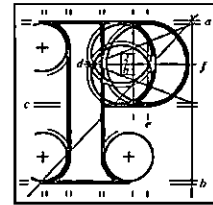


**Our Case Number:** ABP-317918-23

**Planning Authority Reference Number:** SD22A/0460



**An  
Bord  
Pleanála**

**Land Use Planning & Transportation**

**01 SEP 2023**

**South Dublin County Council**

South Dublin County Council  
Planning Department  
County Hall  
Tallaght  
Dublin 24

**Date:** 31 August 2023

**Re:** The change of use from warehouse to data repository facility and all associated site works.  
Unit 1, M50 Business Park, Ballymount Avenue, Dublin 12.

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>Tel</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>	<a href="http://www.pleanala.ie">www.pleanala.ie</a>
<b>Ríomhphost</b>	<b>Email</b>	<a href="mailto:bord@pleanala.ie">bord@pleanala.ie</a>

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.

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

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

<b>AN BORD PLEANÁLA</b>	
LDG-	<u>066121-23</u>
ABP-	_____
29 AUG 2023	
Fee: €	<u>220</u> Type: <u>CHA</u>
Time:	<u>12:08</u> By: <u>Hand</u>

The Secretary  
An Bord Pleanála  
64 Marlborough Street  
Dublin 1

BB/COC

29<sup>th</sup> August 2023

**Re: Our Clients: John Conway and Louth Environmental Group of 91 St. Nicholas Avenue, Dundalk, Co. Louth**  
**Re: Third Party Appeal against Grant of Permission**  
**South Dublin County Council Planning Application Reference Number: SD22A/0460**  
**Applicant: Creighton Properties LLC**

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Dear Sir/Madam,

On behalf of the above-named Client, we<sup>1</sup> wish to lodge the within Third Party Appeal on the proposed development the subject matter of Planning Application Ref No. SD22A/0460 AT Unit 1, M50 Business Park, Ballymount Avenue, Dublin 12.

The grounds and reasons for our submission/observations are detailed hereinafter.

- (a) The proposed development should be subject to a complete Environmental Impact Assessment Report in accordance with the provision of national law and the EIA Directive (as amended) having regard to the energy intensive nature of the project. It is noted that one of the Council's own divisions requested that an EIAR be submitted (as recorded at pg 31 of the Planners Report) but the Planning Officer dismissed this recommendation. While an EIA screening report was submitted as part of the application documentation our Client is highly concerned about the impact of permitting so many data centre/data repository facilities in the State and in Dublin in particular on the environment on the national grid and on the State's ability to adapt to climate change and urges the Board to require the applicant to deliver a full EIAR or permission should be refused in circumstances where:

- 1) The well reported and extremely high electricity consumption of data centres will increase Ireland's carbon emissions at a time when we urgently need to reduce them. We understand that Gas will be burnt to power this data centre during a climate emergency, when Ireland is supposed to be reducing national emissions.

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<sup>1</sup> BKC Solicitors, 252 Harold's Cross Road, Harold's Cross, Dublin, D6W T384

- 2) There is already a disproportionate number of Data Centres in the Dublin Area. Dozens of centres have opened in recent years.
- 3) The Government has set a target that 70 percent of Ireland's electricity will come from renewable sources by 2030. In its Generation Capacity Statement 2020-2029, EirGrid projects that demand from data centers could account for 27 percent of all electricity demand in the country by 2029, up from 11 percent in 2020.
- 4) Ireland is one of the EU's worst carbon emission offenders and faces fines of more than €250 million for missing 2020 targets on reducing greenhouse gas emissions. Missing later targets will trigger steeper fines.
- 5) According to Host in Ireland/Bitpower figures, the data centre industry was responsible for 1.85% of electricity-related carbon emissions in the country during 2020, and this is expected to reach 2.2% by 2025. By 2027, data centres will consume 31% of Ireland's electricity. This rise is startling, considering that data centre growth is expected to double over the next five years.
- 6) Renewables haven't been able to meet this increased demand and will not be able to be brought on stream in the near future to meet this demand.
- 7) For these reasons the development is contrary to proper planning and sustainable development.

b) The development materially contravenes Development Plan policy including CS5 Objective 2, Policy EDE7 Objective 1 and Objective 2 and should be refused. These policies require that Data Centre uses be located outside the M50 insofar as possible. The site is located within the M50 and the use is essentially a Data Centre type of use - whereas the applicant refers to the use being a Data Repository Facility the Planners Report noted at pg 34 that "*...The applicant does however acknowledge that from a land use perspective; similarities between Data (or tape media) repository are considerable*".

