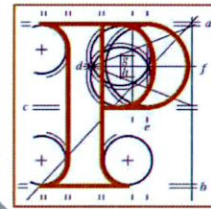


**Our Case Number:** ABP-317802-23

**Planning Authority Reference Number:** SD22A/0333



**An  
Bord  
Pleanála**

South Dublin County Council  
Planning Department  
County Hall  
Tallaght  
Dublin 24



**Date:** 16 August 2023

**Re:** Construction of 2 adjoined single storey data centres with associated site works  
Site within the townland of Ballymakailly, West of Newcastle Road (R120), Lucan, Co. Dublin

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.

(vii) a copy of requests (if any) to the applicant for further information relating to the application under appeal together with copies of reply and documents (if any) submitted in response to such requests,

<b>Teil</b>	<b>Tel</b>	(01) 858 8100
<b>Glaó Áitiúil</b>	<b>LoCall</b>	1800 275 175
<b>Facs</b>	<b>Fax</b>	(01) 872 2684
<b>Láithreán Gréasáin</b>	<b>Website</b>	www.pleanala.ie
<b>Ríomhphost</b>	<b>Email</b>	bord@pleanala.ie

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



(viii) a copy of any written submissions or observations concerning the proposed development made to the planning authority,

(ix) a copy of any notices to prescribed bodies/other authorities and any responses to same,

(x) a copy of any exemption application/certificate within Part V of the 2000 Act, (as amended), applies,

(xi) a copy of the minutes of any pre-planning meetings.

2. To ensure that the Board has a full and complete set of the material specified above and that it may proceed with full consideration of the appeal, please certify that the planning authority holds no further material relevant to the case coming within the above list of items by signing the certification on page 3 of this letter and returning the letter to the Board.

3. In addition to the documents mentioned above, please supply the following:-

Particulars and relevant documents relating to previous decisions affecting the same site or relating to applications for similar development in near proximity. "History" documents should include;

a) Certified Manager's Order,

b) the site location, site layout maps, all plans and

c) particulars and all internal reports.

Copies of I-plan sheets are not adequate.

Where your records show that a decision was appealed to the Board, it would be helpful if you would indicate the Board's reference.

Submissions or observations by the planning authority.

4. As a party to the appeal you may, under section 129 of the 2000 Act, (as amended), make submissions or observations in writing to the Board in relation to the appeal within a period of 4 weeks beginning on the date of this letter.

Any submissions or observations received by the Board outside of that period shall not be considered, and where none have been validly received, the Board may determine the appeal without further notice to you.

#### Contingency Submission

5. If the decision of your authority was to refuse permission, you should consider whether the authority wishes to make a contingency submission to the Board as regards appropriate conditions which, in its view, should be attached to a grant of permission should the Board decide to make such a grant. In particular, your authority may wish to comment on appropriate conditions which might be attached to a permission in accordance with section 48 and/or 49 of the 2000 Planning Act, (as amended), (Development / 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.

**Teil** (01) 858 8100  
**Glaio Áitiúil** LoCall 1800 275 175  
**Facs** (01) 872 2684  
**Láithreán Gréasáin** Website [www.pleanala.ie](http://www.pleanala.ie)  
**Ríomhphost** Email [bord@pleanala.ie](mailto:bord@pleanala.ie)

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



# MARSTON

## PLANNING CONSULTANCY

The Secretary  
An Bord Pleanála  
64 Marlborough Street  
Dublin 1

15<sup>th</sup> August 2023

AN BORD PLEANÁLA	
LDG-	065776-23
ABP-	
15 AUG 2023	
Fee: €	3000 Type: CHG
Time: 15:25	By: HAND

Our Ref: 16008

**RE: Planning and Development Act 2000-2023 and the statutory regulations (as amended). First Party Appeal by EdgeConnex Ireland Limited against the decision of South Dublin County Council to refuse permission for development that includes the development at this site of 5.14 hectares that is located within the townland of Ballymakailly to the west of the Newcastle Road (R120), Lucan, Co. Dublin (the "Decision"). The development will consist of the construction of two no. adjoined single storey data centres with associated office and service areas with an overall gross floor area of 15,274sqm.**

South Dublin County Council Reg. Ref. SD22A/0333 (the "Proposed Development")

Date of Decision: 20<sup>th</sup> July 2023

Four-week period for making appeal on or before: end of 16<sup>th</sup> August 2023

Dear Sir / Madam,

We, Marston Planning Consultancy, 23 Grange Park, Foxrock, Dublin, D18 T3Y4; are instructed by Edgeconnex Ireland Limited (the "**First Party**"), 6<sup>th</sup> Floor, South Bank House, Barrow Street, Dublin 4 to lodge this first party appeal against the Decision made by South Dublin County Council (the "**Planning Authority**") to refuse permission on two grounds. 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.

### 1. Executive summary

We respectfully submit that the Proposed Development is fully in accordance with both local and national policy as they relate to data centres. The Planning Authority have taken an unduly rigid approach and have misunderstood two parts of the First Party's response to issues raised in relation to Policy EDE7, Objective 2 of the South Dublin County Development Plan 2022-2028 (the "**County Development Plan**") as set out under the Additional Information ("**AI**") request. We respectfully submit that the Decision of the Planning Authority is inherently flawed and we therefore request that the Board issue an Order to overturn the Decision and to grant permission for the Proposed Development.

The following briefly summarises the facts which clearly demonstrate that the reasons for refusal provided by the Planning Authority should not stand, as the Proposed Development does achieve compliance with the relevant policies and objectives of the County Development Pla, as well as all relevant regional and national policies.

It is not in question that some significant length of hedgerow will be removed under the Proposed Development. It is also not in question that together with the previously granted application South Dublin County Council Planning Ref. SD19A/0042 / ABP Ref. PL06S.305948 and Ref. SD21A/0042 (the "**Permitted Development**") it will mean that overall some 760m of hedgerow will be removed on this extensive site. However, it is also not in question that 1,362m of hedgerow will be retained in and around the site and that 1,052m of new hedgerow is proposed. There will be, irrespective of the significant tree planting throughout that there will be a net biodiversity and ecological gain on this site.

The overall Permitted Developments have sought and have previously been permitted to achieve a net green infrastructure gain within the overall site, and there is no basis for reason no. 2 of the refusal. The Proposed



Development, in combination with the already Permitted Development on the overall site that have recently commenced, will improve biodiversity connections to the canal corridor and surrounding environment, and will significantly improve and contribute to the established and permitted green infrastructure network in this part of the County fully in accordance with the various GI objectives and policies of the County Development Plan.

**Reason no. 1**

The first reason for refusal comprises five key points on the basis of which permission was refused. Each of these points has been addressed fully in the appeal. The response to the five points within the first reason is summarised below and set out in detail within section 8 of this document.

**i. Existing insufficient capacity in the electricity network (grid)**

We can confirm that the First Party has an existing connection agreement. The connection agreement between Edgeconnex Ireland Limited (i.e., the First Party) and EirGrid plc ("**EirGrid**") (Ref. D48-BM-CL) (the "**Edgeconnex Grid Connection Agreement**") is in line with Commission for Regulation of Utilities ("**CRU**") policies. It is a matter solely for EirGrid as Transmission System Operator (TSO) in accordance with the CRU policies and regulatory framework pertaining to determine who should get a demand connection agreement in light of capacity constraints to the electricity network<sup>1</sup>. In this instance the First Party has successfully met EirGrid's connection offer requirements and EirGrid deemed it appropriate for them to connect to the grid. Furthermore, the Proposed Development does not give rise to any capacity issues and on the contrary the permitted Power Plant will benefit the stability of the electricity grid.

The Permitted Development and the Proposed Development (together the "**Facility Campus**") will connect via a connection into the future ESB substation that will be known as the Kishoge 110kV Gas Insulated Switchgear (GIS) substation that was permitted under Planning Ref. SD22A/0105 that will connect to the national grid via its 110kV transmission lines that are the subject of a concurrent Strategic Infrastructure Development ("**SID**") application to the Board and which was made in consultation and agreement with EirGrid and ESB on the 7<sup>th</sup> September 2022 under ABP Ref. VA06S.314567.

This SID application includes 110kV transmission lines from the proposed substation into the national grid infrastructure via connections to the permitted Aungierstown – Castlebaggot underground transmission lines, which runs between the permitted Aungierstown substation and the existing Castlebaggot 110kV / 220kV substation. The SID development will therefore provide a loop in connection to serve the Kishoge substation via the creation of a new Aungierstown – Kishoge 110kV circuit and a new Castlebaggot-Kishoge 110kV circuit. The SID project is designed to support the power demand of the Facility Campus. These connections have been agreed and designed in accordance with and following review by EirGrid and ESB.

The Edgeconnex Grid Connection Agreement and the permitted Power Plant will provide power to the already Permitted Development and the Proposed Development, without negatively impacting on the resilience of the National Grid.

**ii. Lack of a fixed connection agreement to connect to the grid**

As set out above, we can confirm that the First Party already has an executed '*connection agreement*' with EirGrid (Ref. D48-BM-CL), the Edgeconnex Grid Connection Agreement. The Proposed Development will operate under the same Edgeconnex Grid Connection Agreement which, together with the already Permitted Development, forms part of the Facility Campus within the First Party's landholding.

This appeal is accompanied by a legal opinion (Appendix A) from Mason Hayes & Curran LLP, setting out how the connection agreement process works, from a legal perspective, that it is EirGrid's function as TSO to determine capacity in the electricity network and that the Proposed Development accords with national policy in this regard. . On this basis, the aspect of the first reason for refusal provided by the Planning Authority in relation to the absence of a fixed connection agreement to connect to the grid is unfounded.

**iii. Lack of significant on-site renewable energy to power the proposed development**

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<sup>1</sup> ESB as Distribution System Operator (DSO) maintains this role in relation to the Distribution System network, with both System Operators (SOs) required to comply with the CRU policy directions.



EDE7 Objective 2 of the County Development Plan, which this aspect of the refusal reason relates to, makes it clear that in circumstances where on site renewable generation cannot be achieved, an applicant must demonstrate engagement with PPAs. Therefore, lack of significant on-site renewable energy isn't a reason for refusal on its own. As required by the objective, the First Party has demonstrated such engagement, as set out under item 4 below.

Additionally, as set out in detail within section 8 of this appeal, while the subject site does not provide an opportunity to deliver adequate solar or wind generation to power the Proposed Development, the permitted Power Plant is designed to have the capacity to run off green gas and/or hydrogen in the future, and a requirement of the First Party to review the potential of the Power Plant to operate using these fuels under condition 3(ii) and (iii) of Planning Ref. SD22A/0289. At present, the quantities of green gas and hydrogen produced in Ireland are low, however, GNI and the Climate Action Plan / Government policy, anticipate these volumes increasing materially up to 2030. The green gas / hydrogen produced can be injected into the grid and therefore the First Party would not need to retrofit the existing infrastructure to convert the gas engines from natural to renewable gas. It is proposed that this will be completed when sufficient volumes of renewable gas are available.

**iv. Lack of evidence provided in relation to Power Purchase Agreements (PPAs) in Ireland**

We wish to place on record as part of this appeal that the First Party has engaged with brokers of renewable PPAs in Ireland. As part of this appeal, we submit evidence of this engagement (see Appendix D). Appendix D comprises a letter from KPMG (who are the First Party's main partners in brokering PPAs), which confirms ongoing and extensive engagement by the First Party with regard to entering into a PPA for the Proposed Development and already Permitted Development. This is submitted to represent unequivocal evidence of the First Party's intent and commitment to securing a renewable PPA in respect of the Proposed Development. We can also confirm that the First Party has an extensive history of entering into renewable PPA's across its various campuses across Europe and elsewhere.

The First Party will engage further with renewable PPA providers and brokers in respect of the Proposed Development and would welcome a condition from the Board in this regard to submit utilisation of renewable energy under a PPA to the Planning Authority prior to the operation of the Proposed Development.

