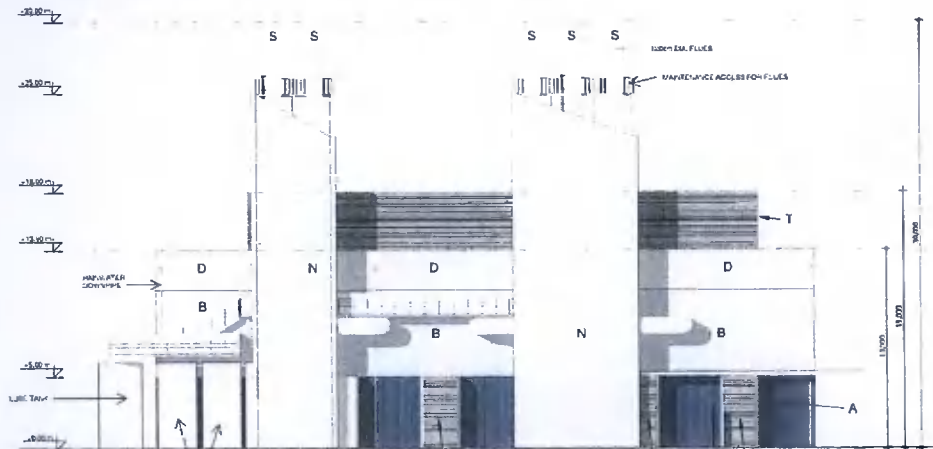
All other substantive elements that form part of this application are proposed to be completed within Phase 1.

Amendments to the Multi- Fuel Generation Plant

In response to the concerns raised in the AI request in relation to the monolithic appearance of the originally applied for Power Plant, as well as being altered to a Multi-Fuel Generation Plant (MFGP) it was broken into two separate elements that sit c. 40m apart. The air quality assessment undertaken as part of its revised design, and mitigation and permit compliance monitoring within the plant required required the flues to be

increased from 25m to 30m in height. We note that this was not recognised by the Planning Authority in attaching the condition to the permission.

Their original height of 25m, due to the repositioning of the MFGP under the AI Response were resulting in them negatively impacting the cooling capabilities of the chillers on the roof of the data centers that would require more energy to cool the facility, which is a key component of the workings of a data center. Increasing the flues, which are split into two groups of three flues on the northern MFGP; and a group of three and two flues on the southern MFGP (see below).



Excerpt from Drawing no. DUB11-DR-ZZ-A019-V1-PL-BMD prepared by Burns and McDonnell indicating western elevation of the southern MFGP

The northern Plant (now located to the west of DUB11) is to be constructed under Phase 1 of the proposed development and will measure 63m in length. The second Plant (now to be located to the west of DUB12) is to be constructed under Phase 2 of the Proposed Development and will measure 46m in length. In addition to the 9m reduction in overall length and the splitting of the plants into two separate elements; the applicant added elevational details to both plants. This included a darker metal cladding on their lower elements and which the air exhaust units help to break down the horizontal scale at ground floor. This darker cladding helps to ground the plants within the landscape and overall site.

The first floor of the plant is proposed to be encased in a lighter cladding; with a further differential in cladding of the structures encasing the flues, with the flues also to be finished in a different shaded detail. All these changes cumulatively aid the breaking down of the scale and concerns over the form of the Multi-Fuel Generation Plant that reduce their monolithic form. Furthermore, due to their siting within the site, and their height, which apart from the flues is significantly lower than the data centers themselves and will therefore not be visible from any sensitive views.

Grid connection and purpose and function of the new Multi-Fuel Generation Plant (MFGP)

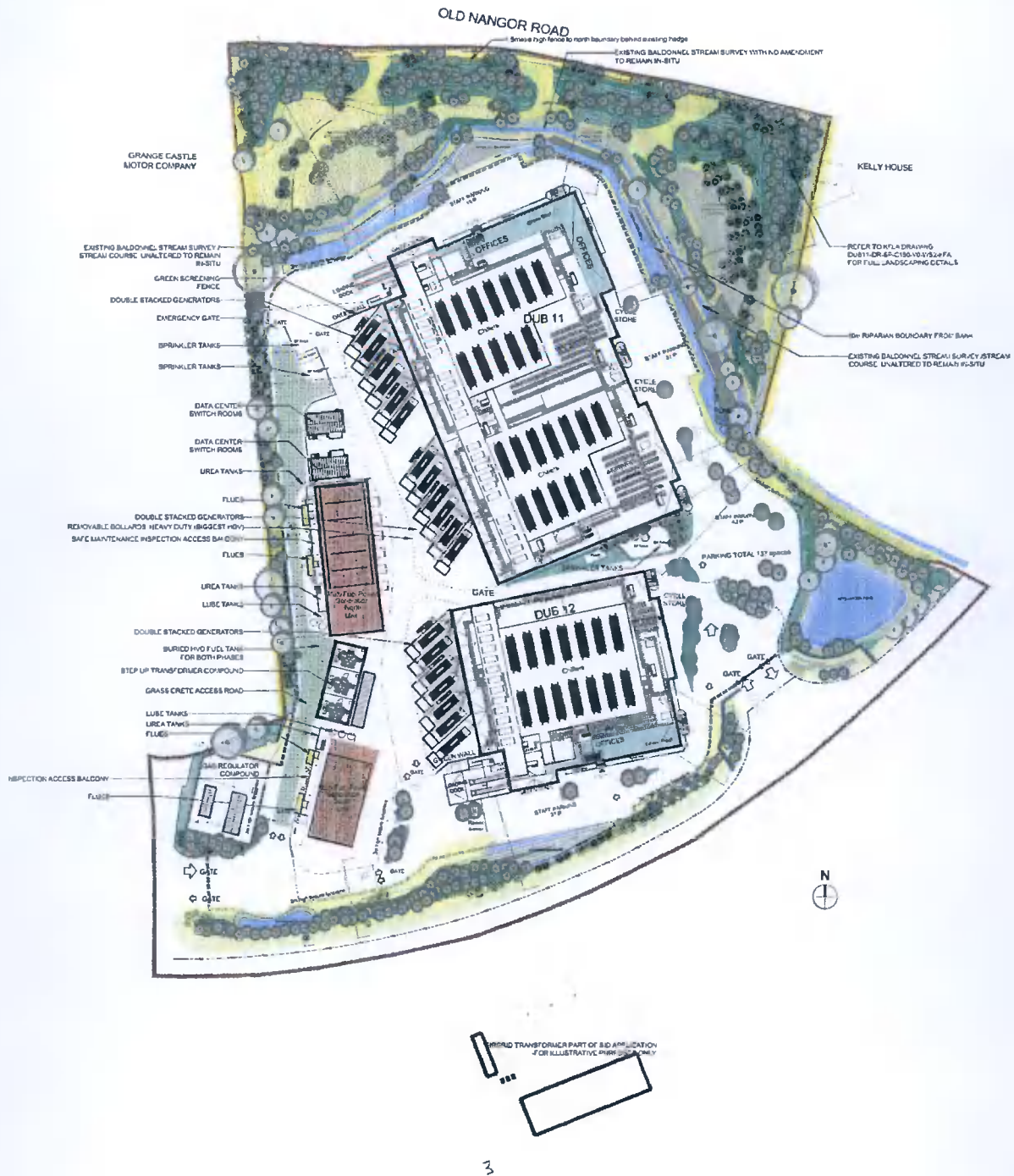
We can confirm for the clarity of the Board that the applicant has received and executed a grid connection agreement with Eirgrid. The long-term primary supply of electricity will come from the national grid infrastructure with the on-site power plant, which is proposed as a Multi-Fuel Generation Plant feeding the national grid.

