

# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

## Galway County

**Planning Register Reference Number: 15/488**

An Bord Pleanála Reference Number: PL 07.245518

**APPEAL** by Noel Kelly and Patricia Heneghan Kelly of Toberroe, Athenry, County Galway and by others against the decision made on the 9<sup>th</sup> day of September, 2015 by Galway County Council to grant subject to conditions a permission to Apple Distribution International care of Ove Arup and Partners Ireland Limited of 15 Oliver Plunkett Street, Cork in accordance with plans and particulars lodged with the said Council.

**PROPOSED DEVELOPMENT:** Construction of a 24,505 square-metre single-storey data centre building, a 5,232 square-metre single-storey logistics and administration building, a 289 square-metre single-storey maintenance building, a 16 square-metre security hut and associated barriers, two number 48 square-metre fibre huts (max building eaves height 10 metres), 18 external standby generators, all associated external plant, a 20 kV electricity substation, contractor facilities, a main entrance including a new right-turning lane, internal access roads and associated infrastructure, proprietary waste water treatment plants including percolation areas, mains water connection, fire water storage tanks; rainwater harvesting, provision of fibre-optic data connections, car parking (207 spaces, including seven visitor spaces, 50 internal staff mobility spaces and disabled parking spaces), bike parking, an amenity walkway and associated parking, site levelling for a laydown area and a 220 kV substation, 2.4-metre high perimeter security fencing, landscaping including supplementary tree planting and all associated works, all at Palmerstown and Toberroe, Derrydonnell, Athenry, County Galway. The proposed development was revised by further public notices received by An Bord Pleanála on the 7<sup>th</sup> day of March, 2016.

## **DECISION**

**GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.**

## **MATTERS CONSIDERED**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

## **REASONS AND CONSIDERATIONS**

In coming to its decision, the Board had regard to the following:

- (a) the provisions of the National Spatial Strategy for Ireland 2002 – 2020, of the Regional Planning Guidelines for the West Region 2010 – 2022, and of the Galway County Development Plan 2015 - 2021,
- (b) the nature and scale of the proposed development, and its location within a commercial forestry plantation,
- (c) the low visual sensitivity of the forestry plantation, the visual screening afforded by the trees, and the low landscape value and landscape sensitivity ratings for this area as set out in the Galway County Development Plan 2015 - 2021,
- (d) the projected demand for data storage in the future, the economic and operational rationale for the clustering of data storage capacity on one site, and the consequent potential site size requirements,
- (e) the indicative Masterplan for the site, and the extent of the site available,

- (f) the scale of constraints in identifying suitable sites in terms of the requirement for and availability of multiple high-voltage grid connections, of significant fibre capacity and a large scale land use requirement,
- (g) the merits of the site in terms of the nature of the development, including the proximity of the site to secure grid connections and to the fibre telecommunications network,
- (h) the proximity of the site to multiple strategic grid connections, including substantial power generation capacity, through the 220 kV line to the Tynagh power station, which connects onwards to the 400 kV network at Oldstreet, the 220 kV line to Prospect, which is in turn connected to power stations at Moneypoint and Tarbert, and two 220 kV connections to the Cashla substation, which is itself highly interconnected,
- (i) the location of the site within the area identified as a Strategic Economic Corridor in the County Development Plan,
- (j) the pattern of development in the area including separation distances to residential and other land uses, and the distances to areas designated for environmental conservation,
- (k) the adjoining proposal for a 220 kV substation to connect the proposed development to the national grid, submitted to An Bord Pleanála under application reference number 07.VA0020, and
- (l) the documentation and submissions on file and made at the Oral Hearing, including submissions from prescribed bodies, and the report of the Inspector, which incorporated an examination, analysis and evaluation undertaken in relation to appropriate assessment screening and environmental impact assessment.

The Board was satisfied that the information before it was adequate to undertake an Appropriate Assessment screening and an environmental impact assessment in respect of the proposed development.

### *Appropriate Assessment Screening*

The Board noted that the proposed development is not directly connected with or necessary for the management of a European Site. The Board considered the nature, scale and location of the proposed development, the Appropriate Assessment screening documentation and associated documentation submitted with the application, further information and at the Oral Hearing, the submissions made on file, and the report of the Inspector. The Board undertook an Appropriate Assessment screening exercise in relation to the potential direct and indirect effects of the proposed development on European Sites, including forestry replanting proposals. In completing the screening exercise, the Board adopted the report of the Inspector, and concluded that the proposed development, by itself or in combination with other development in the vicinity, including the adjoining proposal for a 220 kV substation to serve the proposed development and the proposed M17/M18 motorway, would not be likely to have a significant effect on European sites, including the Galway Bay Complex Special Area of Conservation (Site Code 000268), the Inner Galway Bay Special Protection Area (Site Code 004031), and the Cregganna March Special Protection Area (Site Code 004142).