**v. Reliance of on a predominately gas-powered plant to provide energy to the development**

As set out in more detail in section 8 of this appeal, the First Party submits that it has satisfied the Planning Authority's requirements in relation to on-site generation particular under EDE7 Objective 2 and this reason should not have been taken into account by the Planning Authority as a separate ground for refusal.

In accordance with EirGrid's policy requirements, the Proposed Development utilises an already contracted flexible power arrangement whereby it can be powered by the extant Edgeconnex Grid Connection Agreement and the consented onsite generation via the Power Plant The Power Plant, located on the Facility Campus, is already permitted under the Permitted Development (Planning Ref. SD21A/0042) and its scale and capacity encapsulates the Proposed Development. The Power Plant is scaled to serve the Facility Campus and represents already permitted development, which must be considered as such by the Board. The principle, use, scale and capacity of the Power Plant is established in planning terms and is not open for reconsideration as part of the current application or appeal.

The provision for direct support to the grid by the permitted Power Plant is a positive aspect of the overall development of the First Party's Facility Campus, which directly aligns with the CRU Direction to the System Operators related to Data Centre grid connection processing" decision (CRU/21/124)<sup>2</sup> (the "CRU Direction") and can support the increased penetration of intermittent renewable energy on the grid in line with the 2021 and 2023 Climate Action Plans<sup>3</sup>.

As set out above and detailed in Section 8, the Power Plant is also designed to enable generation from renewable energy sources, including green gas and/or hydrogen in the future as these fuel sources become widely available.

<sup>2</sup> <https://www.cru.ie/publications/27076/>

<sup>3</sup> Climate Action Plan 2021 outlines the target for 2,000 megawatts of additional gas generation in the short term, in order to stabilise the grid as intermittent renewables represent an increasing share of the grid mix, while concurrently allowing for the phasing out of more carbon intensive fuel sources.



Therefore, each of the aspects of the first reason for refusal are considered to be fully addressed in this appeal, supported by the requisite information and documentation. On that basis, we consider that it has been demonstrated that the Decision on Reason no. 1 is unfounded and flawed and it should be overturned by the Board.

**Reason no. 2**

This appeal is accompanied with further detail on the already permitted green infrastructure within the Facility Campus, as well as a comparison of the identified green infrastructure corridors and blue corridors in the form of riparian corridors as identified under Appendix 4 and Map 13 of the County Development Plan .

A review of Map 13 clearly indicates that the riparian corridor runs to the east of the R120, and the Grand Canal corridor is limited in width to the south of the canal. Therefore, it is reasonable to conclude that no aspect of the Proposed Development is located within any blue corridor as identified under the County Development Plan. Figure A 4.1 of Appendix 4, indicates the Green infrastructure Strategy Map for the County that specifies large swathes of the County as being within Green Infrastructure corridors.

We respectfully submit that the green infrastructure approach of the First Party, even prior to the adoption of the current Development Plan was to undertake a landscape masterplan of the overall site under the knowledge that hedgerows within the site would be required to be removed to facilitate each phase of the Proposed Development of the Facility Campus. In addition the northern 80-90m corridor adjacent to the canal was permitted to be developed as a public park and green infrastructure buffer between the Grand Canal corridor and the Facility Campus that will materially and significantly improve the green infrastructure of the Grand Canal corridor.



Green Infrastructure Plan at site



The implementation of the majority of this permitted green infrastructure will be in place by early 2024, and therefore will be maturing by the time the First Party proposes to undertake the Proposed Development in 2025 – 2027. We submit that the Proposed Development must be considered under the overall and already permitted green infrastructure under the Permitted Development. The current application will significantly supplement this, and ensure both green and blue corridors within the site that connect into the wider green infrastructure surrounding the site.

The site is not located within a defined riparian corridor as identified under Map 13 of the County Development Plan. The Grand Canal is located to the immediate north and the approach of the design team has always been to protect and enhance the canal as a GI asset, and to connect it into other surrounding GI corridors in accordance with the principles of section 12.4.2 of the County Development Plan.

The approach of the design team has been to create enhanced ecological corridors that will create pathways for wildlife into the nearest designated GI corridors, as well as creating an amenity asset. The Proposed Development will enable the planting of 484 new semi-mature trees (c. 5m in height) with the Permitted Development providing for 1,854 new semi-mature trees on the Permitted Development site.

In addition to this it is permitted to plant 3,843 standard trees (c. 2m in height) under the two main permitted developments already granted (under Planning Ref. SD19A/0042 and SD21A/0042) on site with another 912 of these trees proposed to be planted within the application boundary of the Proposed Development. In addition to this, it is permitted to plant 18,458 saplings (c. 0.5m in height) across the permitted site and with a further 3,586 proposed under this application.

It is not in question that a significant length of hedgerow will be removed as part of this application. However, due the varying quality hedgerow to be removed, it was only the western hedgerow that was of concern to the Planning Authority and was comprehensively responded to under point 7 of the Additional Information request. It is against this background that we request the Board to consider this matter.

#### ***Other considerations***

We can also confirm that the Proposed Development is fully aligned and in accordance with government policy set out under the government's revised "*Statement on the Role of Data Centres in Ireland's Enterprise Strategy*" on the 27<sup>th</sup> July 2022 (the "**Government Statement**"). The First Party is committed to advancing the goals behind the Six Principles set out within this document, and the Proposed Development and Permitted Developments are fully aligned with, and supportive of, Government policy.

#### ***Current SID Application***

It is noted that high voltage transmission line connections to serve the overall campus at this location are subject to a current SID application before the Board under section 182A of the Planning and Development Act 2000 (as amended) (the 'Act') (ABP Ref. VA06S.314567). Whilst we acknowledge that the SID application is associated with the Proposed Development, we submit that the SID case can and should, in accordance with the proper planning and sustainable development of the area, be determined separately from the current appeal, and there is no requirement for both cases to be considered and determined concurrently. Irrespective of the already delayed determination of the SID application, there is no basis for it to be linked and determined at the same time as the current appeal given that the SID application is fundamental and linked to the already Permitted Development (i.e., the first two phases of the Facility Campus) and the third phase of the Facility Campus under the Proposed Development.

Prior to addressing the Decision in totality it is important given the complexity of the application to set the appeal in context.

## **2. The appeal in context**

#### ***The location and description of subject site***

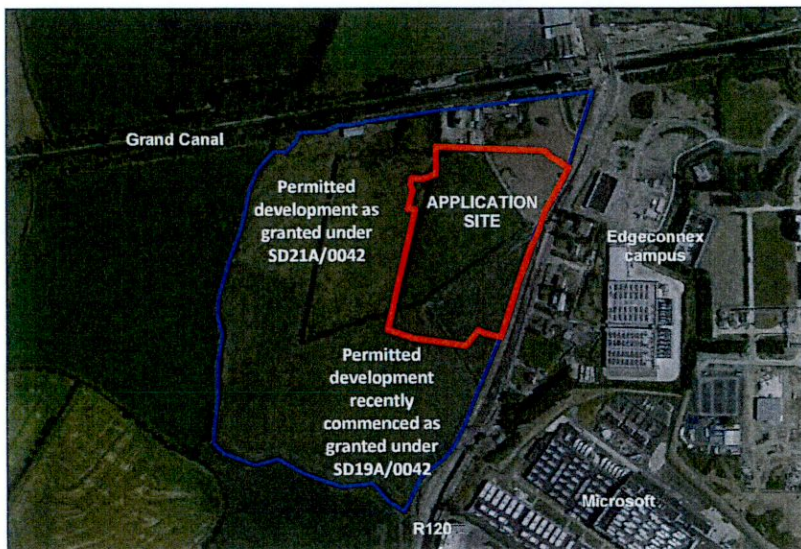
The Proposed Development is to be located on a site of c. 2.14 hectares to the immediate west of the recently realigned R120 within the townland of Ballymakailly, Lucan, Dublin 22. The site in terms of its current use forms open grassland to the south of the Grand Canal.



The site forms the expansion and third phase of the First Party's own consented data centre campus that has recently commenced construction having been granted permission, with conditions, under the Permitted Development. The details of these permissions are fully set out under section 3 of this appeal.

Prior to the commencement of construction, the overall site was situated in grassland and contained field boundaries in the form of a hedgerow and small trees that cut across the site along and adjacent to its western boundary; to the north-east along the boundary of the former access to the former farm buildings to the north; and diagonally across the site.

The majority of the hedgerow crossing across the overall site has already been permitted to be removed, and replaced with additional hedgerows and planting under SDCC Planning Ref. SD19A/0042 / ABP Ref. PL06S.305948 and SDCC Planning Ref. SD21A/0042. A former agricultural access road leads from the realigned R120 within the north-east of the application site to the former agricultural buildings.



*Aerial view of application site (refer to architectural drawings of Existing Site Plan and all buildings to be demolished that accompany the application for greater detail)*

The eastern boundary of the Facility Campus site has been subject to a compulsory purchase order by South Dublin County Council to facilitate the Adamstown / Newcastle Road improvement scheme (R120). This has resulted in a significant length of hedgerow being removed by the Council to facilitate the road works for some 430m of the overall eastern boundary. The Permitted Development will provide a planted biodiversity corridor along the entire eastern boundary of the site, to the west of the R120 to replace the removed planting and the poor quality lengths of hedgerow that remained of 100m to the south-east, and 60m to the north-east along the realigned road that is within the site, with the hedgerow in very poor condition to its north. The former road remains in situ at the south-east corner of the overall site.

The Proposed Development site is bounded by land in the ownership of the applicant to the south of the Grand Canal, and a lane along part of its south side and planting, to the north. A dormer type property and both the original and new bridge over the Grand Canal lie to the north-east and outside the site. The realigned R120 bounds the application site to the east with a number of residential properties bounding the road to its east. The First Party's original data centre campus as granted under SDCC Planning Ref. SD16A/0214, SD16A/0345 and SD17A/0141/SD17A/0392 as well as SD18A/0298 is located to the rear of these residential properties to the east of the R120.

The Proposed Development site is bounded by the permitted substation as granted under SDCC Planning Ref. SD22A/0105; and the data centres granted under SDCC Planning Ref. SD21A/0042 to the west. The Proposed Development site is bounded by the permitted data centres granted under SDCC Planning Ref. SD19A/0042 / ABP Ref. PL06S.305948 to the west. The permitted three Power Plants are to be located to the south-west of the overall site. The enabling works permitted under SDCC Planning Ref. SD19A/004 have recently commenced on part of the overall site at the time of drafting this EIA Report. There is agricultural land



zoned for development to the south and west. A traveller site is located some 180m to the south-west of the overall site.

A large electricity pylon is situated in the northern portion of the overall site. They run across the Proposed Development site and Facility Campus on a west-north-west to east-south-east axis.

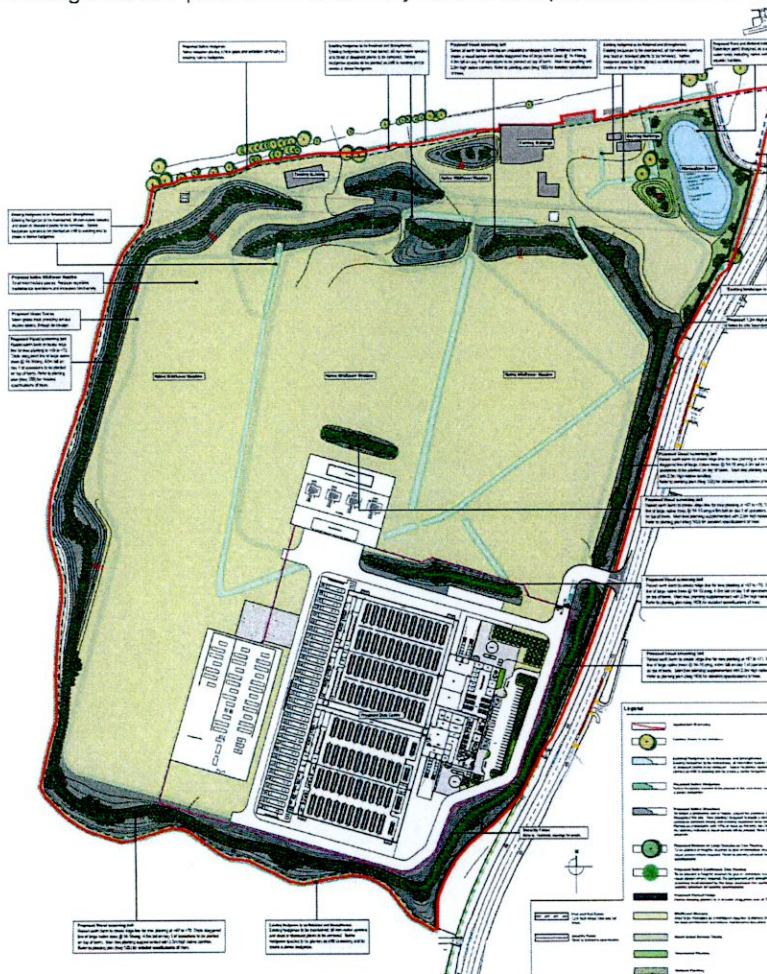
### 3. Planning history

#### *Planning Ref. SD19A/0004*

This planning application was lodged with South Dublin County Council for enabling works on the southern part of the Facility Campus site to carry out required earthworks and site preparation works to facilitate the development proposed under this application. This application was granted permission in 2019. The enabling works permitted under SDCC Planning Ref. SD19A/004 have recently commenced on part of the overall site at the time of making this application.