Eirgrid have stipulated under the Data Center Connection Offer Process and Policy 2019 that in order for the data center to receive a firm grid connection, it must install on-site generation to the requested firm capacity. Therefore, to get a connection to the national grid, the data center must install on-site dispatchable generation and Eirgrid have stipulated that this generation must be capable of running continuously for an extended period of time not limited by fuel reserves. This would be in multiple individual intervals during peak daily usage in winter that is estimated up to 500 hours per annum, to meet this requirement, dual fuel engines have been chosen because no other renewable or storage technology can provide this on a non-intermittent basis. This is the function of the Multi-Fuel Generation Plant.

In moving to a Multi-Fuel Generation Plant this will enable it to utilise a wholly renewable fuel source in operating continuously and solely on Hydrotreated Vegetable Oil (HVO), a second generation biofuel, in the short-term; and also enables HVO to provide a back up to the Multi-Fuel Generation Plant to be fuelled by a wholly renewable fuel source.

Regarding the need for grid reinforcements and large demand connections in this area, the installation of a Multi-Fuel Generation Plant will support the resilience of the grid through the provision of flexible and dispatchable generation into the national grid thus meeting one of the key requirements of the CRU in their published document of the 23rd November 2021 "Direction to the System Operators related to Data Center grid connection processing".

By providing a Multi-Fuel Generation Plant available at scale at the immediate point of demand, this actually reduces the requirement for future grid reinforcements and relieves constraints in the locality. The new Climate Action Plan 2021 also recognises the need for a diversified portfolio of generation up to 2030 and beyond in order to deliver grid stability and system services arising from increasing renewable energy penetration.



High efficiency multi-fuel generation plants (such as is being proposed in this instance), along with storage and interconnection are recognised as contributing to this solution and facilitating greater levels of renewables as a manner in which to supplement the transition to renewables as the mainstay of Ireland's energy supply.

We respectfully submit that it is not the case that there is an absence of power supply available via Eirgrid. However, there is currently a lack of the wrong type of supplies currently that do not provide sufficient stability to the national grid. There has also been a lack of new conventional generation being added to the grid over the past decade. This is why the need for Gas plants / Multi-Fuel plants form part of the Government strategy in the short to medium term to bridge the gap to a more renewable energy supply in 2030. By bringing new flexible generation to the point of demand, not only does this ease grid constraints, it will also provide much needed flexible capacity on the grid to facilitate the increased level of renewables aspired to in the Climate Action Plan 2021.

3. Grounds of appeal

The full grounds of appeal together with the arguments, reasons and considerations upon which these are based are set out below. For clarity and ease of reference we propose to deal with each individual element of the condition being appealed as stated in the Notification of Decision to Grant Permission of South Dublin County Council and outline our response to each element in turn.

Omission / amendment of condition no. 2

Whilst clearly welcoming in principle the positive decision of the Planning Authority in respect of this development, we are seeking that the Board delete or amend condition 2 of the permission.

Condition no. 2 of the notification of decision to grant permission states:

"2. Amendments.

Prior to the commencement of development the applicant, owner or developer shall submit the following for the written agreement of the Planning Authority:

Revised plans that incorporate all of the following amendments-

(a) the proposed flues, associated with the multi fuel generation plant, shall be reduced in height to no more than 25m unless otherwise agreed in writing by the Planning Authority. The location of the flues within the multi fuel generation plant may be altered to accommodate this; Flue Details. The applicant shall submit for the written agreement of the Planning Authority details of the flues at a scale of not less than 1:20.

The reason provided for these parts of the decision are *"To protect the amenities of the area and in the interests of the proper planning and sustainable development of the area"*.

We respectfully submit that the condition is inappropriate and indicate an incorrect understanding of both the visual impact of the 30m flues compared to the 25m flues; as well as the air quality and environmental implications of the different heights. This appeal will set out the reasons, when all of the other issues are considered, why the use of flues at 30m is appropriate in this instance.

Policy considerations

The existing County Development Plan does not set out any height restrictions on flue heights and there is a history of flues ranging from 20m to over 35m within the Grange Castle area, with the highest being required for the Pfizer plant located at the eastern periphery of Grange Castle. We note that in considering this issue the Department of Defence, who were consulted having regard to the nearby Baldonnell airport, had no concerns in relation to the height of the proposed flues.

Environmental considerations

The scheme as amended as part of the AI response required a detailed assessment of the implications of the redesign of the MFGP building. The operation of the MFGP will require an Environmental Permit from the Environment Protection Agency, and the permit will require a Continuous Emissions Monitoring System (CEMS) to be installed to monitor emissions from the stacks.