### *Environmental Impact Assessment*

The Board considered the nature, scale and location of the proposed development, the documentation submitted with the application and further information, including the revised environmental impact statement, the submissions made on file and at the Oral Hearing, the mitigation measures proposed, and the report, assessment and conclusions of the Inspector. It is considered that this information was adequate in identifying and describing the direct and indirect effects of the proposed development, including forestry replanting proposals. The Board completed an environmental impact assessment in relation to the proposed development, by itself and in cumulation with other development in the vicinity, including the adjoining proposal for a 220 kV substation to serve the proposed development and the proposed M17/M18 motorway, and concurred with the Inspector's assessment of the likely significant impacts of the proposed development, and agreed with the conclusions on the acceptability of the mitigation measures proposed and of the residual impacts. The Board concluded that the effects of the proposed development on the environment would be acceptable. In doing so, the Board adopted the report of the Inspector.

## *Conclusions on the Proper Planning and Sustainable Development of the Area*

It is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not have an unacceptable visual impact, would not exacerbate risk of flooding in the vicinity, would not result in a risk of pollution, would not be prejudicial to public health, would be acceptable in terms of traffic safety and convenience, and would not have detrimental environmental impacts. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **CONDITIONS**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 27<sup>th</sup> day of July, 2015 and the 4<sup>th</sup> day of September, 2015 and by the further plans and particulars received by An Bord Pleanála on the 12<sup>th</sup> day of February, 2016 and at the Oral Hearing, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. All mitigation measures identified in the revised environmental impact statement and associated documentation submitted with the application, further information, and at the Oral Hearing, shall be implemented in full, except as may otherwise be required in order to comply with the following conditions. The implementation of the mitigation measures shall be supervised by personnel with appropriate ecological and construction qualifications and experience, in accordance with details that shall be submitted to and agreed in writing with the planning authority prior to commencement of development, including a reporting schedule and procedures for liaison with the National Parks and Wildlife Service and Inland Fisheries Ireland.

**Reason:** In the interest of clarity and the protection of the environment.

3. (1) Car parking spaces shall be reduced to 100 spaces for staff, seven for visitors and eight for disabled access. The proposed internal staff mobility parking spaces shall be reduced to the minimum necessary for operational requirements in accordance with details that shall be submitted to and agreed in writing with the planning authority prior to commencement of development. The use of the internal staff mobility parking spaces shall be strictly limited to internal access, and shall not be utilised by staff or other persons commuting or otherwise accessing the site.
- (2) Prior to commencement of development, construction stage details of the site access and right-hand turning lane, and of proposed materials and landscaping for car parking areas, shall be submitted to and agreed in writing with the planning authority.

**Reason:** In the interest of sustainable transport and of orderly development.

4. Prior to first occupation of the buildings, a detailed mobility management plan shall be submitted to, and agreed in writing with, the planning authority. The Mobility Management Plan shall be provided and implemented in accordance with the guidance issued by the National Transport Authority in the “Workplace Travel Plans – a Guide for Implementers” and “Achieving Effective Workplace Travel Plans – Guidance for Local Authorities”.

**Reason:** In the interest of sustainable transport.

5. The landscaping scheme shown on Figure 6.14 of the revised environmental impact statement submitted to An Bord Pleanála on the 12<sup>th</sup> day of February, 2016 and the provisions of the Landscape Masterplan Report received by the planning authority on the 24<sup>th</sup> day of April, 2015 shall be implemented within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants that die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of the visual amenities of the area.

6. Prior to commencement of development, construction and operation stage details of the proposed amenity walkway shall be submitted to and agreed in writing with the planning authority, in accordance with the proposals set out in the revised environmental impact statement and associated documentation.

**Reason:** In the interest of the amenities of the area.

7. The monitoring programme and reporting arrangements for wood bitter vetch shall be complied with, as set out in section 5.4 of the Conservation Management Plan for the species, given in Appendix 10.4 of the revised environmental impact statement submitted to An Bord Pleanála on the 12<sup>th</sup> day of February, 2016. Annual survey, monitoring and reporting, in accordance with the requirements of the management plan, shall be undertaken for a minimum of five years from the date of this order and shall be submitted to the planning authority for written agreement. Copies of the reports shall be submitted to the National Parks and Wildlife Service.