#### *SDCC Planning Ref. SD19A/0042 / ABP Ref. PL06S.305948*

Permission was granted on the 5<sup>th</sup> October 2020 for the first part of the phased development within the south-east corner of the Facility Campus site as well as a substation that was centrally located within the site. The development had an overall gross floor area of 17,685sqm. The development also included a temporary gas-powered generation plant within a walled yard that was permitted to the west of the permitted data centre.



*Permitted landscape plan under Planning Ref. SD19A/0042*

Following a request for Additional Information, the number of generators within the Temporary Power Plant was reduced to only 8 operating with two back up units and limited to a lifespan of two years. The decision of

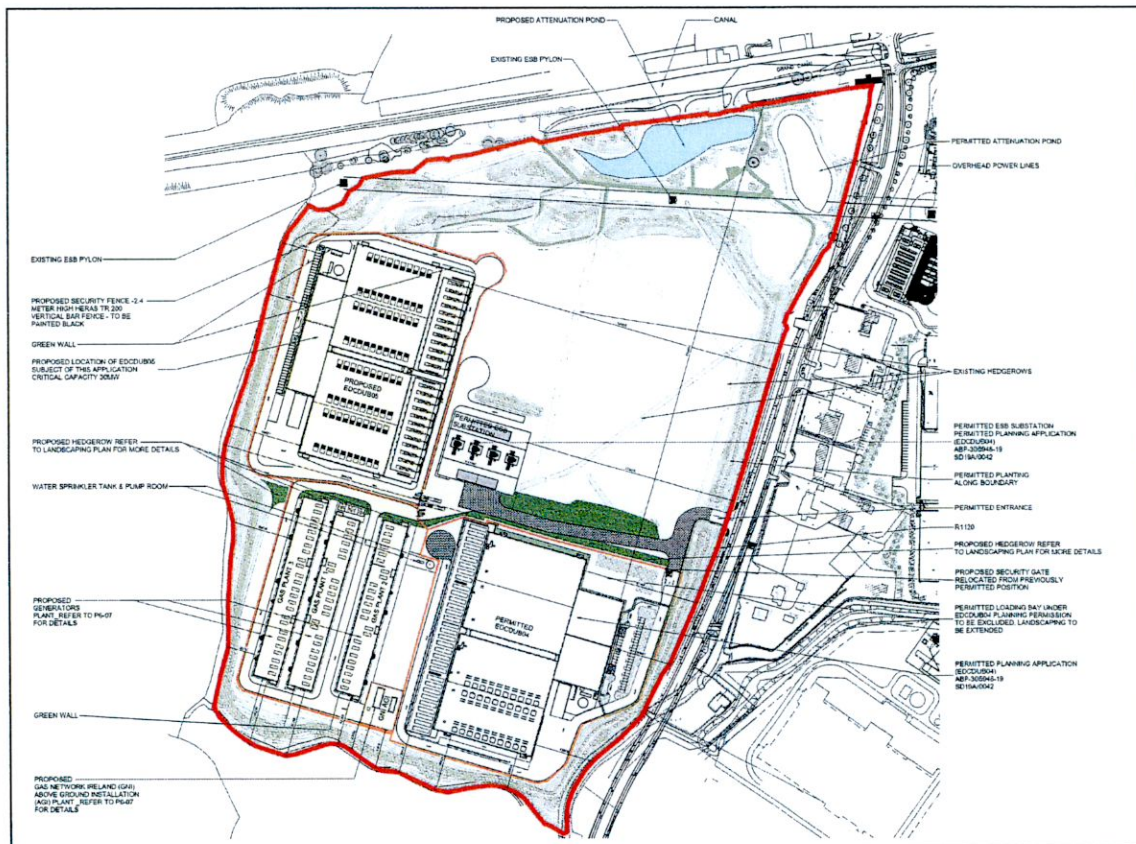


the Council was appealed by a third party and upheld by the Board in a decision that was dated the 5<sup>th</sup> October 2020. The decision of the Board was subject to 19 conditions. This first phase of the Facility Campus was permitted to be enclosed by landscaping to all boundaries (see previous page). This established the biodiversity and green infrastructure setting of the campus.

*SDCC Planning Ref. SD21A/0042*

This application forms the second permitted phased development of the Facility Campus, and received a grant of permission from the Council on the 19<sup>th</sup> January 2022, following a request for Additional Information and a Clarification of that Additional Information. The permission was granted to be undertaken on lands to the west and south-west of the appeal site, and is for the development of two single storey data centres with associated office and service areas; and three gas powered generation plant buildings with an overall gross floor area of 24,624sqm.

The primary issue raised by the Planning Authority in requesting additional information was confirming the availability of power, grid constraints and the compatibility of the application with the Climate Action Plan 2021, as well as the inclusion of green walls and improvements in the public park access and design within the north of the site. All these issues were comprehensively addressed and most notably the response to the issues relating to power and grid connections were considered as acceptable, and this led to the positive decision from the Planning Authority.



Permitted site plan under Planning Ref. SD21A/0042 shaded in cream, as well as the original permission as granted under SD19A/0042 also (noted as EDCUB04 on drawing)

Under this application, it was outlined that the purpose of the three gas powered plants within the south-west of the Facility Campus, were to:

*"...enable the applicant to provide flexibility in their demand for power by reducing consumption from the wider national grid when requested to do so in times of system constraint. The nature of the gas plant is designed to meet the appropriate availability and other technical requirements in order to*



*reinforce the national grid that will ensure the security of supply of electricity to the wider national grid if and when required."*

This 2021 application clearly sets out that the third power plant was required, and was permitted to provide power to the Proposed Development that is subject of the current appeal. The Power Plants replaced the temporary power plant granted permission under the 2019 application. The landscape master plan was modified slightly under this application that created a public park created on the lands within and to the immediate north of the appeal site.

Condition 3 of the permission stated:

*"3. GAS Plants – Temporary*

*i. Prior to the commencement date of the first operation of the first gas plant, the Planning Authority shall be contacted in writing to confirm the date on which the first gas plant shall first commence operation.*

*ii. Five (5) years from the date the first gas plant first commences operation, the gas plants and all associated and related ancillary structures shall cease operation unless prior to the end of the five-year period, planning permission has been sought and granted for its continued use.*

*iii. All structures related/associated with the gas plants shall be removed from the entire site within a year of the ceasing of operation, unless prior to the end of the five-year period, planning permission has been sought and granted for its continued use.*

*REASON: To enable the impact of the development to be reassessed having regard to changes in technology, climate action and energy supply options." (own emphasis)*

The wording of part ii and iii of the condition created significant uncertainty from the applicant's perspective and therefore was subject of a first party appeal. However, as no third party appeal was lodged the appeal was withdrawn, and the final grant of permission, which was subject to 21 conditions, was issued on the 24<sup>th</sup> March 2022 and has not yet commenced on site.

An application to amend part ii and iii of condition 3 was lodged on the 27<sup>th</sup> June 2022 under Planning Ref. SD22A/0289 and received its Final Grant on the 10<sup>th</sup> February 2023, following the lodgement of an invalid appeal by a third party. The revised condition 3(ii) and (iii) states:

***Condition no. 3(ii)***

***Within four (4) years from the date the first Gas Plant commences operation, the applicant or operator shall undertake a review with GNI of the ability to serve the Gas Plant with green gas and / or hydrogen (or similar fuels) shall be investigated and reported to the Planning Authority. Any ability for the Gas Plant to be operated with green gas and / or hydrogen (or similar fuels) shall be implemented within an agreed timeline agreed with GNI.***

***Condition no. 3(iii)***

***If the applicant receives a firm offer from Eirgrid under which the Gas Plant is not required, and the connection has been realized with capacity onsite from Eirgrid, then the Gas Plants shall be removed from the entire site within a year of the ceasing of operation."***

The change in the wording of this condition is critical to the consideration of this appeal as it indicates a commitment by the application to utilise green gas and / or hydrogen (or similar fuels) in the future if they become available.

*SDCC Planning Ref. SD22A/0105*

Permission was granted on the 8<sup>th</sup> June 2022 for amendments to the substation compound and structures that are located to the immediate west of the current application site.

*ABP Ref. ABP-314567 - SID application*

This SID application was lodged with the Board on the 7<sup>th</sup> September 2022. The application solely seeks permission for a connection to the national grid via the proposed 110kV transmission lines, which was made in consultation and agreement with EirGrid and ESB. The application includes 110kV transmission lines from the permitted substation into the national grid infrastructure via connections to the permitted Aungierstown – Castlebaggot underground transmission lines, which runs between the permitted Aungierstown substation and the existing Castlebaggot 110kV / 220kV substation. The SID development will therefore provide a loop



in connection to serve the Kishoge substation via the creation of a new Aungierstown – Kishoge 110kV circuit and a new Castlebaggot-Kishoge 110kV circuit. The SID project is designed to support the power demand of the Facility Campus. These connections have been agreed and designed in accordance with the specifications of, and following review by, EirGrid and ESB. The decision on this application is overdue and is likely to be made imminently.

#### **4. Nature and extent of the Proposed Development**

The application that was made to the Planning Authority on the 16<sup>th</sup> August 2022 set out within the public notices as follows:

*"We, EdgeConneX Ireland Limited are applying for permission for development at this site of 5.14 hectares that is located within the townland of Ballymakilly to the west of the Newcastle Road (R120), Lucan, Co. Dublin.*

*The development will consist of the construction of two no. adjoined single storey data centres with associated office and service areas with an overall gross floor area of 15,274sqm that will comprise of the following:*

- *Construction of 2 no. adjoined single storey data centres with a gross floor area of 12,859sqm that will include a single storey goods receiving area / store and single storey office area (2,415sqm) with PV panels above, located to the east of the data centres as well as associated water tower, sprinkler tank, pump house and other services;*
- *The data centres will also include plant at roof level; with 24 no. standby diesel generators with associated flues (each 25m high) that will be located within a generator yard to the west of the data centres;*
- *New internal access road and security gates to serve the proposed development that will provide access to 36 no. new car parking spaces (including 4 no. electric and 2 no. disabled spaces) and sheltered bicycle parking to serve the new data centres;*
- *New attenuation ponds to the north of the proposed data centres; and*
- *Green walls are proposed to the south and east that will enclose the water tower and pump house compound.*

*The development will also include ancillary site works, connections to existing infrastructural services as well as fencing and signage. The development will include minor modifications to the permitted landscaping to the west of the site as granted under SDCC Planning Ref. SD19A/0042 / ABP Ref. PL06S.305948 and Ref. SD21A/0042. The site will remain enclosed by landscaping to all boundaries. The development will be accessed off the R120 via the permitted access granted under SDCC Planning Ref. SD19A/0042 / ABP Ref. PL06S.305948 and SD21A/0042.*

*An Environmental Impact Assessment Report (EIAR) has been submitted with this application."*

#### **Additional Information (AI) request**

A request for AI was made by the Planning Authority having originally considered the application, on the 10<sup>th</sup> October 2022. Following receipt of the AI request the First Party undertook a comprehensive review of the key aspects of the request in seeking to balance the zoning of the site for development with the need to retain, wherever possible, and ultimately enhance the green infrastructure setting of the site and its connections into the surrounding green infrastructure of the area.