The CEMS will be required to be installed in accordance with European Standard EN15259 which requires that measurements are undertaken at locations of homogenous flow in the stack. Homogenous flow conditions generally occur at locations 5 diameters downstream of the last obstruction and 5 diameters upstream of the stack exit. Based on inclusion of an exhaust gas silencer in the exhaust stack to meet site sound requirements a minimum stack height of 30m is required to be able to comply with the requirements of EN15259. Reducing the stack height to 25m from 30m will therefore mean that it is not possible to comply with the requirements of EN15259 which will put the plant in danger of not being able to obtain an Environmental Permit and therefore not being able to be operated.

The air quality modelling undertaken for the EIA was undertaken using the Atmospheric Dispersion Modelling System (ADMS) carried out by Ramboll. The assessment used inputs from the Burns McDonnell CFD modelling specialists for this ADMS model.

The CFD modelling assessment of the extensive flue and temperature and wind direction effects on the Chillers to the roof of the data centers and the power generators and a reduced height of 25metres as per the SDCC planning condition results in a 0.4 degree Celsius increase in ambient temperatures surrounding the Chillers on the data centers.

A 25metre flue as conditioned by South Dublin County Council results in a significant increase in power demand, which we would consider as being contrary to current best practice, and contrary to current policy of Eirgrid and the CRU. We therefore submit that the 30m flues offer the most efficient combustion and conversion of NOX and other gases to improve the effects on the local and wider environment.

The operation of a data center requires that the internal temperature of the building is lowered by means of chillers on the roof. An increase in the temperature at the data center will require the chillers to provide more cooling, thereby increasing their power demand and leading to greater greenhouse gas emissions.

In response to this, Burns McDonnell have undertaken a review and assessment of the additional carbon footprint of reducing the flues to being 25m in height as per the condition as part of this appeal. This indicated that the lowering of the stack heights, as per the SDCC condition, would lead to an increase in the temperature at the data center by approximately 0.4°C as there will be reduced dispersion of the exhaust plumes. The increase in greenhouse gas emissions is estimated to be approximately 59.3 teCO₂e per year. The increased power demand would also have the effect of increasing noise emissions from the chillers operating with increased power. The increase in the carbon footprint of the proposed development as a result of the reduction of the flues to being 25m, would therefore be contrary to the 'Climate Action Plan 2021' and the National Development Plan 2021-2030.

The revised EIAR submitted as part of the AI response to the Planning Authority assessed the combined impact of emissions from the MFGP and the adjacent data center assuming that the stack heights of the MFGP emissions were at 30m. No significant effects were predicted using atmospheric dispersion modelling of the emissions from both plants. The modelling indicated that lowering the MFGP stacks to 25m, under the revised layout as submitted under the AI response would reduce the dispersion of emissions as the emissions would occur closer to the ground and there would be increased building downwash effects. This would increase pollutant concentrations at nearby human health receptors and therefore lead to an increase in the air quality impacts of the development. Based on the magnitude of the existing modelling results it is unlikely that the overall effect would be significant, but it would be worse than currently predicted. We respectfully submit that there are therefore no environmental grounds for upholding the condition of the permission in this instance.

Visual impact

We respectfully submit that there is no basis from a visual amenity and visual impact perspective to reduce the height of the flues from 30m to 25m. We refer the Board to the fact that no justification or rationale was provided by the Planning Authority behind the insertion of the condition in this instance beyond concerns in relation to visual impact.

We refer the Board to the submitted verified views that were submitted as part of the EIA Report submitted as part of the revised scheme as part of the Additional Information response to the Planning Authority. It is notable that in a number of the views the flues associated with the MFGP will not be visible. Furthermore, as

part of this appeal we have done some further analysis to compare the visibility of the 30m flues compared to the 25m flues.

The analysis of the photomontages / verified view indicate that the 5m reduction in flue heights will not be perceptible from distances beyond 0.5km with the naked eye. Closer proximity to the flues will be within the context of the business park environment of Profile Park and Grange Castle with buildings that are of a similar scale and form. Within this landscape context, it is our considered opinion that the 30m flue height proposed will not have an increase in visual impact compared to the reduced flue height of 25m that is required by Condition no. 2 of the permission.

As a comparison the following pages includes a comparison of view 3 – from the entrance into Grange Castle South Business Park (at top of next page); and view 5 from a distance of c. 350m from the nearest flues - from Baldonnell Road to the south from a distance of c. 550m from the nearest flues (at bottom of following page). We respectfully submit that the variance of the height differential in these views, where the MFGP flues can be clearly seen can only be described as being negligible.

In addition we have undertaken an assessment of potential locations where the Council may have had concerns in relation to the visual impact of the 30m flues. Given that the lands to the south, east and west are zoned and are being developed for similar developments, the only reasonable conclusion to reach is that the Planning Authorities concerns relate to concerns in relation to the visual impact of the proposed development from the nearest public domain being the New Nangor Road to the north.

Comparison of 30m and 25m flue heights of the MFGP from entrance to the Grange Castle South Business Park some 810m to the west of the nearest part of the MFGP (View 3 of the Verified views)



Comparison of 30m and 25m flue heights of the MFGP from Baldonnel Road to south, some 600m to the west of the nearest part of the MFGP (View 3 of the Verified views)



In order to assess the visual impact from the New Nangor Road, the project architects have undertaken as part of this appeal, two sections through the site (see following page). The first of these is from the north-east of the site, in a similar alignment of Verified Views 7a and 7b as submitted with the AI response. These submitted verified views and the section on the following page, clearly illustrate that the 30m flues are not visible from the New Nangor Road from the north-east of the site due to both the proposed landscaping bunds and planting, as well as the height of the data centers that will in combination, visually screen the 30m flues from this view, and therefore their reduction to 25m would have no benefit to the immediate local visual amenity of the area.

As part of this assessment we also refer the Board to Verified View 6, as submitted as part of the AI response, from a position in front of the car lot at the north-west corner of the site in which the landscaping bunds and planting provides a robust and strong screen so that the 30m flues of the MFGP, that are c. 200m away, will not be visible in this view.