**Reason:** To monitor the implementation of the conservation management plan for wood bitter vetch, in the interest of the conservation of a protected plant species.

8. Details, including samples, of the materials, colours and textures of all the external finishes to the proposed buildings and boundary treatment shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of the visual amenities of the area.

9. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

**Reason:** To ensure adequate servicing of the development, and to prevent pollution.



10. (1) The waste water treatment systems and polishing filters shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 24<sup>th</sup> day of April, 2015, the 27<sup>th</sup> day of April, 2015 and the 4<sup>th</sup> day of September, 2015, and in accordance with the requirements of the Environment Protection Agency Wastewater Treatment Manual "Treatment Systems for Small Communities, Business, Leisure Centres and Hotels" (1999). No systems other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.
- (2) Certification by the system manufacturer that the waste water treatment systems have been properly installed shall be submitted to the planning authority within four weeks of the installation of the systems.
- (3) A maintenance contract for the treatment systems shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the buildings and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.
- (4) Surface water soakways shall be located such that the drainage from buildings and paved areas of the site shall be diverted away from the location of the polishing filters.
- (5) Within three months of the first occupation of the buildings, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the waste water treatment systems have been installed and commissioned in accordance with the approved details and are working in a satisfactory manner and that the polishing filters are constructed in accordance with the standards set out in the EPA document.

- (6) The waste water holding tanks proposed for use during construction shall be maintained and emptied on a regular basis, and the contents shall be disposed of off-site to a suitable licenced facility. Details of the procedure for emptying of the tanks including details of the contractor and of the licenced facility shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

**Reason:** In the interest of public health and protection of the environment.

11. The noise level shall not exceed 55 dB(A)  $L_{eq}$  (corrected for any tonal or impulsive component) at the nearest noise sensitive locations, including dwellings, between 0800 and 2000 hours, Monday to Friday inclusive, and shall not exceed 45 dB(A)  $L_{eq}$  at any other time. All sound measurement shall be carried out in accordance with ISO 1996-1:2016 "Acoustics - Description, measurement and assessment of environmental noise - Part 1: Basic quantities and assessment procedures". Procedures for the purpose of determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To protect the amenities of property in the vicinity of the site.

12. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall comply with the detailed standards of the planning authority for such road works.

**Reason:** In the interest of amenity and of traffic and pedestrian safety.

13. Comprehensive details of the proposed lighting system and signage to serve the development shall be submitted to and agreed in writing with the planning authority prior to commencement of development. The lighting shall be at a low level appropriate to bats. The agreed lighting system shall ensure that there is no light spill into adjoining properties or the public road.

**Reason:** In the interest of visual and residential amenity and to protect bats.

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

**Reason:** In the interest of visual amenity.

15. All service cables associated with the proposed development (such as electrical and communication cables) shall be located underground.

**Reason:** In the interest of visual amenity.

16. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:-

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation relating to the proposed development, and

- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works. The assessment shall address the following issues:
  - (i) the nature and location of archaeological material on the site, and
  - (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements including, if necessary, archaeological excavation prior to commencement of construction works. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the area and to secure the preservation by record and protection of any archaeological remains that may exist within the site.

- 17. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:
  - (a) a construction stage environment management plan, including an emergency response plan,
  - (b) details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site,

- (c) measures to obviate queuing of construction traffic on the adjoining road network,
- (d) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network,
- (e) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road during the course of site development works,
- (f) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels,
- (g) containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained; such bunds shall be roofed to exclude rainwater,
- (h) off-site disposal of construction waste and details of how it is proposed to manage excavated soil,
- (i) hours of construction,
- (j) means to ensure that surface water run-off is controlled such that no deleterious levels of silt or other pollutants enter local surface water drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept on site for inspection by the planning authority.

**Reason:** In the interest of amenities, environmental protection, public health and safety.

18. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the reinstatement of public roads that may be damaged by construction transport, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory reinstatement of the public road. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** In the interest of traffic safety and orderly development.

19. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

20. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2)(c) of the Planning and Development Act 2000, as amended, in respect of the provision of road markings on the R348 from its junction with the R446, and to renew the ghost island markings at the R348 Derrydonnell junction with the R446 during the construction phase. The amount of the contribution shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

**Reason:** It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

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**Member of An Bord Pleanála  
duly authorised to authenticate  
the seal of the Board.**

**Dated this            day of            2016.**