The First Party undertook a comprehensive review of the overall master planning of the site in particular the request to retain the western boundary hedgerow as listed under point 7 of the AI request. It is notable that the AI request **only** requested that the western hedgerow be retained. There was an acceptance that the other hedgerows could be removed, as there was no explicit request for them to be retained in any way.

This internal review concluded that in order to retain the western hedgerow, there would be a need to move the Proposed Development eastwards. This would require the removal of the berms and extensive planting permitted on the eastern side of the site, alongside the R120 and to make the Proposed Development and Permitted Development far more visible, as well as removing the permitted strong north – south green infrastructure along the east of the site that connects with the canal corridor to the north.

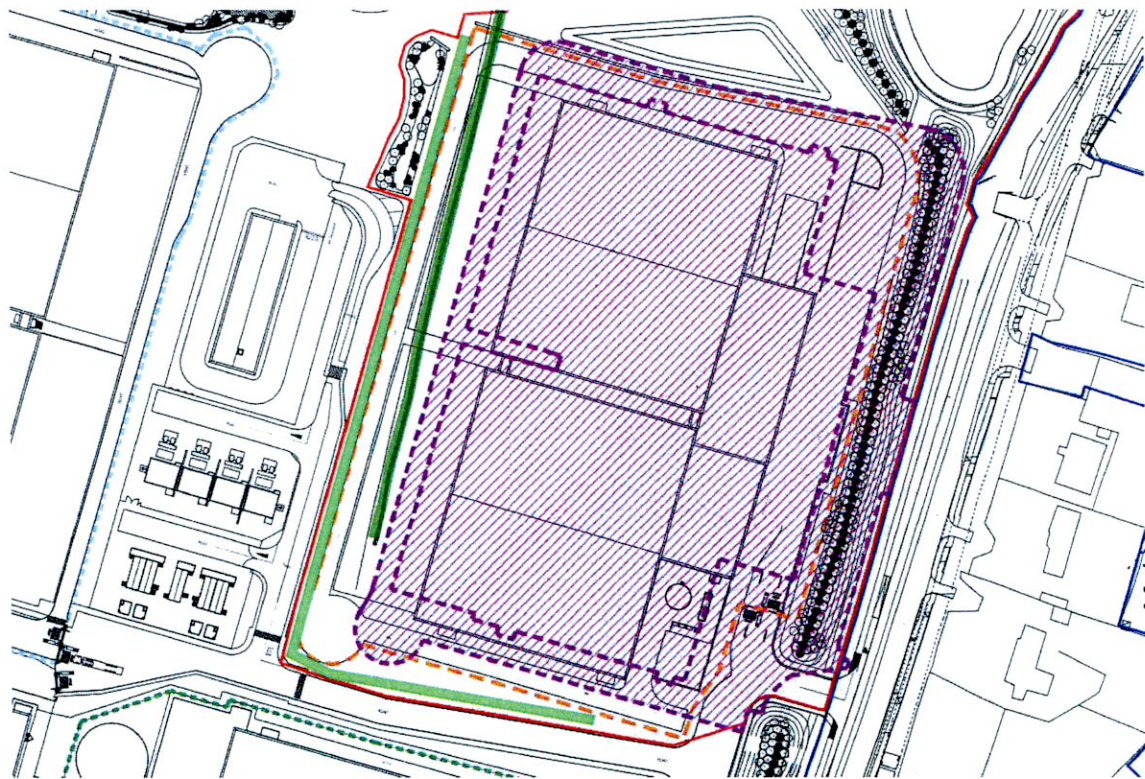


This would be contrary to good planning principles established for the site under Planning Ref. SD19A/0042 (recently commenced) and SD21A/0042; as well as the green infrastructure policies and objectives of the County Development Plan.

The implications of attempting to keep the western hedgerow is shown in the drawing at the top of the following page, with the relocated development outlined in magenta, that indicates the clear conflict with the permitted green infrastructure on the eastern side of the site, and the western hedgerow shown in green.

The conflict of retaining the hedgerow and loss of the already permitted visual mitigation and green infrastructure associated with the previous permissions was discussed with the case planner. At this point, it was explained that as a data centre is designed to maximise the efficiency of the end user requirements and whilst it was discussed and assessed, it was concluded that it would not be possible to reduce the footprint of the Proposed Development without severely compromising the end user requirements. It was concluded that the western hedgerow would therefore still need to be removed.

In order to re-establish a new north-south biodiversity link, the First Party reduced the external areas around the data centre to enable them to plant a new native hedgerow (see bright green line below) that runs parallel to the existing hedgerow, and which will also extend along the southern side of the data centre creating stronger biodiversity links within the site, as well as around the periphery of the site, which were requested to provide under the original 2019 application. A full and robust justification for this was provided as part of the AI response.



*Plan showing alignment of western hedgerow, proposed development as applied for (outlined in orange), and the indicative position of the proposed development (magenta shading) if the hedgerow were to be retained, and new hedgerow shown in bright green*

No other material elements were amended under the AI response apart from the addition of an open bio-swale that will connect the two proposed attenuation ponds to the north of the site. Despite the minimal changes and due primarily to point 17 of the AI request, the Environmental Impact Assessment Report was reviewed and where required was amended and updated.

In addition the AI response focussed on setting out how the Proposed Development has positively addressed design, green infrastructure and SUDS policies and objectives of the County Development Plan.







The request for AI also included a range of other issues that included the need to demonstrate compliance with Policy EDE7 Objective 2 of the County Development Plan, which forms a primary ground of this appeal.

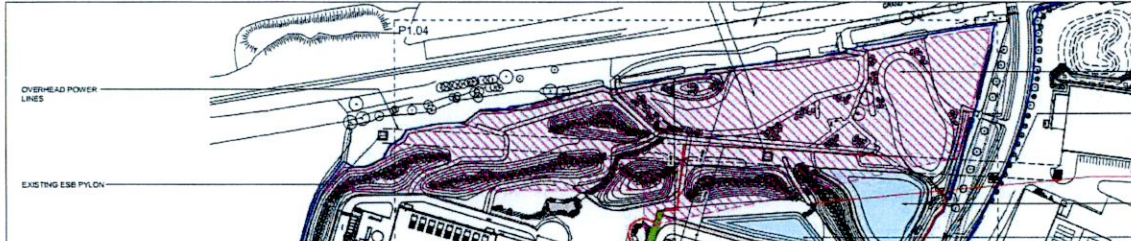
Under the First Party's response on this issue the Edgeconnex Connection Agreement was set out, and further details and clarifications are set out under section 6 of this appeal. The Board are referred to the Data Centre Connection Offer Process and Policy ("DCCOPP") Document published in July 2019 and updated in June 2020 by EirGrid and the appended documents, which confirms existence of the Edgeconnex Grid Connection Agreement.

We refer the Board to the table on page 27 of this appeal that sets out that all aspects of the points raised, as part of the AI request, were comprehensively and adequately addressed to the satisfaction of the Planning Authority, apart from the two reasons set out under this appeal that relate to insufficient capacity in the network, connection offer, significant on site renewables, evidence of PPA engagement and reliance on predominantly gas; and the impact on green infrastructure objectives. These are all comprehensively addressed under this First Party Appeal.

#### 5. Assessment of the application having regard to the policies and objectives of the South Dublin County Development Plan 2022-2028

The County Development Plan is the statutory planning document that covers the entire South Dublin administrative area. The County Development Plan was adopted in June 2022 and came into effect on the 3<sup>rd</sup> August 2022. The data centre element of the Proposed Development is to be located within an area zoned EE (Enterprise and Employment) under the County Development Plan. The zoning Objective EE seeks: "To provide for enterprise and employment related uses".

The northern part of the Facility Campus is zoned RU, and this aspect of the site contains no element of the Proposed Development beyond part of the new attenuation pond. The demarcation between both zonings is clearly shown below, with the RU zoning marked by a pink hatching.



The status of data centres within the EE zoned lands has been subject to significant debate and consideration by both the Planning Authority, and recently the Office of the Planning Regulator (the "OPR") and the Minister for Housing, Local Government and Heritage (the "Minister").

The OPR recommended to the Minister in a letter dated the 19<sup>th</sup> July 2022, to issue a Direction under section 31 AM (8) of the Planning and Development Act 2000 (as amended) to reinstate the data centre use class from being 'not permitted' to being an 'open for consideration' use within the EE zoning. The Draft Direction from the Minister to the Planning Authority was issued on the 29<sup>th</sup> July 2022. This Direction highlights that the designation of data centres as not permissible would be contrary to Regional Policy 8.25 in the RSES for the East Midland Regional Authority, which includes clear policy support for the location of development of this nature within the area of the Regional Authority, including South Dublin.

This Final section 31 Direction issued in November 2022, on the same terms as the Draft Direction, is deemed to be included within the adopted County Development Plan as per section 31AN (11) of the Planning and Development Act 2000 (as amended). This First Party Appeal is therefore made on the basis that a data centre is an "open for consideration" use under the EE zoning.

Open for consideration uses are defined under the County Development Plan as:



*"Land uses that are listed as 'open for consideration' in the land use zoning tables may be acceptable to the Planning Authority subject to detailed assessment against the principles of proper planning and sustainable development, and the relevant policies, objectives and standards set out in this Plan. Proposed uses in this category will be subject to full assessment on their own merits and particularly in relation to their impact on the development of the County at a strategic and a local level. Such uses may only be permitted where they do not materially conflict with other aspects of the County Development Plan."*

It is pertinent as the use is now considered as being open for consideration under the EE zoning, to also consider it in relation to the other policies and objectives of the County Development that are relevant in this instance. These relate to compliance with Policy EDE7 (other objectives that do not form a reason for refusal), and particularly Objective 2 under that Policy; employment policy; and green infrastructure policies as follows:

**i. Compliance with Policy EDE7, Objective 2**

The current County Development Plan recognises the need for Space Extensive Land Uses, such as data centres, to be located at appropriate locations having regard to infrastructural, transport and environmental considerations as well as the need for orderly growth (Policy EDE7). These same principles are replicated as a requirement under section 12.9.4 of the County Development Plan. The Proposed Development, which forms part of a wider data centre campus (the Facility Campus), fully complies with Objective 1 of this Policy as it is located outside of the M50. Whilst the site is accessible by public transport the capacity of such services are not such that would warrant a higher density employment use on the site, which are already achieved due to the fact that the Proposed Development site forms the third phase of the development of the First Party's Facility Campus. We respectfully submit that the Proposed Development is therefore fully in accordance with Objective 1 of this Policy, as was accepted by the Planning Authority.

Objective 2 of this policy sets out a list of requirements that space extensive enterprises need to demonstrate, and two aspects (in bold) of these form a reason for refusal that are subject of this appeal, as follows:

*"To require that space extensive enterprises demonstrate the following:*

- *The appropriateness of the site for the proposed use having regard to EDE7 Objective 1;*
- *Strong energy efficiency measures to reduce their carbon footprint in support of national targets towards a net zero carbon economy, including renewable energy generation;*
- *Maximise onsite renewable energy generation to ensure as far as possible 100% powered by renewable energy, where on site demand cannot be met in this way **provide evidence of engagement with power purchase agreements (PPA) in Ireland;***
- ***Sufficient capacity within the relevant water and wastewater and electricity network to accommodate the use proposed;***
- *Measures to support the just transition to a circular economy;*
- *Measures to facilitate district heating or heat networks where excess heat is produced;*
- *A high-quality design approach to buildings which reduces the massing and visual impact;*
- *A comprehensive understanding of employment once operational;*
- *A comprehensive understanding of levels of traffic to and from the site at construction and operation stage;*
- *Provide evidence of sign up to the Climate Neutral Data Centre Pact."*

We have already set out the reasons behind why and how the application is fully in accordance with the first objective. The following sets out how the First Party is meeting the requirements of Objective 2 of this Policy EDE7. We refer the Board to the fact that the Planning Authority has accepted that the Proposed Development is fully in accordance with all other aspects of this Policy.