Verified view (View 2), as submitted as part of the AI response, was taken from the junction of the New Nangor Road and the Baldonnell Road, some 740m to the west. This verified view (see excerpt below) indicates the northern part of the MFGP as being visually screened by the permitted data center granted to UBC Properties under Planning Ref. SD20A/0121. The position and scale of the development is indicated by way of the grey boxed forms on the image below. It should be noteworthy that the permitted landscaping scheme of the UBC Properties data center development is not shown in this image. This permitted scheme screens the MFGP flues from the majority of all medium / long distance views from the west.



Excerpt from Verified view no. 2 as submitted as part of the AI response to SDCC

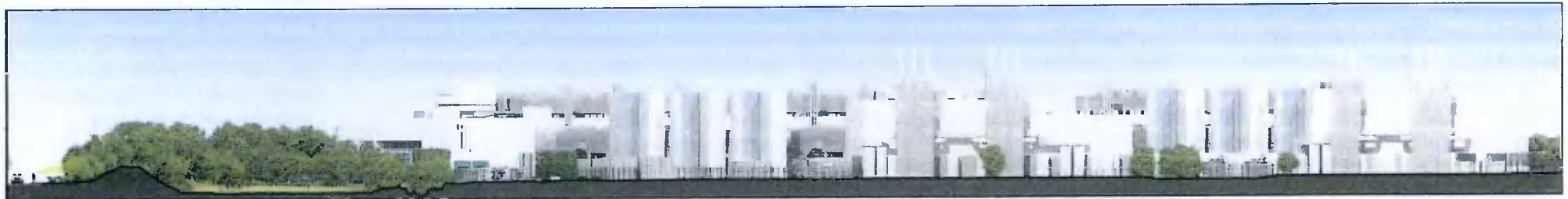
We have also undertaken a section from north to south across the site as part of this appeal (shown on next page). The landscaping scheme proposed, and submitted as part of the AI response to the Planning Authority will create 5.3m high berms with three rows of semi-mature planting of trees that will be c. 5m in height that will create a significant buffer from the northern boundary of the site. The distance the northern MFGP is from this northern boundary (c. 200m) will ensure that the 30m flues are not visible from this northern boundary, and the development to the north of the road, will also ensure that the flues are screened from medium and longer distance views from this direction.



Section through the permitted development from the north-east of the site showing the 30m high flues indicating that landscaping and height of the permitted data center will screen the flues from this direction



Section through the permitted development from the north-east of the site showing the 25m high flues indicating that landscaping and height of the permitted data center will screen the flues from this direction



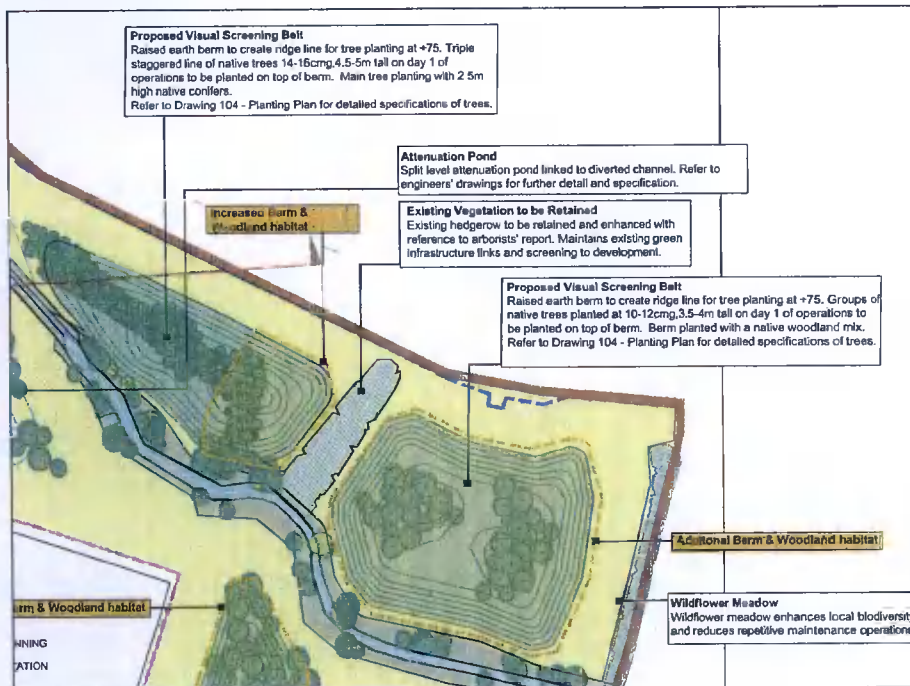
Section through the western section of the permitted development from north (New Nangor Road) to the south showing the 30m high flues indicating that landscaping and set-back from this boundary will screen the flues from this direction



Section through the western section of the permitted development from north (New Nangor Road) to the south showing the 25m high flues indicating that landscaping and set-back from this boundary will screen the flues from this direction

We respectfully submit that the above assessment indicates that there is therefore only one view from where the flues can potentially be viewed from the public domain, which is a position some 50m-200m west of the north-west corner of the site from along the New Nangor Road.

We have therefore undertaken a review of the permitted landscaping scheme as submitted as compliance in relation to the permitted UBC Properties scheme. The compliance submission increased the degree of visual screening in the north-east corner of the UBC Properties site that increased the berms to 6-7m in height that will significantly screen the flues from the road. The flues, both at 25m and 30m will therefore only be visible for a short distance of c. 40m, primarily at the eastern edge of the UBC Properties site, and to the front of the car lot property, where it will be partly screened by the property, and prior to the flues becoming screened again by the permitted landscape scheme as granted under the subject application. The distance that the flues are away from this boundary will also mitigate the difference in the height of the flues, whether at 25m or 30m to make the difference negligible, even at this scale.



We respectfully submit that the only location where the differential between the 25m and 30m flues will be apparent will be in local and internal views from within Profile Park to the south and south-east. As these are internal views within an existing and developing business park, there are no grounds for upholding this condition in this instance. We therefore request the Board to omit Condition no. 2 from the decision made by South Dublin County Council on the grounds that from visual amenity perspective, the reduction of the flues of the MFGP from 30m to 25m will have no measurable impact on protecting the amenities of the area from visual impact perspective.

