



An
Bord
Pleanála

Board Direction
ABP-312371-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 01/11/2024.

The Board decided, as set out in the following Order, that

Board Order as follows:-

WHEREAS a question has arisen as to whether the change of use of the existing Building number 7, as a Data Centre (with ancillary offices) and the physical works proposed at the Hewlett Parkard site, Celbridge Road, County Kildare is or is not development or is or is not exempted development.

AND WHEREAS The Davy Platform ICAV care of Tom Phillips and Associates of 80 Harcourt Street, Dublin requested a declaration on the said question from Kildare County Council and the said Council did not issue a declaration,

AND WHEREAS the said question was referred to An Bord Pleanála by Kildare County Council on the 5th day of January 2022:

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to:

- (a) Section 2(1), 3(1) and 4(1)(a) of the Planning and Development Act, 2000, as amended,

- (b) Article 5(1), 9(1) and article 10 (1) (c) of the Planning and Development Regulations, 2001, as amended,
- (c) Parts 4 of Schedule 2 of those Regulations, 2001, as amended,
- (d) relevant case law, and in particular the High Court decision of Barron, J in Thomas McMahon and Others - v - Right Honourable The Lord Mayor, Alderman and Burgesses of Dublin (High Court 1989 No. 9870P), and Monaghan County Council - v - Brogan [1987] I. R. 333;
- (e) the planning history of the site,
- (f) the pattern of development in the area;
- (g) The report of the inspector

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The use of the site as a Data Centre does not come within the scope of the definition of “industrial process” in Article 5 (1) Planning and Development Regulations 2001, as amended, as it does not involve the making of any article including the making of any computer programme or other original database but rather exclusively entails the storage of data,
- (b) The change of use from manufacturing to a Data Centre would constitute a change of use that is a material change of use; on the basis the change of use from industrial use to a Data Centre, as described above, raises planning considerations that are materially different to the planning considerations relating to the permitted use (ie industrial use), having regard to case law. In particular, the energy requirements associated with the Data Centre and

- (c) There are no exemptions provided in either the Planning and Development Act, 2000, as amended, or the Planning and Development Regulations, 2001, as amended, in respect of such a material change of use:

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by Section 5 (4) of the Planning and Development Act, 2000, hereby decides that the use of building number 7 as a Data Centre (with ancillary offices) and physical works at the former Hewlett Packard site, Celbridge Road, County Kildare, is development and is not exempted development.

Board Member:


Paul Caprani

Date: 05/11/2024