**Strong energy efficiency measures to reduce carbon footprint**

Energy efficient measures starts at site selection, where the First Party focuses on building orientation to maximise opportunities from the prevailing wind direction and reducing solar gain. This is followed by the design and construction of highly efficient data centre campuses yielding industry leading Power Usage Effectiveness ("PUE") and low water use - measured as Water Usage Effectiveness ("WUE"). We can confirm that the First Party has committed to achieving net zero carbon emissions by 2030 and are creating interim reduction targets that are in alignment with the Science Based Target Initiative ("SBTi") methodology.



The overall design has introduced energy efficiency measures that are detailed within the Energy Statement prepared by Ethos Engineering that accompanied the application and AI submission.

We can confirm that the First Party is committed to driving emission reductions across all of its activities through investment in technology; sourcing renewable energy, wherever possible; and in funding carbon removal projects. At the Facility Campus, energy efficiency measures have been integrated into the design as outlined in the AI response energy statement.

The site is also future proofed to take advantage of cleaner fuels as they become available. The amended condition 3 of the permission granted for the gas powered plant will, as put forward by and accepted by the Planning Authority under Planning Ref. SD22A/0289, enable, if it becomes available a transition to it using green gas and / or hydrogen (or similar fuels) within an agreed timeline with Gas Networks Ireland (GNI). Sourcing renewable energy is a key enabling strategy to meeting the applicant's global net zero goals.

#### **Maximise onsite renewable energy generation**

In order to maximise onsite renewable energy generation, the already permitted Power Plant, which is scaled to serve the Proposed Development, has capacity to be fuelled by green gas and / or hydrogen (or similar fuels).

The Power Plant is already permitted as part of the Permitted Development and is designed with capacity to support this proposed third phase of development (i.e., the Proposed Development does not result in any change to this already permitted infrastructure, which was subject to a previous grant of permission by the Planning Authority).

The permitted Power Plant is scaled in accordance with the CRU Direction and DCCOPP, to provide onsite energy production. It has a dual permitted purpose that was permitted under this previous permission (Planning Ref. SD21A/0042), as follows:

1. to provide continuous power to the permitted and proposed data centres should the EirGrid connection not be realised at the time of commissioning of the Facility Campus. This is expected to be a maximum of two years at the time of this appeal.
2. once the EirGrid connection is realised the gas plant will only ever be utilised to reinforce the national grid. In that scenario the plant is only envisaged to run at the request of EirGrid in response to a grid event as per their flexible demand policy.

This is not in conflict with condition 3(iii) of SDCC Planning Ref. SD22A/0289, as this requires there to be no need for a back-up for the national grid. The permitted Power Plant will therefore provide security of supply to the national grid, where currently renewables cannot, by providing additional capacity under the terms of the flexible connection arrangements under the Edgeconnex Grid Connection Agreement . Subject to the requirements of the CRU Direction, currently all Data Centre connections being offered by EirGrid in the Dublin region are being offered on a flexible basis and in accordance with the CRU Direction. Flexible demand is electrical load for a data centre that must be reduced on instruction from EirGrid via the National Control Centre (NCC).

By providing the already permitted Power Plant at the immediate point of demand, this actually reduces the requirement for future grid reinforcements and relieves constraints in the locality. This is fully in accordance with the Climate Action Plan 2023 (the "Climate Action Plan") that 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 Power Plants (such as has been permitted in this instance), along with storage and interconnection are recognised by EirGrid and CRU 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.

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.



Due to the unreliability and intermittency of solar and wind as a permanent source of power, it is not currently possible for the Proposed Development to be permanently powered by these traditional renewable energy generation sources alone. There is also insufficient land on the site to accommodate sufficient onsite solar and/or wind generation to serve the entire development.

Nonetheless, we also refer the Board to the fact that the Proposed Development contains a number of PV panels to generate on site renewable electricity to be compliant with nZEB "Nearly Zero – Energy Buildings" requirements and Part L of the Building Regulation in accordance with the requirements of section 12.10.1 of the County Development Plan.

While the location of significant quantities of solar or wind energy generation is not feasible on the subject site, the already permitted Power Plant will support the short-term increased penetration of more intermittent renewable generation on the grid by providing for stable energy supply as and when required. In addition, the generation of energy on site via renewable sources has been maximised so that it can utilise green gas and hydrogen gas as these fuel sources become widely available. This is tied into and is a condition of the Power Plant permission.

In addition, the First Party is committed to engaging in renewable PPAs to offset energy use associated with the Proposed Development as explained in detail in later sections of this appeal response. This will further support the increased resilience and sustainability of the national grid, and directly encourage net additional renewable energy generation in line with the Government Statement on the Role of Data Centres in Ireland's Enterprise Strategy. As on-site demand cannot be completely achieved by renewable energy, the evidence of engagement with PPAs meets SDCC requirements under EDE7 Objective 2.

#### ***Sufficient capacity***

We can confirm that the First Party has received and executed a grid connection agreement with EirGrid (i.e. the Edgeconnex Grid Connection Agreement). The long-term primary supply of electricity will come from the national grid infrastructure with the permitted on-site Power Plant (which is unchanged by the current phase of development) feeding the national grid, as and when deemed necessary by EirGrid as TSO. The Proposed Development therefore obtains sufficient capacity by means of its grid connection and the already permitted Power Plant, which is already scaled to serve the Proposed Development. Please see Appendix A which contains a legal note by Mason, Hayes & Curran LLP noting that it is not within the remit of the planning authority to be able to determine "sufficient capacity" allocation or connection to the electricity grid, or indeed the operation and management of contracted grid capacity. This falls squarely within the remit of the System Operators EirGrid (TSO) and ESB (DSO). Nevertheless, the First Party has the benefit of a flexible connection agreement and the requirement by SDCC for a fixed connection agreement has no legal or planning basis.

The First Party also has a gas connection agreement from Gas Networks Ireland (GNI) to supply the permitted Power Plant. Further details on this issue are provided under the Grounds of Appeal section of this appeal document.

The Power Plant will play a part in decarbonising the grid – as acknowledged in the Climate Action Plan adopted by government, which targeted the delivery of 2GW of new gas generation to provide stability on the grid as significantly increased intermittent renewables are introduced, while concurrently allowing for the urgent phasing out of more carbon intensive fuel sources. Therefore, the permitted Power Plant, which is scaled as permitted to support the Proposed Development by providing for stable energy supply in support of increasing renewable penetration represents a timely support for the grid in the area in the context of this and other developments in the wider vicinity.

Given the above, the First Party has demonstrated that it has met the requirement of demonstrating sufficient capacity for the proposed use as required under EDE7 Objective 2.

#### ***Measures to support the just transition to a circular economy***

The Proposed Development seeks to support the transition to a Circular Economy. The application included an outline construction and demolition waste management plan (Chapter 15 of the EIAR), that addressed construction waste and a number of the factors required under the transition to a circular economy. This Outline Plan seeks to lower embodied carbon; conserving resources; sustainable material sourcing; designing to eliminate waste; longevity of design, flexibility and adaptability in design; and indicates design for disassembly.



We would request that an updated version of this Plan is requested as a condition of a permission to be provided prior to the commencement of development. This was considered by the Planning Authority as adequately addressing this part of the objective.

#### ***Measures to facilitate district heating***

In accordance with section 12.10.3 of the County Development Plan, the design has ensured that there is sufficient space on site to connect to a waste heat recovery building in such a scenario. The development of the Clonburris SDZ Planning Scheme is recognised in the SDCC Climate Change Action Plan as having been developed in conjunction with the Clonburris Energy Master Plan. This Master Plan identifies a range of delivery mechanisms that include the creation of local heat networks. It is notable that the Clonburris SDZ Planning Scheme boundary runs to the new bridge over the Grand Canal to the immediate north-east of the site. The implementation of such a scheme within Clonburris, or elsewhere, would enable heat rejected by the processes on the application site, to be provided to the surrounding area should sufficient demand exist for this.

The use of the VRF heat pump provides the opportunity to provide all heating and cooling efficiently using electricity. This reduces the reliance on fossil fuels and is a 'green' technology under the TGD Part L 2021, listed as one renewable energy option to meet the requirements of NZEB.

This ensures that the Proposed Development is fully in accordance with section 12.10.2 Low Carbon District Heating Networks and section 12.10.3, Energy from Waste of the County Development Plan. This was considered by the Planning Authority as adequately addressing this part of the objective.

The provision within the Proposed Development design for district heating also ensures compliance with the relevant part of the Government Statement, which is dealt with in further detail below.

#### ***High quality design***

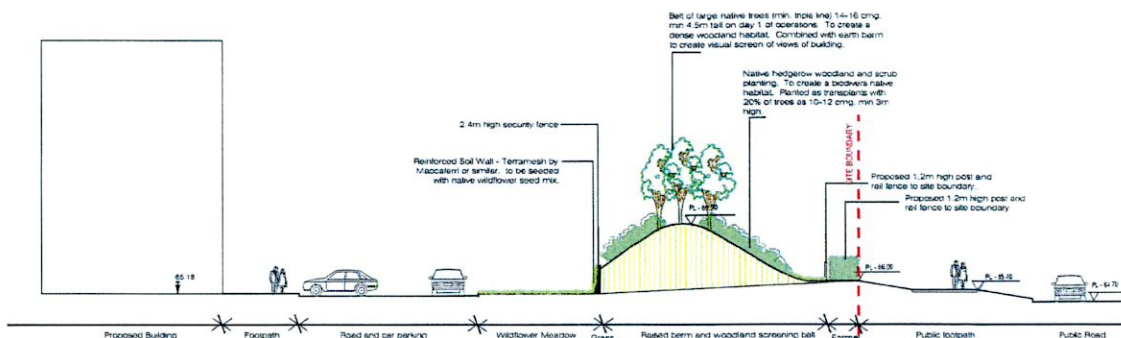
The design of the Proposed Development is predicated on the experience and precedent that was accepted under SDCC Planning Ref. SD19A/0042 and SD21A/0042 within the Facility Campus. The nature of the overall design has been informed by a site analysis of environmental issues prior to the original application on the Facility Campus in 2019; and the enhancement and creation of new bio-diversity corridors to fully integrate the scheme into the surrounding environment to ensure that direct and cumulative effects on biodiversity are addressed in the overall master planning of the site.

Suitable attenuation and sustainable drainage systems (SUDS) have also informed the design. This mitigation of design as already permitted, also significantly increases native tree planting within the site from its current position. The design incorporates SUDS fully in accordance with the policies of the County Development Plan. The already permitted landscaping around the site will be in place significantly prior to the commencement of construction of the Proposed Development.

The scale and form of this single storey data centre was informed by the site position. The highest element of the Proposed Development are the flues that are associated with the back-up generators that are located to the west of the data centre, and will therefore only be visible from distant views. A parapet is proposed around any plant at roof level so that the majority of the building will read as being 12.9m in height, with the office element to the east being 9.33m in height, and the generator screen being 9.2m in height.

The highest element is set-back from the eastern boundary along the R120 by over 65m; with the lower office admin element being set-back by 41.77m. These significant set-backs help to reduce the visual scale and massing of the building, which is further aided by the permitted planting that includes low tree and other planting either side of a row of triple staggered semi-mature trees planted along the top of the 4-5m berms (see below). This provides a high degree of visual screening of the Proposed Development from local and medium distance views. The removal of this visual screening, by retaining the western hedgerow would be wholly unjustified as outlined within this First Party Appeal.





In addition vertical shaded cladding elements are provided to the north, south and east elevations (that face the internal road, canal and the R120 that help to create a higher end finish to the data center and extend from the upper level that help to visually integrate and break down the scale of the Proposed Development. This design approach has been accepted under the previous permissions granted on the Facility Campus.