4. Conclusion

We respectfully submit that as stated previously, the appellant welcomes in principle the decision of South Dublin County Council to grant permission in respect of this development. However, as elaborated upon above we respectfully request that Condition no. 2 shall be omitted based on the evidence submitted with this appeal.

We submit that the lowering of the stack heights, as per the SDCC condition, would lead to an increase in the temperature at the data center by approximately 0.4°C as there will be reduced dispersion of the exhaust plumes. The increase in greenhouse gas emissions as a result is estimated to be approximately 59.3 teCO₂e per year. The increased power demand could also have the effect of increasing noise emissions from the chillers operating with increased power. The increase in the carbon footprint of the proposed development would be contrary to the 'Climate Action Plan 2021' and the National Development Plan 2021-2030.

Reducing the stack height to 25m from 30m will therefore mean that it is not possible to comply with the

requirements of EN15259 which will put the plant in danger of not being able to obtain an Environmental Permit and therefore not being able to be operated. We respectfully submit that there are therefore no environmental grounds for upholding the condition of the permission in this instance.

Further, an assessment of the visual impact of the flues at 30m as presented to the Planning Authority as part of the Additional Information response, or at 25m, will not be perceptible from distances beyond 0.5km with the naked eye. Closer proximity to the flues will be within the context of the business park environment of Profile Park and Grange Castle with buildings that are of a similar scale and form. Within this landscape context, the 30m flue heights proposed will not have an increase in visual impact compared to the reduced flue height of 25m that is required by Condition no. 2 of the permission.

Given that this is an appeal that does not affect the nature and extent of the application as amended under the Additional Information response, we request that the Board exercise its discretion and consider the appeal under s.139 of the Planning and Development Act 2000 (as amended).

In conclusion, for all of the foregoing arguments, reason and considerations, An Bord Pleanála is invited to uphold the decision of the Planning Authority but to omit condition no. 2 to the notification of decision to grant permission which issued from the Planning Authority on the 16th May 2022, and to grant planning permission for this development on the basis that by its nature and extent, the proposal as originally submitted would accord with the proper planning and sustainable development of this area including the preservation and improvement of amenities thereof.

We look forward to an early and favourable response on this matter.

Yours faithfully,

A handwritten signature in cursive script that reads "Anthony Marston".

Anthony Marston (MIPI, MRTPI)
Marston Planning Consultancy

South Dublin County Council
 An Rannóg Talamhúsáide, Pleanála agus Iompair
 Land Use, Planning & Transportation Department
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 Foxrock
 Dublin 18
 D18 T3Y4

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

Decision Order Number:	0616	Date of Decision:	16-May-2022
Register Reference:	SD21A/0241	Date:	21-Mar-2022

Applicant: Vantage Data Centers Dub 11 Ltd.

Development: Demolition of the abandoned single storey dwelling and associated outbuilding (206sqm); construction of 2 two storey data centers with plant at roof level of each facility and associated ancillary development which will have a gross floor area of 40,589sq.m consisting of 1 two storey data center (Building 11) which will be located to the south of the site and will have a gross floor area of 24,667sq.m. including 22 emergency generators located at ground floor level within a compound to the western side of the data center with associated flues that will be 22.3m in height; 1 two storey data center (Building 12) which will be located to the north of the site, and to the immediate north of Building 11 and will have a gross floor area of 12,915sq.m including 11 emergency generators located at ground floor level within a compound to the western side of the data center with associated flues that will be 22.3m in height; each of the two data centers will include data storage rooms, associated electrical and mechanical plant rooms, loading bays, maintenance and storage spaces, office

administration areas, and plant including PV panels at roof level as well as a separate house generator for each facility which will provide emergency power to the admin and ancillary spaces; each generator will include a diesel tank and there will be a refuelling area to serve the proposed emergency generators; the overall height of each data center apart from the flues and plant at roof level is c. 14.23m above the finished floor level; the overall height of each data center apart from the flues and plant at roof level is c. 14.23m above the finished floor level; single storey step-up substation (38sq.m) as well as 2 single storey switch substations (121sq.m); AGI Gas Regulator compound that include 3 single storey buildings (134sq.m); construction of a gas powered generation plant in the form of a 13m high single storey building with a gross floor area of 2,714sq.m that will contain 10 gas generators with associated flues that will be 25m in height, and grouped in pairs and threes; the Gas Plant will be located to the west of Building 11; ancillary site development works, that will include reorientation of the Baldonnel Stream, biodiversity management initiatives, attenuation ponds and the installation and connection to the underground foul and storm water drainage network, and installation of utility ducts and cables, that will include the drilling and laying of ducts and cables under the internal road network within Profile Park; other ancillary site development works will include hard and soft landscaping, lighting, fencing, signage, services road, entrance gates, sprinkler tanks and pump room; a temporary gas powered generation plant within a fenced yard containing 21 generator units in containers, each with associated flues (each 25m high), 12 transformers and 10 containers of controls to be located to the west of, and associated with the first phase of Building 11, and will be required for a period of up to 2 years if connection to the national grid is delayed; this temporary plant will not be built if the connection to the national grid is in place prior to the operation of Building 11 at this site that includes an abandoned single storey residential property on the New Nangor Road (R134), Dublin 22; and on land within the townlands of Ballybane and Kilbride within Profile Park, Clondalkin, Dublin 22 on an overall site of 8.7

hectares.

Location: In the townlands of Ballybane & Kilbride within Profile Park, Clondalkin, Dublin 22

Floor Area:

Time extension(s) up to and including:

Additional Information Requested/Received: 26-Oct-2021 /21-Mar-2022

Clarification of Additional Information Requested/Received:

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 21 March 2022, save as may be required by the other conditions attached hereto.

REASON: To ensure that the development shall be in accordance with the permission, and that effective control be maintained.

2. Amendments.

Prior to the commencement of development the applicant, owner or developer shall submit the following for the written agreement of the Planning Authority:

Revised plans that incorporate all of the following amendments-

(a) the proposed flues, associated with the multi fuel generation plant, shall be reduced in height to no more than 25m unless otherwise agreed in writing by the Planning

Authority. The location of the flues within the multi fuel generation plant may be altered to accommodate this; Flue Details. The applicant shall submit for the written agreement of the Planning Authority details of the flues at a scale of not less than 1:20.