A justification for the use and its location was submitted by the applicant in response to a request for further information and was assessed in the Planners Report (at pg 34) as follows:

*"...The applicant explains under section 9.3, Space Extensive Land Use, that the development footprint is small and is on par with the permitted use as a warehouse. It does not detract from the zoning objectives and does not give rise to likely significant effects on the environment. Employment levels at the facility are on a par with typical warehousing uses.*

*The site and its immediate surroundings have been allocated for enterprise and employment purposes under EE zoning of the Development Plan. Warehouses and storage are both authorized by this zoning. Space-intensive applications like warehousing and its reuse comply with the Development Plan's locational provisions. Assuming that both warehouse use and data repository use, which, as outlined above, could be considered a form of warehousing, and are within the zoning purpose for the region, and having regard to the Draft Ministerial Direction in the Matter of Section 31 of the Planning and Development Act 2000 (as amended) South Dublin County Development Plan 2022-2028, data centres are open for consideration within the zoning matrix.*

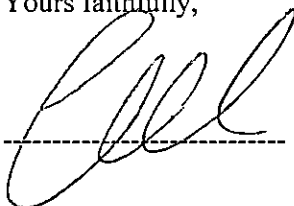
*The applicant, as outlined in EDE7 objective 2, shows that the proposed space-intensive enterprise is not near a high-frequency or high-capacity public transportation system and does not have any adverse environmental effects as described in the EIAR by AWN and the accompanying planning report by MacCabe Durney Barnes. The applicant states in their submission that this data repository facility requires no provision of associated new electricity grid connection infrastructure as it will utilise existing ESB networks infrastructure...”*

Our client disagrees with the Planner’s assessment and/or reasoning and the Council’s decision to grant permission for the following reasons:

- 1) application for Data Centres are required to comply with Development Plan objectives /policy requirements that they be located, insofar as possible, outside the M50 irrespective of whether they are ‘open for consideration’ under the terms of a site’s zoning.
- 2) The analogy with warehousing use is not appropriate – the existing use is warehouse and data centre is specifically listed as a separate type of use in the Development Plan. Moreover the applicant has sought permission for change of use from warehousing to Data Repository Facility use which shows that it constitutes development and should therefore be assessed without reference to the exiting use.
- 3) The application includes 22 workstations in a c. 3,500 sq m facility (sq m based on the information at pg 18 of the Planners Report) – it is unclear to our client how many staff will use these on a regular basis – and whereas the applicant states that the site is not located near a high-frequency it is still located within the M50 where more job intensive uses should to be prioritized.
- 4) Whereas it is asserted that the the development will no have any adverse environmental effect as described in the EIAR no EIAR was actually submitted.
- 5) For these reasons it is considered that the development represents a material contravention of Development Plan policy and is also contrary to proper planning and sustainable development. Permission should be refused..

For these reasons our Client requests that the Board overturn the Councils decision and refuse permission for the development.

Yours faithfully,



A handwritten signature in black ink, appearing to be 'C. O. O.', is written over a horizontal dashed line.



Christine O' Connor,  
BKC Solicitors

Encl.  
€220  
Letter of Acknowledgement of Observation

Planning Department.  
South Dublin County Council  
**Online submission**

BB/COC

30<sup>th</sup> January 2022

**Re: Our Clients: John Conway and Louth Environmental Group of 91 St.  
Nicholas Avenue, Dundalk, Co. Louth Re:  
Submission/Observation Planning Application Reference Number: SD22A/0460  
Applicant: Creighton Properties LLC**

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Dear Sir/Madam,

On behalf of the above-named Client, we wish to lodge the within written submissions/observations on the proposed development the subject matter of Planning Application Ref No. SD22A/0460 AT Unit 1, M50 Business Park, Ballymount Avenue, Dublin 12.

The grounds and reasons for our submission/observations are detailed hereinafter.

- (a) The planning application does not comply with the requirements of the Planning and Development Act 2000 (as amended) and associated Regulations. The applicant has failed to notify the Commission for Regulation of Utilities – which is so required in circumstances where the proposed development will have an impact on energy infrastructure.
- (b) The proposed development does not comply with national climate actions obligations and the Climate Action and Low Carbon Development (Amendment) Act 2021 (having regard to the utilisation of gas and diesel as power sources).
- (c) The planning application does not comply with the requirements of the 2001 Regulations (as amended), the EIA Directive or the Habitats Directive in circumstances where there insufficient information and detail presented, including in relation to how the proposed development would operate via linkage/connection to the national grid.