In addition, a green wall is proposed to the east and south of the plant to the south of the admin element to help to further visually integrate the development.

The high quality design and plan approach is reflected and outlined in the Design Statement that accompanied the AI Response. This outlined the context of the area, and how the Proposed Development will connect into the existing public realm, and is being undertaken at an appropriate building height (similar to that already granted permission on the Facility Campus), as well as including detail on materials, colours and textures that were accepted by the Planning Authority under the 2019 and 2021 applications fully in accordance with section 12.5.2 of the County Development Plan.

The architects have also taken a universal design approach as required under section 12.5.1 of the County Development Plan. This ensures adequate disabled car parking spaces, and a level of access into the site, and the Proposed Development that caters for all.

The application through its massing and design, and use of materials has provided a scheme that complies with the objectives of the County Development Plan under its various QDP policies and objectives.

**Employment once operational**

The data centre, once operational will generate the equivalent of 30 full time jobs as well as support services, with the Facility Campus providing employment for c. 180 employees across a range of employment activities, as well as sustaining a range of support services in the data centre industry. The colocation nature of the First Party means that it provides further incentive to IT companies to establish in Ireland in accordance with national government policy. **This was considered by the Planning Authority as adequately addressing this part of the objective.**

Once operational, c. 30 full time employees will be present on site daily in the Data Centre facilities. Security staff (6 no. total) will be required at all times as well as service staff from outside the data centre facility particularly in relation to the Power Plant creating employment of up to 40 people. During the night shift a reduced number of staff will be required with 10 in the data centre facilities with similar.

The facility will operate on 3 no. 8 hour shift basis (8am to 4pm; 4pm-12am and 12am-8am). Working hours are expected to be 24 hours a day, 7 days a week. The total persons anticipated to travel to and from the site over a 24 hour period, and therefore employed directly on site, is therefore c. 100. Additional service staff and other deliveries etc. would be addition to this.

**Levels of traffic during construction and operational phases of the development**

The details in relation to the level of traffic that the construction and operational phase of the Proposed Development are fully set out within Chapter 12 of the EIAR undertaken by Pinnacle that accompanied the application, and now form Chapter 13 of the updated EIAR. This concludes that the peak demolition and construction period would generate a maximum of 20 demolition and construction vehicle movements per day



10 arrivals and 10 departures each day. The effects of the demolition and construction traffic would be temporary, medium, negative and not significant. Subject to a grant of permission, the Proposed Development would once fully operational would be anticipated to generate a maximum of 60 vehicle trips (arrivals and departures) during the am peak and none during the pm peak each day, and its impact is not considered to be significant on the surrounding road network. ***This was considered by the Planning Authority as adequately addressing this part of the objective.***

#### ***Climate Neutral Data Centre Pact***

We can confirm that Edgeconnex (of which the First Party is a group company) are signatories of the Climate Neutral Data Centre Pact. We refer the Planning Authority to <https://www.climateutraldatacentre.net/signatories/> that identifies that Edgeconnex are a signatory fully in accordance with this element of this objective. ***This was considered by the Planning Authority as adequately addressing this part of the objective.***

#### **ii. Compliance with Policy EDE7 Objective 3**

We respectfully submit that the landscaping and site layout of the Proposed Development, in line with what was established and permitted under the two main permissions under SDCC Planning Ref. SD19A/0042 and SD21A/0042 for the Facility Campus has fully ensured, that the overall landscape and biodiversity strategy enables its integration into the existing and permitted Green Infrastructure (GI) network. The permitted Landscape Master Plan by Kevin Fitzpatrick Landscape Architecture (Drawing no. 201) submitted as part of the AI Response indicates the native woodland planting, medium or large native deciduous and coniferous tree planting; wildflower and wetland meadows; native hedgerow planting; existing native hedgerow being retained as well as existing trees to be retained within the application site and the overall Facility Campus site,

We respectfully submit that the biodiversity quality of the site prior to development commencing was poor. The applicant's approach has always been to maximise biodiversity enhancements within the site, and particularly along the north RU zoned lands adjacent to the canal; as well as along the boundaries of the site and has included substantial green walls and a west to east hedgerow that passes centrally within the site, to further enhance the permitted biodiversity corridors already granted under previous permissions.

The Proposed Development will incorporate further biodiversity measures that will include a new hedgerow to the west of the Proposed Development that will link from the planting within the RU zone and canal corridor to the north, and will extend to the west and south of the Proposed Development, providing a strong link to the permitted east - west hedgerow that passes to the south of the centrally located access road within the Campus, as well as the permitted boundary planting. This will improve biodiversity corridors within the overall site, and its connections to surrounding green infrastructure.

In addition, and in accordance with best practice all security fencing is proposed internally to the landscaping with only post and rail fences to the boundaries. This enables full biodiversity corridors with no need for mammal connections within fence lines. The permitted and proposed landscaping and green infrastructure will therefore create improved green infrastructure connectivity within and through the site. Additional bird boxes and bat boxes will be provided, by condition if it is deemed appropriate.

In addition, the planting and ponds being proposed will help to support both the local bat population and the wider local ecology. This will ensure that the overall scheme is fully in accordance with the Green Infrastructure Strategy set out in Chapter 4 and Policy EDE7, Objective 3 of the County Development Plan.

#### **iii. Compliance with Green Infrastructure and Development Management policies and objectives**

The Proposed Development as amended as part of the AI response, provided a comprehensive response to all green infrastructure issues. This forms the second part of the grounds of this appeal.

#### **iv. Protection and enhancement of green infrastructure**

The Proposed Development will positively contribute to the protection and enhancement of Green Infrastructure (GI) in the County. This follows on from the principles of the permitted landscape plans as granted under Planning Ref. SD19A/0042 and SD21A/0042.



In accordance with this a green infrastructure plan (Drawing no. 203 prepared by Kevin Fitzpatrick Landscape Architecture) indicated as part of the AI Response how the green infrastructure of the Proposed Development will integrate with surrounding Green Infrastructure both immediately adjacent and within the wider GI network. Chapter 3 and 12 of the EIAR that accompanied the AI response addressed and sets out in detail how the Proposed Development complies with the various Green Infrastructure objectives of the new County Development Plan. The five objectives raised in the second reason for refusal are comprehensively addressed under the grounds of appeal.

The site is not located within a defined riparian corridor as identified under Map 13 of the County Development Plan. The Grand Canal is identified as a Primary GI corridor (Figure A 4.1) and is located to the immediate north of the Facility Campus. The approach of the First Party has always been to protect and enhance the canal as a GI asset, and to connect it into other surrounding GI corridors in accordance with the principles of section 12.4.2 of the County Development Plan.

The First Party has created enhanced ecological corridors that will create pathways for wildlife into the nearest designated GI corridors, as well as adding positively to the GI asset within the RU zoned lands by the use of open attenuation ponds and planting, as well as the creation of a public park.

In accordance with the requirements of section 12.4.2 of the Development Plan a Green Infrastructure Plan and Landscape Master Plan drawings were submitted with the AI Response by Kevin Fitzpatrick Landscape Architecture (Drawings 203 and 201). The GI Plan indicates how the Proposed Development will link into the surrounding wider GI network (see below).



Green Infrastructure Plan indicating entire Facility Campus



The Proposed Development will include the planting of 484 new semi-mature trees (c. 5m in height) with the already Permitted Development providing for 1,854 new semi-mature trees on the Facility Campus. In addition to this it is permitted to plant 3,843 standard trees (c. 2m in height) under the Permitted Development with another 912 of these trees proposed to be planted as part of the Proposed Development. In addition to this, it is permitted to plant 18,458 saplings (c. 0.5m in height) across the Facility Campus and with a further 3,586 proposed under this application.

The western hedgerow, which was the only hedgerow sought to be retained under the AI Request of the Planning Authority, is some 200m in length. The AI Response outlined that the western hedgerow will be replaced by 250m of new native hedgerow, with significant lengths of hedgerow already permitted under the previous two permissions. We respectfully submit that there will be a significant net hedgerow and tree cover gain as a result of the Proposed and Permitted Developments.

The approach to Green Infrastructure within the site will ensure that the highest possible biodiversity provision is secured for the overall development of the site in accordance with Policy NCBH11, Objective 3. The GI Plan (Drawing no. 203) indicates the key links that the proposed new planting will provide in linking the green infrastructure proposed with the surrounding green infrastructure that contribute positively to the biodiversity and landscape character as well as the overall amenity of the area in accordance with Policy NCBH11, Objective 4 of the County Development Plan.

The already approved landscape approach in providing berms, mature native planting of new hedgerows and planting, will provide wildlife and biodiversity corridors around the site that will connect with existing planting and hedgerows that form surrounding green infrastructure, but also will provide a natural screen to the Proposed Development, even at year 1 of operations. However, given the already permitted landscaping around the site, which will be implemented as part of the permission granted under SDCC Planning Ref. SD19A/0042, which has recently commenced, the majority of the landscaping may well have been in place for 5 years or more prior to the Proposed Development coming into operation. The concerns raised by the Parks Department in relation to the planting not being acceptable mitigation for any hedgerow removal does not stand up.

The landscape plan already permitted and under the Proposed Development proposes mature and heavy landscaping throughout with initial tree planting being in rows of three trees at c. 5m height across the top of the landscape berms. The maturity of the trees at planting will aid the visual integration of the Proposed Development within this commercial area.

The Green Space Factor for the overall site is 0.4, which whilst just below the suggested 0.5 for such lands, contains a public park and significant new planting on a very large site, and it has already been established under the Permitted Development that the landscape features are above the minimum requirements. The applicant proposes in addition to the mitigation measures outlined in the EIAR to undertake a bat and bird box programme within the overall site to further improve biodiversity and the green space factor interventions as set out under page 462 of the County Development Plan in addition to the public park and significant GI interventions already permitted on site.

Existing hedgerows and other vegetation will be retained wherever possible and strengthened with native planting. This will create commuting and foraging corridors within the Proposed Development site for a range of fauna species that will connect into existing GI surrounding the site. This will be further aided by proposed bat boxes and bird boxes. All of these measures, will ensure that the Proposed Development fully accords with green infrastructure policies and objectives of the County Development Plan and provide a net biodiversity gain for the site.

## **6. National and Regional Planning context**

### **i. Regional Spatial and Economic Strategy for the Eastern and Midlands Regional Assembly**

The Regional Spatial and Economic Strategy (RSES) for the Eastern and Midlands Regional Assembly (EMRA) includes Regional Policy Objective (RPO) 8.25 which states the following:

*"Local Authorities shall:*

- *Support and facilitate delivery of the National Broadband Plan.*



- *Facilitate enhanced international fibre communications links, including full interconnection between the fibre networks in Northern Ireland and the Republic of Ireland.*
- *Promote and facilitate the sustainable development of a high-quality ICT network throughout the Region in order to achieve balanced social and economic development, whilst protecting the amenities of urban and rural areas.*
- *Support the national objective to promote Ireland as a sustainable international destination for ICT infrastructures such as data storage facilities and associated economic activities at appropriate locations.*
- *Promote Dublin as a demonstrator of 5G information and communication technology."*

The site is therefore considered to be an appropriate location for the development of data centres under this Strategy. This is highlighted in the OPR outlining to the Planning Authority, during its review of its own County Development Plan in 2022, that this should be reflected by data centres being open for consideration under the EE zoning which applies to the subject site under the County Development Plan, in order to ensure compliance and alignment with the foregoing provisions of the RSES.

## ii. National Planning Framework

The National Planning Framework (NPF) was published in February 2018 setting out a vision for Ireland in land use and planning terms to 2040. The NPF replaced the National Spatial Strategy once it was adopted as the long-term land use and planning vision for Ireland.

National Strategic Outcome 5 of the NPF relates to the creation of "A Strong Economy Supported by Enterprise, Innovation and Skills". This strategic outcome is underpinned by a range of objectives relating to job creation and the fostering of enterprise and innovation, and is reflected in the recent new Government Statement, as outlined below.