REASON: To protect the amenities of the area and in the interests of the proper planning and sustainable development of the area.

3. Waste Heat

(a) Proposals for waste-heat recovery and ongoing delivery to a local heat-network shall be provided and implemented on site as relevant, in conjunction with the commencement and operation of the proposed development. Prior to the commencement of development, a timeframe for implementation of waste heat proposals shall be submitted for the written agreement of South Dublin County Council, unless otherwise agreed in writing.

(b) Such proposals shall include all necessary infrastructure for waste heat recovery from the proposed development and delivery through a primary waste-heat water circuit to either, the boundaries of the site or to an Energy Centre (when constructed as part of local heat network distribution) for connection to heat network. Such proposals shall be submitted for the written agreement of South Dublin County Council, unless otherwise agreed in writing.

(c) Where waste heat recovery and utilisation proposals have been explored and, subject to the written agreement of South Dublin County Council, have been deemed to be technically or otherwise unfeasible, details of future proofing of the building fabric, heat recovery and conversion systems and safeguarding of pipework/infrastructures routes up to the site boundaries to facilitate future waste heat connection to a local district heating network, shall be submitted for the written agreement of South Dublin County Council or as otherwise agreed in writing.

REASON: To promote the utilisation and sharing of waste heat and comply with Policy E5 of the South Dublin County Development Plan 2016-2022.

4. Roads.

(1) A Mobility Management Plan is to be completed within six months of opening of the proposed development. The Mobility Management Plan shall be submitted for the written agreement of the Planning Authority.

(2) The minimum width of footpaths shall be 1.8m wide to aid mobility impaired users.

(3) All external bicycle parking spaces shall be covered.

(4) Prior to commencement of development, the applicant shall submit a developed Construction & Demolition Waste Management Plan (C&DWMP) for the written agreement of the Planning Authority.

(5) The applicant shall provide 5% of vehicular parking spaces for mobility impaired users, and 10% vehicular parking spaces to be equipped with electrical charging points;

REASON: In the interest of sustainable transport.

5. Surface Water. Stream.

(a) Prior to commencement of development, the applicant shall submit a revised drawing showing what catchment area is draining to each attenuation pond. The applicant shall show the size in m2 of each surface type in each separate catchment area.

(b) Prior to commencement of development, the applicant shall submit a revised drawing showing additional SuDS such as swales, filter drains, tree pits. The applicant shall, with

reference to ghd SDCC Sustainable Drainage Explanatory Design and Evaluation Guide (sections 7.4.5 and 7.4.7), examine how concrete paving on footpaths can be replaced with permeable paving. The applicant shall examine how pipes and oil interceptors can be replaced by SuDS features (the use of below ground petrol interceptor tanks is not best practice SuDS and should be avoided). Prior to submission of revised drawing and report, the applicant shall contact water services to discuss revised surface water drawing and attenuation calculations.

(c) Prior to commencement of development, the applicant shall clarify in a report and drawing what the expected depth of water in diverted stream will be at location North West of site at shallowest point of stream. Prior to submission of the revised report and drawing of diverted stream, the applicant shall contact water services prior to submission of drawing and report to discuss a revised stone design and width of stream north west of site.

(d) Any revised stream route shall comply with requirements of Inland Fisheries.

(e) Prior to commencement of development obtain a Section 50 from OPW of proposed rerouted stream.

REASON: In the interests of public health, the proper planning and sustainable development of the area and in order to ensure adequate surface water drainage.

6. Drainage.

(a) All floor levels shall be a minimum of 500mm above the highest known flood level for the site.

(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.

(c) All works for this development shall comply with the requirements of the Greater Dublin Regional Code of Practice for Drainage Works.

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.

7. Irish Water Connection Agreement.

(a) Prior to the commencement of development the applicant or developer shall enter into water connection agreement with Irish Water.

(b) Prior to the commencement of development the applicant or developer shall enter into wastewater connection agreement with Irish Water and the owner of the private foul drainage infrastructure.

REASON: In the interest of public health and to ensure adequate water/wastewater facilities.

8. Archaeological Monitoring, Recording and Reporting

The applicant, owner and developer shall implement the recommendations of Volume 2 'Landscape, Visual and Built Heritage Impact Assessment' of the Environmental Impact Assessment Report (EIAR) relating to archaeology and associated 'Report on Archaeological Assessment' (dated 8 March 2021).

The following shall apply:

(a) The applicant/owner/developer shall employ a qualified Archaeologist, licensed to

carry out Archaeological Monitoring of all ground disturbance / sub-surface works carried out within the proposed development site. This will include the archaeological monitoring of the removal of topsoil, the excavation of trenches for foundations, services, access roadway, etc. associated with the proposed development.

(b) The archaeologist shall prepare and submit a report, describing the result of the Archaeological Monitoring, to the Local Authority and the Department of Culture, Heritage and the Gaeltacht within six weeks following completion of Archaeological Monitoring.

(c) Should archaeological material be discovered during the course of Archaeological Monitoring, the applicant shall facilitate the archaeologist in fully recording the material. The applicant shall also be prepared to be advised by the Department with regard to the appropriate course of action, should archaeological material be discovered.

REASON: To facilitate the recording and protection of any items of archaeological significance that the site may possess.

9. Ecology.

(i) Prior to the commencement of any permitted development, the developer shall engage the services of an independent, qualified ecologist to implement the management recommendations of the Biodiversity Management Plan.

(ii) The applicant shall inform the planning authority in writing of the appointment and name of the consultant, prior to commencement of development.

(iii) The ecologist shall inform the planning authority in writing when the recommendations of the BMP have been implemented. This shall include the creation of wildlife shelters, bat boxes, bird boxes, hibernaculæ, invertebrate banks and their final locations.

REASON: In the interest of protecting the ecology and biodiversity.

10. Mitigation Measures

The mitigation measures and commitments identified in the Environmental Impact Assessment Report (EIAR) and other plans and particulars submitted with the planning application, as amended by the additional information received on 21 March 2022, shall be implemented in full by the developer, except as otherwise may be required in order to comply with other conditions.

REASON: In the interest of the protection of the environment.