- (d) The proposed development should be subject to a complete Environmental Impact Assessment in accordance with the provision of national law and the EIA Directive (as amended), having regard to the nature of the project and therefore its EIA failed to meet the definition of an EIA in S171A when interpreted in accordance with Articles 1, 2 and 3 of the EIA Directive.
  - (e) The proposed development should be subject to AA assessment, for the purposes of Article 6(3) of the Habitats Directive, of the likely effects of a project on a site protected under that Directive or under the Birds Directive.
  - (f) The proposed development should also be subject to NIS: A Natura Impact Statement furnished by a developer pursuant to the 2000 Act to give information required for the purposes of an Appropriate Assessment and NIR: A Natura Impact Report prepared by a local authority to the 2000 Act as a basis for carrying out an Appropriate Assessment of a Development Plan.
  - (g) No regard and/or inadequate regard has been given to the cumulative effects of the proposed development, in combination with other development in the vicinity, on the protected sites.
  - (h) The extremely high electricity consumption will increase Ireland's carbon emissions at a time when we urgently need to reduce them. Gas will be burnt to power this data centre during a climate emergency, when Ireland is supposed to be reducing national emissions by 51% under the Climate Action and Low Carbon Development (Amendment) Bill. The proposed development will increase our fossil fuel emissions and is incompatible with this Bill. The Environmental Agency announced last year that Ireland has already overshot its 2018 greenhouse gas emissions ceiling of 60.93 million tonnes of carbon dioxide equivalent (Mt CO<sub>2</sub>eq) by 5.59Mt. Due to the inevitable leakage of methane during extraction, processing and transportation, using gas to generate power releases more methane into the atmosphere than using coal or oil. Methane has a global warming potential 87 times higher than carbon dioxide in the first 20 years after emission. [Prof Robert Howarth: Ideas and perspectives: is shale gas a major driver of recent increase in global atmospheric methane? <https://bg.copernicus.org/articles/16/3033/2019/>]
-



- (i) There is already a disproportionate number of Data Centres in the Dublin Area. Dozens of centres have opened in recent years.
  - (j) The applicant has failed to power the entirety with renewable energy and therefore leading to an increase in Irelands GHG emissions, this application is not consistent with the National Climate Action Plan 2021 and Irelands international commitments under the Parls Agreement.
  - (k) Water usage. Peak demand of water usage stands at around 1,000,000 litres of water per day. Rainwater collection cannot be relied upon, due to uneven patterns of precipitation which will become even more erratic as the climate changes. Cooling the data centre will divert a valuable resource away from the local community, a situation which is likely to get worse as water scarcity becomes more of a problem and population increases. A region with ample water today may become water-stressed in 10 to 30 years. We have recently witnessed that protracted periods of temperatures above 26 C with no precipitation are becoming more frequent in Ireland. The UN expects water demand to outpace supply by almost 40% as soon as 2030. Greater consideration needs to be given to how available resources are going to be used.
  - (l) The Government has set a target that 70 percent of Ireland's electricity will come from renewable sources by 2030. In its Generation Capacity Statement 2020-2029, EirGrid projects that demand from data centers could account for 27 percent of all electricity demand in the country by 2029, up from 11 percent in 2020.
  - (m) Ireland is one of the EU's worst carbon emission offenders and faces fines of more than €250 million for missing 2020 targets on reducing greenhouse gas emissions. Missing later targets will trigger steeper fines.
  - (n) According to Host in Ireland/Bitpower figures, the data centre industry was responsible for 1.85% of electricity-related carbon emissions in the country during 2020, and this is expected to reach 2.2% by 2025. By 2027, data centres will consume 31% of Ireland's electricity. This rise is startling, considering that data centre growth is expected to double over the next five years.
  - (o) Renewables haven't been able to meet this increased demand and will not be able to be brought on stream in the near future to meet this demand.
-



(p) Lastly we would like to mention blackouts with Eirgrid due to data centre's already massive demand on our grid.

Yours faithfully,

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Christine O' Connor,  
BKC Solicitors

02 FEB 2023

Christine O Connor,  
BKC Solicitors  
255 Harolds Cross Road  
Dublin 6W

Date: 31-Jan-2023

Dear Sir/Madam,

**Register Ref:** SD22A/0460

**Development:** The change of use from warehouse to data repository facility, alterations to external facades, provision of a new 1100mm parapet, reclad roof, internal alterations, refurbishment of the existing office space, solar panels at roof level, external plant at ground and roof levels and equipment to include 12 condenser modules, an emergency back-up generator and associated fuel storage tank, transformer, extension to the existing sub-station (c. 13sq.m), 2 sprinkler tanks and pumphouse, bin store, 22 parking spaces including 2 electrical vehicle charging points, bicycle parking shelter, landscaping, planting, new security fence, external lighting, CCTV, altered vehicular gates, permeable hard surfaces, alterations to internal foul sewerage and water supply networks, provision of SuDS compliant surface water drainage system and all associated site works.