The following objective, relating to Information and Communications Technology (ICT) infrastructure (including data centres) is included under National Strategic Outcome 5:

*"Promotion of Ireland as a sustainable international destination for ICT infrastructures such as data centres and associated economic activities."*

The NPF also states under National Strategic Outcome 5:

*"Ireland is very attractive in terms of international digital connectivity, climatic factors and current and future renewable energy sources for the development of international digital infrastructures, such as data storage facilities. This sector underpins Ireland's international position as a location for ICT and creates added benefits in relation to establishing a threshold of demand for sustained development of renewable energy sources."*

The NPF is favourably disposed to the location of ICT infrastructure in Ireland, and the Proposed Development, which comprises of such ICT infrastructure, is therefore considered to be wholly in accordance with this key body of national planning policy.

## iii. Government policy

We note that the government issued a revised "Statement on the Role of Data Centres in Ireland's Enterprise Strategy" on the 27<sup>th</sup> July 2022 (the "**Government Statement**"). This document sets out "Principles for Sustainable Data Centre Development" which will inform applications for future data centre development over the coming years.

The Government Statement acknowledged that all demand for such development will not be capable of being accommodated, however, it also stated that:

*"Data centres are core digital infrastructure and play an indispensable role in our economy and society. Data centres provide the foundation for almost all online aspects of our social and work lives, including video calling, messaging and apps, retail, banking, travel, media, and public service delivery such as healthcare and welfare."*



apart from Policy GI5 Objective 4 (which relates to Green Space Factor), which we will deal with separately, as follows:

***GI1 Objective 4: To require development to incorporate GI as an integral part of the design and layout concept for all development in the County including but not restricted to residential, commercial and mixed use through the explicit identification of GI as part of a landscape plan, identifying environmental assets and including proposals which protect, manage and enhance GI resources providing links to local and countywide GI networks.***

***GI2 Objective 2: To protect and enhance the biodiversity and ecological value of the existing GI network by protecting where feasible (and mitigating where removal is unavoidable) existing ecological features including tree stands, woodlands, hedgerows and watercourses in all new developments as an essential part of the design and construction process, such proactive approach to include provision to inspect development sites post construction to ensure hedgerow coverage has been protected as per the plan.***

***GI2 Objective 4: To integrate GI, and include areas to be managed for biodiversity, as an essential component of all new developments in accordance with the requirements set out in Chapter 12:Implementation and Monitoring and the policies and objectives of this chapter.***

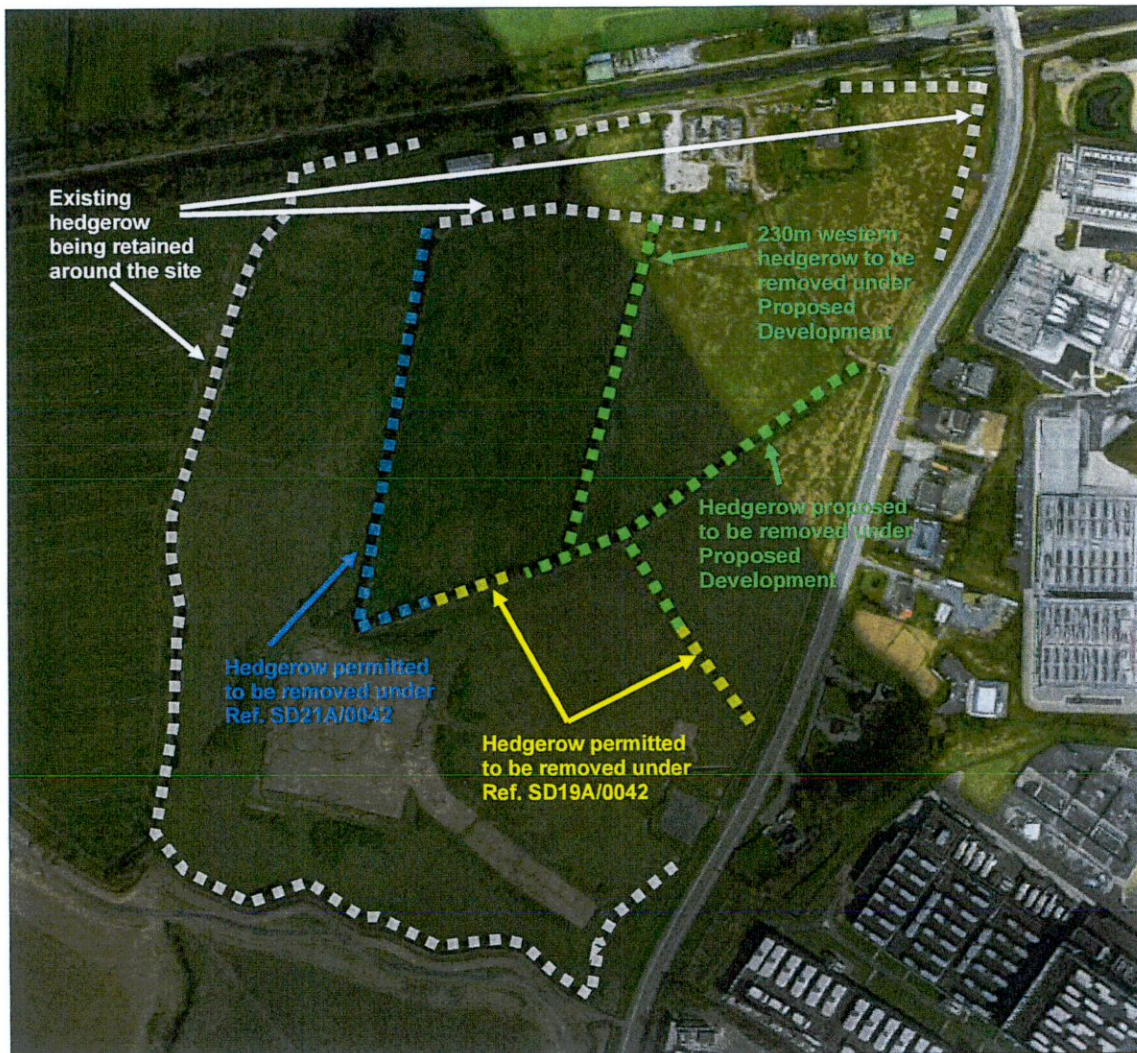
***NCBH11 Objective 3: To protect and retain existing trees, hedgerows, and woodlands which are of amenity and / or biodiversity and / or carbon sequestration value and / or contribute to landscape character and ensure that proper provision is made for their protection and management taking into account Living with Trees: South Dublin County Council's Tree Management Policy (2015-2020) or any superseding document and to ensure that where retention is not possible that a high value biodiversity provision is secured as part of the phasing of any development to protect the amenity of the area.***

We respectfully submit that these new policies and objectives set a clear vision for protecting, and enhancing the green infrastructure of the County. In order to assess this correctly, there is a need to consider the current application against the baseline environment under which the now Permitted Development was sought. The overall site was enclosed by a strong and mature hedgerow to the west and south, and part of the south-east of the site, that measured over 900m in length. This is to be retained and enhanced as a result of the Permitted Development that will create a wildlife and biodiversity corridor that ranges from 30-50m in width around the perimeter of the site.

The additional internal lengths of hedgerow were located primarily within and centrally within the site, and following the R120 road widening, the eastern hedgerow bounding the site, was removed by South Dublin County Council that left some 2,122m of hedgerow prior to the first application on this overall site. The removal of the vast majority of this eastern hedgerow by the County Council has removed this north-south green infrastructure link that connected with the internal hedgerow of the site along the eastern side of the site, albeit that one of these connections was very weak and was broken by the permitted access road.

The current application, and already Permitted Development will remove 760m of hedgerow (noted in white, yellow and green below), of which some 50% is already permitted to be removed (yellow and blue). This element of the refusal of permission appears to be based on one 230m length of hedgerow (indicated below). This formed a specific instruction under point 7 of the AI request of the Planning Authority that sought its retention. No requirement to retain other parts of the hedgerow were requested in the AI Request beyond providing a justification for works to green infrastructure relative to the various policies and objectives of the County Development Plan. The significant length of some 1,362m of hedgerow (c. 66% of the total hedgerow within the original site) that will be retained is notable, and we would suggest is wholly and categorically in accordance with the principles of aforementioned GI policies and objectives. In addition to this, some 1,052m of new hedgerows are either permitted or proposed around the site.





Original site prior to works commencing indicating length of hedgerow being retained and removed under each application

In addition to the degree of hedgerow retention within the overall site, the transformation of the site into a heavily landscaped site formed the starting point for the master planning of the site. The Proposed Development will enable the planting of 484 new semi-mature trees (c. 5m in height) with the already permitted development providing for 1,854 new semi-mature trees on the Permitted Development site. The original site was almost devoid of any trees of note. In addition to this it is permitted to plant 3,843 standard trees (c. 2m in height) under the two main permitted developments (Planning Ref. SD19A/0042 & SD21A/0420 already granted on site with another 912 of these trees proposed to be planted within the application boundary. In addition to this, it is permitted to plant 18,458 saplings (c. 0.5m in height) across the permitted site and with a further 3,586 proposed under this application.

The approach of the design team has been to create enhanced ecological corridors that will create improved pathways for wildlife into the nearest designated GI corridors along the Grand Canal Corridor as well as GI pathways in all directions.

It is not in question that a significant length of hedgerow will be removed as part of this application. However, due to the varying quality hedgerow to be removed, it was only the western hedgerow that was of concern to the Planning Authority under point 7 of the AI request. It is against this background that we request the Board to consider this issue. It is also notable that the AI request was made following the adoption of the County Development Plan.



The premise of the approach to the development of this Facility Campus and Proposed Development under this application and appeal, was to explicitly protect, manage and enhance green infrastructure resources on the site that links to local and countywide green infrastructure networks. This approach has been accepted as reflecting the proper planning and sustainable development of the area under the Permitted Development already granted on the site.

The consideration of this matter by the Planning Authority, and in particular the Parks and Public Realm Section of the Council appears to have had no consideration of the original site, and its poor ecological habitat and green infrastructure connections. Having reviewed the Parks and Public Realm Section report on the Additional Information there was no justification for their conclusions that "*the subject site is going to be significant impacted and compromised as a result of the proposed development in an area of such high importance*". It would appear that no cognisance of the material improvements being made to the overall site had been taken.

***Has the development incorporated GI as an integral part of the design and layout, and incorporated proposals that protect, manage and enhance GI resources providing links to local and county wide GI networks?***

We respectfully submit that the overall site development, has from day one, incorporated green infrastructure into the design and layout of this site. This has been enhanced at every phase, but in cognisance of the phased nature of the site, a comprehensive landscape plan was proposed and accepted under the 2019 application (Planning Ref. SD19A/0042). This improved links to the Grand Canal, as well as replacing GI removed by the County Council, and widening and improving biodiversity corridors within an 80-100m strip adjacent to the canal but also in a 30-50 strip around the site. This has been enhanced further by the permitted east-west hedgerow across the centre of the site, as well as the new hedgerow that is proposed under this application that borders the new data centre to its west and south. We respectfully submit that the design approach is fully in accordance with Policy GI1, Objective 4 of the County Development Plan.

***Has the development protected and enhanced the biodiversity and ecological value of the existing GI network by protecting where feasible, and mitigating where removable in unavoidable?***

Policy GI2, Objective 2 and 4 is critical for the Board to consider this second part of the appeal. As outlined to the case planner prior to the AI Response being made, and set out earlier in this appeal, the retaining of the western hedgerow is unavoidable in this instance. This forms the third phase of an already committed and commenced Facility Campus. There is no potential for it to be developed for any other purpose.

The First Party examined, as requested, the potential of keeping the western hedgerow. However, it generated a clear conflict as a result of moving the data centre to the east with the permitted green infrastructure on the eastern side of the site. This would, as well as being contrary to the GI policies of the Development Plan, would be contrary to the principles of the Permitted Development, and the proper planning and sustainable development of the area.

In order to mitigate this, as is allowable in certain circumstances under this policy, the First Party reduced the external areas around the data centre to enable a new native hedgerow to be planted that would run parallel to the existing hedgerow, and which would also extend along the southern side of the data centre creating, in our considered opinion, stronger biodiversity links within the site. The retention of the western hedgerow would create a hedgerow that failed to connect to any other GI.