11. Retention of Arborist/Tree and Hedgerows Protection

(i) Prior to the commencement of any permitted development, the developer shall engage the services of an independent, qualified arborist, for the entire period of construction activity.

(ii) The applicant shall inform the planning authority in writing of the appointment and name of the consultant, prior to commencement of development. The consultant shall visit the site at a minimum on a monthly basis, to ensure the implementation of all of the recommendations in the tree reports and plans.

(iii) To ensure the protection of trees to be retained with the site the applicant shall implement all the recommendations pertaining to tree retention, tree protection and tree works, as detailed in the Tree Survey, Tree Protection Plan and Arboricultural Method Statement/Tree Protection Strategy in the Arborist Associates Ltd tree report dated 15th

December 2021. This will include the preparation of a Construction Stage Method Statement as per page 12 of the report. The Method Statement shall incorporate the recommendations in 3.6.4, P6 of the report pertaining to the retention on Hedge 5 and Tree No. 0817, 0818 and Tree No.1.

(iv) Prior to the commencement of development, the arborist shall submit photographs and confirmation that fencing for retained trees meets BS5837:2012 'Trees in Relation to Design, Demolition and Construction – Recommendations' for the written agreement of the Public Realm Section.

(v) All works on retained trees shall comply with proper arboricultural techniques conforming to BS 3998:2010 Tree Work – Recommendations.

(vi) The clearance of any vegetation including trees and scrub shall be carried out outside the bird-breeding season (1st day of March to the 31st day of August inclusive) or as stipulated under the Wildlife Acts 1976 and 2000.

(vii) The arborist shall carry out a post construction tree survey and assessment on the condition of the retained trees.

(viii) A completion certificate is to be signed off by the arborist when all permitted development works are completed and in line with the recommendations of the tree report.

(ix) The certificate shall be submitted to the planning authority for written agreement upon completion of the works.

REASON: To ensure and give practical effect to the retention, protection and sustainability of trees during and after construction of the permitted development.

12. Further Development.

No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennae or equipment, unless authorised by a further grant of planning permission.

REASON: To protect the visual amenities of the area.

13. Landscape Proposals

(i) The landscape plan (Drawing No. Dub11.1-DR-SP-C150-V0-WS2-KFA) as submitted to the Planning Authority in March 2022 shall be carried out within the first planting season following substantial completion of overall construction works. Grayed areas at river crossings to be treated with river washed cobbles as per KFLA email 14/04/2022.

(ii) All Planting shall be adequately protected from damage until establishment. Any plants which die, are removed or become seriously damaged or diseased, within a period of 3 years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

(iii) The applicant shall retain the services of a suitably qualified Landscape Architect throughout the duration for the site development works.

(iv) The applicant's Landscape architect shall provide a certificate of completion with the approved landscape proposals within six months of substantial completion of the development.

REASON: In the interests of residential and visual amenity and to ensure full and verifiable implementation of the approved landscape design.

14. Services to be Underground.

All public services to the proposed development, including electrical, information and communications technology (ICT) telephone and street lighting cables and equipment shall be located underground throughout the entire site.

REASON: In the interests of the visual amenities of the area, the proper planning and sustainable development of the area and compliance with the Council's Development Plan.

15. Signage.

No advertising sign(s) or structure(s) (including any signs installed to be visible through windows), banners, canopies, flags, or other projecting elements shall be erected except those, which are exempted development, without the prior approval of the Planning Authority or An Bord Pleanála on appeal.

REASON: In the interest of visual amenity, compliance with development plan policies and the proper planning and sustainable development of the area.

16. Department of Defence

(1) Operation of cranes during construction should be coordinated with Military Air Traffic Services, no later than 28 days before use, contactable at airspaceandobstacles@defenceforces.ie or 01-4037681.

(2) A bird hazard management plan for the construction phase should be established and communicated to the Irish Air Corps Bird Control Unit (BCU), in order to reduce the presence of any hazardous birds that may arrive during the construction phase of the development. BCU are contactable at bcu@birdcontrol.ie.

(3) A long-term bird hazard management plan that aims to disturb and prevent possible hazardous waterfowl nesting or rooftop gull nesting at the site should be established and communicated to the Irish Air Corps Bird Control Unit. Prior to the commencement of development, this shall be submitted for the written agreement of the Planning Authority.

(4) The selection of trees and shrubs should avoid plants that produce fruit and seed desired by wildlife. Avoid the creation of areas of dense cover for roosting by flocking species of birds.

(5) Should negative effects of bird activity on Irish Air Corps operations arise during the construction or operation phase, the site owner must put measures in place to mitigate these effects to a level acceptable to the Irish Air Corps.

REASON: In the interests of aviation safety.

17. Inland Fisheries.

(a) The applicant shall ensure that best practice should be implemented at all times in relation to any activities that may impact on surface water or riparian habitats. Any discharges to surface streams present on or near the site must not impact negatively on the system. Comprehensive surface water management measures must be implemented at the construction and operational stage to prevent any pollution of local surface waters. Prior to the commencement of development, the applicant shall submit a statement for the written agreement of the Planning Authority indicating how they comply in this

regard.

(b) Prior to the commencement of development, the applicant shall submit a site-specific Construction Environmental Management Plan (CEMP) for the written agreement of the Planning Authority. This should identify potential impacts and mitigating measures on the aquatic environment, it should provide a mechanism for ensuring compliance with environmental legislation and statutory consents. The CEMP should detail and ensure Best Construction Practices including measures to prevent and control the introduction of pollutants and deleterious matter to surface water either directly or indirectly through the storm water drainage network and measures to minimise the generation of sediment and silt.

(c) The applicant shall ensure construction works are planned in a manner which prevents extensive tracts of soils from being exposed at any time and arrangements must be made for the control and management of any contaminated water resulting from construction.

(d) The applicant shall ensure that the receiving foul and storm water infrastructure has adequate capacity to accept predicted volumes from this development during construction and post construction phases with no negative repercussions for the quality of any receiving waters.

(e) The applicant shall ensure compliance with Inland Fisheries guidelines.

(f) All discharges must be in compliance with the European Communities (Surface Water) Regulations 2009 and the European Communities (Groundwater) Regulations 2010.

REASON: In the interests of protecting the natural environment.