**Location:** Unit 1, M50 Business Park, Ballymount Avenue, Dublin 12

**Applicant:** Creighton Properties LLC

**Application Type:** Permission

**Date Rec'd:** 16-Dec-2022

I wish to acknowledge receipt of your submission in connection with the above planning application. The appropriate fee of €20.00 has been paid and your submission is in accordance with the appropriate provisions of the Planning and Development Regulations 2001(as amended). The contents of your submission will be brought to the attention of the Planning Officer during the course of consideration of this application.

This is an important document. You will be required to produce this document to An Bord Pleanála if you wish to appeal the decision of the Council when it is made. You will be informed of the decision in due course. Please be advised that all current applications are available for inspection at the public counter and on the Council's Website, [www.sdblincoco.ie](http://www.sdblincoco.ie).

You may wish to avail of the Planning Departments email notification system on our website. When in the **Planning Applications** part of the Council website, [www.sdblincoco.ie](http://www.sdblincoco.ie), and when viewing an application on which a decision has not been made, you can input your email address into the box named "**Notify me of changes**" and click on "**Subscribe**". You should automatically receive an email notification when the decision is made. Please ensure that you submit a valid email address.

**Please note:** If you make a submission in respect of a planning application, the Council is obliged to make that document publicly available for inspection as soon as possible after receipt. Submissions are made available on the planning file at the Planning Department's public counter and with the exception of those of a personal nature, are also published on the Council's website along with the full contents of a planning application.

Yours faithfully,

M. Furney  
for Senior Planner

08 AUG 2023

BKC Solicitors  
c/o Christine O Connor  
255 Harolds Cross Road  
Dublin 6W

Date: 04-Aug-2023

Dear Sir/Madam,

**Register Ref. No:** SD22A/0460  
**Development:** The change of use from warehouse to data repository facility, alterations to external facades, provision of a new 1100mm parapet, reclad roof, internal alterations, refurbishment of the existing office space, solar panels at roof level, external plant at ground and roof levels and equipment to include 12 condenser modules, an emergency back-up generator and associated fuel storage tank, transformer, extension to the existing sub-station (c. 13sq.m), 2 sprinkler tanks and pumphouse, bin store, 22 parking spaces including 2 electrical vehicle charging points, bicycle parking shelter, landscaping, planting, new security fence, external lighting, CCTV, altered vehicular gates, permeable hard surfaces, alterations to internal foul sewerage and water supply networks, provision of SuDS compliant surface water drainage system and all associated site works.  
**Location:** Unit 1, M50 Business Park, Ballymount Avenue, Dublin 12  
**Applicant:** Creighton Properties LLC  
**App. Type:** Permission  
**Date Rec'd:** 07-Jul-2023

I wish to inform you that by Order dated 03-Aug-2023 it was decided to **GRANT PERMISSION** for the above proposal.

This decision together with the conditions/reasons attached to the decision is recorded in the Planning Register kept at this office in accordance with Article 7 of the Planning & Development Act 2000.

This Register may be inspected during office hours 9.00 a.m. – 4.00 p.m. and interested parties may obtain a certified copy of an entry therein on payment of a fee of €9.00 in respect of each entry. Alternatively, the information can be accessed on-line at [www.sdblincoco.ie](http://www.sdblincoco.ie) by selecting “**Planning Applications**” and conducting a search using available information such as the Planning Application number, Applicant Name or Location. Scanned planning files can be downloaded at this site.

It should be noted that any person who made a submission within 5 weeks of the date of receipt of the application by the Planning Authority and which was accompanied by the appropriate fee of €20.00 may appeal to An Bord Pleanála against the decision or any conditions attached to the Council's decision **within 4 weeks** beginning on (and including) the date of the Council's decision. Interested parties are advised to consult An Bord Pleanála to ascertain if an appeal has been lodged by the applicant.

In cases where the Planning Authority is notified of an appeal having been lodged, this information is published on a weekly basis on the Council's website [www.sdublincoco.ie](http://www.sdublincoco.ie), under the heading "*Weekly Lists*".

All appeals against decisions of the Planning Authority and all correspondence in relation to new and existing appeals should be addressed to The Secretary, An Bord Pleanala, 64 Marlborough Street, Dublin 1 (Tel. 8588100 – LoCall: 1890 275 175).

Any appeal made to An Bord Pleanala will be invalid unless it is fully complete and the correct fee is received by An Bord Pleanala within the statutory appeal period. The fee in respect of an appeal by an applicant for permission relating to commercial development is €1,500; unauthorised commercial development is €4,500; other unauthorised development €660; any other appeal is €220.

Submissions or observations made to An Bord Pleanala by or on behalf of a person (other than the applicant) as regards an appeal made by another person must be accompanied by a fee of €50 and must be received within four weeks from and including the date of the receipt of the appeal by An Bord Pleanala.

Yours faithfully,

*M. Crowley*  
for Senior Planner