In addition, we refer the Board to the technical note that accompanied the AI response that was undertaken by Scott Cawley in relation to the ecological value of this western hedgerow. The technical note concludes that the effects of hedgerow loss on commuting and foraging bats has been determined not to be significant at any geographic scale, and there was not a requirement to provide mitigation. However, the First Party chose to provide additional mitigation in the form of the new western hedgerow, which as already outlined this western hedgerow could on receipt of permission by the Board be a number of years old at the time the Proposed Development commences or comes into operation.

The Permitted Development and Proposed Development has proposed 1,052m of new hedgerow in addition to the 1,362m of hedgerow that will be retained. The northern part of the site will be transformed from agricultural lands with a few hedgerows to a wildlife area, with ponds and a significant increase in planting with public park. The provision of new hedgerows, tree shelter belts, ponds and wet meadows will enhance the suitability of these parts of the Proposed Development site for foraging bats.



The provision of shelter belts and hedgerows is likely to have a neutral effect on common species such as common pipistrelle bat, soprano pipistrelle bat and Leisler's bat, as their installation is not anticipated to result in a change to the number of bats of these species that will use the site for foraging and commuting.

The provision of 2 no. attenuation ponds within the Proposed Development site, and associated riparian planting will enhance the site for bat species associated with waterways and open water, specifically Daubenton's bat *Myotis daubentonii* which are known to occur along the adjacent Canal. Upon their establishment, which is likely to take 2-3 years following construction, the ponds will provide stepping stone sites for this species, which uses the adjacent Grand Canal ecological corridor for foraging. The effects of enhancement of the Proposed Development site for this species is likely to be significant at the local scale, e.g. the Proposed Development site will contain high quality habitat for this species that was not present prior to its development.

We respectfully submit that when all of this is considered there is no basis for the Planning Authority taking a view that the Proposed Development would be contrary to of the County Development Plan Policy GI1 Objective 4, GI2, Objective 2 and 4 as well as Policy NCBH 11, Objective 3. The Proposed Development is fully in accordance with these Policy objectives of the Plan.

***What is the implication, if any, of the Judge Humphreys judgement cited by Public Realm and Parks?***

We respectfully submit that the consideration of the Judge Humphreys judgment [2023] IEHC 335 21 June 2023 cited by the Public Realm and Parks Section is notable, as it would seem on an initial review to be in conflict with Policy GI2, Objective 2 of the Plan, that allows mitigation where removal of hedgerow is unavoidable, as is the case in this instance. However, we would refer the Board to the fact that this referred to judgment was the conclusion of a Judicial Review case of a Strategic Housing Development application in considering whether there was a material contravention of the development plan. This issue was considered between the parties of Four Districts Woodland Habitat Group, BCM Residents Association, Rathcoole Park Residents Association and Forest Hill Residents Association and An Bord Pleanála, The Attorney General as well as Romeville Developments Limited.

Its use in this instance also includes no consideration of the overall master planning of the site from a landscape and green infrastructure perspective, and the Public Realm and Parks Section make no attempt to consider this judgment in its true context and apply it to the Permitted Development and Proposed Development. The judgment related to the objectives in that development plan, and the consideration in this appeal relates to the objectives in the County Development Plan.

It is recognised by the First Party that new hedgerows do not have the same ecological value as existing mature hedgerows. This is why in terms of the master-planning of the site, it was decided that the majority of the green infrastructure being proposed would be implemented as early as possible. This will be planted within the next 6 months and will be maturing well before the Proposed Development comes into operation.

The parks report refers to this site as being along a primary Green / Blue Corridor, and that the removal of hedgerows is in conflict with the Council's own Green Infrastructure policies. This is both an incorrect interpretation of matters but also a failure to recognise the content of Policy GI2, Objective 2 of the County Development Plan. The very rigid interpretation put forward by the Council would in essence remove the ability to develop large swathes of zoned lands within the County. This was clearly not the aim or objective of these Green infrastructure policies.

Irrespective of this, in retaining 1,362m of the 2,122m of hedgerow on the overall site, and in proposing or have permitted 1,052m of new hedgerows around the site, that the First Party has made every effort to retain existing hedgerows and trees within the development site, and to provide suitable mitigation planting and created ecological and biodiversity corridors around and through the site.

The Permitted Development includes some removal of existing hedgerows but also include the provision of significant shelter belts of trees and new hedgerows that will provide enhanced connectivity between the development site and the surrounding landscape.

In addition, it is worthy of note that the eastern boundary will now form a 30-40m wide biodiversity corridor that is currently bounded primarily an agricultural fence, prior to work commencing recently. The external (eastern side) of this eastern corridor was to be bounded, and is already permitted to be bound by a formal hedge of



590m along the R120. The First Party would welcome a condition that required this to be replaced by a native planted hedgerow, if there Board were to overturn the decision of the Planning Authority.

We respectfully submit that when all these matters are considered it is without doubt that the Proposed Development, in conjunction with the Permitted Development will result in a net Green Infrastructure and biodiversity and ecological gain for the site, in the short, medium and long term, and we request the Board overturn this aspect of the Decision.

***Has the Proposed Development adequately met the Green Space Factor under Policy GI 5, Objective 4 of the County Development Plan?***

The calculation of the Green Space factor for the overall site accompanied the AI response. As already outlined by Scott Cawley, Consulting Ecologists, under the AI Response the Proposed Development will result in a net biodiversity gain for both the Proposed Development and overall site.

Given the landscape master planning approach to the overall site, which were made prior to the current County Development Plan being adopted, we remain of the opinion that the principles of that approach should be upheld, with the noticeable inclusion of a new hedgerow to the west and south of the Proposed Development, in calculating the Green Space Factor in this instance.

Kevin Fitzpatrick Landscape Architecture, in consultation with Pinnacle, Consulting Engineers and Henry J Lyons Architects have calculated that the Green Space Factor for the site would be **c. 0.4**. The method of calculation for the overall site was undertaken on the basis of this large 22.1ha. site. The method of calculation set out under the County Development Plan is both unclear and leaves no allowance for whether a development is a commercial entity on an EE zoned site; or a development such as this, that has by its very nature a large footprint. We respectfully submit that it is both unreasonable and is not in accordance with the proper planning and sustainable development of the area for the Proposed Development to narrowly fall below the 0.5 suggested, when such little guidance is provided on so many factors in calculating Green Space Factors. We note that a range of additional mitigation measures can be provided in lieu of failing to reach the 0.5. Some of these are suggested below, and in addition the First Party would be willing to be conditioned to amend the formal hedgerow to a native hedgerow bounding the east of the site.

The Proposed Development will contribute positively to the urban greening of the area and has sought to retain some 1,362m of existing hedgerow, proposed new hedgerow; and the planting of 484 new semi-mature trees (c. 5m in height) with the Permitted Development providing for 1,854 new semi-mature trees on the Permitted Development site.

In addition to this it is permitted to plant 3,843 standard trees (c. 2m in height) under the Permitted Development with another 912 of these trees proposed to be planted within the application boundary. In addition to this, it is permitted to plant 18,458 saplings (c. 0.5m in height) across the Permitted Development site with a further 3,586 proposed within the Proposed Development site. In addition, it is proposed to utilise green roofs, green walls, permeable paving etc.

The First Party is conscious that the green space factor calculation tool is not a perfect mechanism but wishes to outline that already within the overall site for the Facility Campus they have provided in accordance with best practice, a public park, and a level of unprecedented tree planting both mature and young, and new hedgerows that will materially improve the biodiversity of the site, and its linkages to surrounding GI network.

In order to maximise the level of connectivity of GI and biodiversity corridors, all planting is proposed outside of the security fencing and with only a post and rail fence proposed at the boundary of the site. The applicant has also utilised bioswales and tree pits throughout the application site; and there is clearly a significant tree and hedgerow gain (albeit some hedgerow is new, although 66% of hedgerow is to be retained) within the overall site. In addition, the applicant would be willing to accept a condition under the Proposed Development that requires bird and bat boxes to be provided, within the site. These measures will ensure that the Proposed Development is in accordance with the section 12.4.2 and Policy GI5 Objective 4 of the County Development Plan.



## 9. Conclusion

We respectfully submit that this appeal has comprehensively addressed the two reasons that led to the refusal of permission by the Planning Authority, which in our considered opinion was inherently flawed.

We submit that no aspect of the Decision related to concerns relating to the scale, form and massing of the Proposed Development. Reason no. 1 related to technical issues relating to connection agreements and power; whilst Reason no. 2 of the Decision, related to the impact of the Proposed Development on Green Infrastructure,

In terms of reason no. 1 we can confirm the following which addresses each of the five constituent parts of the reason, as addressed in detail within section 8 of the appeal:

- With regard to the existing capacity in the electricity grid, the appeal confirms that it is beyond the remit of the planning authority to be able to make this determination. In any event, the First Party's proposed use for energy demand is in accordance with EirGrid and wider national policy requirements. The Proposed Development and the adjacent Permitted Development are subject to an existing connection agreement, and it is further noted that the permitted Power Plant is scaled to ensure that not only will the permitted and Proposed Development being progressed by the First Party not result in further capacity issues on the electricity network, the overall development will in fact add to the resilience and stability of the grid in the longer term.
- With regard to the aspect of the first reason relating to on-site renewable generation, it is noted that the Facility Campus entails the Power Plant, which is designed to operate on renewable fuel sources, when they become available, and has a GNI connection agreement in the shorter term. Furthermore, this item is not required to be met where the First Party has provided clear evidence in engaging with PPAs.
- With regard to the absence of a fixed connection agreement purported by the Planning Authority, this goes beyond the planning authority's remit as it is a matter for EirGrid to determine. Nevertheless, the First Party already has a '*connection agreement*' with EirGrid (i.e. the Edgeconnex Grid Connection Agreement). The Proposed Development will operate under the same connection agreement as the already Permitted Development.
- With regard to the requirement for evidence of engagement with PPAs, the First Party has confirmed and provided evidence under this appeal that they have engaged with PPAs in Ireland. As part of this appeal, we submit evidence of this engagement.
- With regard to the aspect of the first refusal reason relating to the predominate reliance on gas generation, it is submitted that this form of energy is not prohibited under Policy EDE7, objective 2 and such a prohibition would not be in accordance with national policy. In addition, the First Party has satisfied the Planning Authority's requirements in relation to on-site generation and that this reason should not have been considered as a ground for refusing the Proposed Development. The Power Plant is already permitted with capacity to serve the Proposed Development. Furthermore, the Power Plant will also support the grid, and is a requirement under EirGrid / CRU policy. It is also noted that the Power Plant is designed to accept renewable fuels.

We respectfully submit that the decision of the Planning Authority is inherently flawed. We respectfully submit that the Planning Authority have taken an unduly rigid and have misinterpreted two parts of the First Party's response to issues raised in relation to Policy EDE7, objective 2 of the County Development Plan.

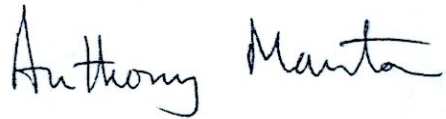
We respectfully submit that the Proposed Development is fully aligned and in accordance with government policy set out under the Government Statement. The First Party is committed to advancing the goals behind the Six Principles set out within this document, and the Proposed Development and Permitted Development are fully aligned with government policy.

In conclusion, for all of the foregoing arguments, reason and considerations, An Bord Pleanála are invited to overturn the Decision of the Planning Authority and to grant permission on the basis that the Proposed Development is in accordance with EirGrid / CRU policy and has a connection agreement; that the First Party has engaged in seeking PPAs; and has demonstrated sufficient capacity within the electricity network; and therefore is fully in accordance with Policy EDE7, Objective 2 of the County Development Plan as well as National Data Centre Policy and is therefore fully in accordance 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 black ink that reads "Anthony Marston". The signature is written in a cursive style with a large initial 'A' and a long, sweeping tail on the 'n'.

Anthony Marston (MIPI, MRTPI)  
**Marston Planning Consultancy**