18. Environmental Health.

Noise

(1) Noise levels arising from construction activities shall not be so loud, so continuous, so repeated, of such duration or pitch or occurring at such times as to give rise to a noise nuisance affecting a person in any premises in the neighbourhood.

(2) The development must not give rise to any impulsive or tonal noise at any noise sensitive locations.

(3) Noise due to the normal operation of the proposed development, expressed as Lacq over 15 minutes at the façade of a noise sensitive location, shall not exceed the daytime background level by more than 10 dB(A) and shall not exceed the background level for evening and night time. Clearly audible and impulsive tones at noise sensitive locations during evening and night shall be avoided irrespective of the noise level.

(4) No equipment or machinery (to include pneumatic drills, construction vehicles, generators, etc) shall be operated on or adjacent to the construction site before 07:00 hours on weekdays and 09:00 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 work outside of these hours shall only be permitted following a written request to the Planning Authority and 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 unwanted noise outside the hours stated above.

(5) Where intrusive machinery is required to be used at short notice, the main contractor

shall ensure that nearby sensitive locations are informed prior to works commencing.

Air Quality

(6) The development shall be so operated that there will be no emissions of malodours, gas, dust, fumes or other deleterious materials on site as would give reasonable cause for annoyance to any person in any residence, adjoining premises or public place in the vicinity.

(7) During the construction / 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.

(8) The mitigation measures and commitments identified in the Environmental Impact Assessment Report, and other plans and particulars submitted as part of this planning application, shall be monitored and implemented in full by the developer.

REASON: In the interests of protecting the amenities of the area.

19. Financial Contribution.

The developer shall pay to the Planning Authority a financial contribution of €3,711,598.32 (three million seven hundred and eleven thousand five hundred and ninety eight euros and thirty two cents), in respect of public infrastructure and facilities benefiting development within the area of the Planning Authority, that is provided, or intended to be provided by or on behalf of the authority, in accordance with the terms of the Development Contribution Scheme 2021 - 2025, made under Section 48 of the Planning and Development Acts 2000-2011 (as amended).

The contributions under the Scheme shall be payable prior to commencement of development or as otherwise agreed in writing by the Council. Contributions due in respect of permission for retention will become payable immediately on issue of the final grant of permission. Contributions shall be payable at the index adjusted rate pertaining to the year in which implementation of the planning permission is commenced.

REASON: The provision of such facilities will facilitate the proposed development. It is considered reasonable that the payment of a contribution be required, in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority and that is provided, or that is intended will be provided, by or on behalf of the Local Authority.

NOTE RE: CONDITION - Please note that with effect from 1st January 2014, Irish Water is now the statutory body responsible for water services. Further details/clarification can be obtained from Irish Water at Tel. 01 6021000 or by emailing customerservice@water.ie.

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.

NOTES

(A) REFUND OF FEES SUBMITTED WITH A PLANNING APPLICATION

Provision is made for a partial refund of fees in the case of certain repeat applications submitted within a period of twelve months where the full standard fee was paid in respect of the first application and where both applications related to developments of the same character or description and to the same site. An application for a refund must be made in writing to the Planning Authority and received by them within a period of two months beginning on the date of the Planning Authority's decision on the second application. For full details of fees, refunds and exemptions the Planning & Development Regulations, 2001 should be consulted.

(B) APPEALS

1. An appeal against the decision may be made to An Bord Pleanála. The applicant or ANY OTHER PERSON who made submissions or observations to the Local Authority may appeal within FOUR WEEKS beginning on the date of this decision. (N.B. Not the date on which the decision is sent or received).
2. Every appeal must be made in writing and must state the subject matter and full grounds of appeal. It must be fully complete from the start. In the case of a third party appeal it must be accompanied by the acknowledgement by the Planning Authority of receipt of the submissions/observations. Appeals should be sent to:
The Secretary, An Bord Pleanála, 64 Marlborough Street, Dublin 1.
3. An Appeal lodged by an applicant/ agent or by a third party with An Bord Pleanála will be invalid unless accompanied by the prescribed fee. A schedule of fees is at 7 below.
4. A party to an appeal making a request to An Bord Pleanála for an Oral Hearing of an appeal must, in addition to the prescribed fee, pay to An Bord Pleanála a further fee (see 7 (g) below).
5. A person who is not a party to an appeal must pay a fee to An Bord Pleanála when making submissions or observations to An Bord Pleanála in relation to an appeal.
6. If the Council makes a decision to grant permission/grant permission consequent on a grant of outline permission and there is no appeal to An Bord Pleanála against this decision, PERMISSION/PERMISSION CONSEQUENT ON A GRANT OF OUTLINE PERMISSION will be granted by the Council as soon as may be after the expiration of the period for the taking of such an appeal. If any appeal made in accordance with the Acts has been withdrawn, the Council will grant the PERMISSION/PERMISSION CONSEQUENT ON A GRANT OF OUTLINE PERMISSION/RETENTION as soon as may be after the withdrawal.
7. Fees payable to An Bord Pleanála from 10th December 2007 are as follows:

(a) Appeal against a decision of a Planning Authority on a planning application relating to <u>commercial development</u> made by the person by whom the planning application was made, where the application relates to unauthorised development.....	€4,500.00 or €9,000 if an E.I.A.R. is involved
(b) Appeal against a decision of a planning authority on a planning application relating to <u>commercial development</u> made by the person by whom the planning application was made, other than an appeal mentioned at (a).....	€1,500.00 or €3,000.00 if an E.I.A.R. is involved
(c) Appeal made by the person by whom the planning application was made, where the application relates to unauthorised development other than an appeal mentioned at (a) or (b).....	€660.00
(d) Appeal other than an appeal mentioned at (a), (b), (c) or (f).....	€220.00
(e) Application for leave to appeal.....	€110.00
(f) Appeal following a grant of leave to appeal.....	€110.00
(g) Referral.....	€220.00
(h) Reduced fee (payable by specified bodies).....	€110.00
(i) Submission or observations (by observer).....	€50.00
(j) Request from a party for an Oral Hearing.....	€50.00

If in doubt regarding any of the above appeal matters, you should contact An Bord Pleanála for clarification at Telephone 01-858 8100

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.

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

18-May-2022

