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**Planning and Development Acts 2000 to 2019**

**Planning Authority: Wicklow County Council**

**Planning Register Reference Number: 18/940**

**Appeal** by Brian McDonagh care of McDonnell Dixon Partnership of 2-4 Merville Road, Stillorgan, County Dublin against the decision made on the 15<sup>th</sup> day of February, 2019 by Wicklow County Council to grant subject to conditions a permission to Crag Digital Avoca Limited care of Tom Phillips and Associates of 80 Harcourt Street, Dublin in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Permission for a period of 10 years on a site of circa 13.28 hectares at Avoca River Park, Arklow, County Wicklow, in the townlands of Shelton Abbey and Kilbride. The development will consist of the demolition of existing buildings and structures on site and the construction of a Data Storage Facility comprising three number Data Storage buildings and all associated site infrastructure as follows:

- Data Storage Facility 1 (6 Pod Data Centre) (circa 12,288 square metres Gross Floor Area (GFA)) located to the north of the site (circa 13.0 metres in height with mechanical plant above at roof level, (overall height circa 14.3 metres)):

- served by one number Gas Generator Compound (circa 667 square metres Gross Floor Area) to the south of the Data Storage building (circa 10.9 metres in height) including five number flues, each flue to a height of circa 23.3 metres;
  - and two number banded fuel tanks (each tank circa 10.2 square metres Gross Floor Area and circa 4.2 metres in height) located to the south-east and south-west of the Data Storage building;
  - and powered by (-part grid/-part gas) with emergency diesel fuel backup.
- Data Storage Facility 2 (8 pod data centre): (circa 14,436 square metres Gross Floor Area), located to the south of the Data Storage Facility (circa 13.0 metres in height with mechanical plant above at roof level, (overall height of circa 13.9 metres)):
  - served by one number Gas Generator Compound (circa 834 square metres Gross Floor Area) to the south of the building (circa 10.9 metres in height) including six number flues, each flue to a height of circa 23.3 metres;
  - and two number banded fuel tanks (each tank circa 10.2 square metres Gross Floor Area and circa 4.2 metres in height) located to the south-east and south-west of the Data Storage building;
  - and powered by (-part grid/-part gas) with emergency diesel fuel backup.

- Data Storage Facility 3 (8 pod data centre): (circa 14,436 square metres Gross Floor Area), located to the south of the site (circa 13.0 metres in height with mechanical plant at roof level, (overall height of circa 13.9 metres)):
  - served by one number Diesel Generator Compound (circa 1,440 square metres Gross Floor Area) to the north of the building (circa 5.5 metres in height) including eight number flues, each flue to a height of circa 25.6 metres;
  - and two number bunded fuel tanks (each tank circa 10.2 square metres Gross Floor Area and circa 4.2 metres in height, located to the north-east and north-west of the Data Storage building;
  - and powered by grid.
- The Data Storage facility to comprise a total Gross Floor Area of circa 41,160 square metres Gross Floor Area and circa 2,941 square metres Gross Floor Area within the three number Generator Compounds.

The development will also consist of:

- the upgrade of existing 110 kilovolt (kV) substation to provide a Substation Compound comprising Gas Insulated Switchgear (GIS) equipment (circa 600 square metres Gross Floor Area) with four number 50 Mega-Volt Amp bays within a single storey MV building (circa 354 square metres Gross Floor Area); 10 number lighting protection masts (circa 20 metres in height), four number oil filled transformers, with circa 2.4 metres high palisade fence;

- the provision of one number single storey Security Guard House (circa 85 square metres Gross Floor Area) at primary access to data storage facilities;
- the provision of four number vehicular access points off Shelton Abbey (access road) on western side of the site (two number to serve Data Storage Facilities, one number to serve proposed GIS substation and one number to serve MV building); internal access roads, surface level car parking;
- all ancillary site services (foul and surface water drainage and water supply) including one number Pump House (circa 133 square metres Gross Floor Area, circa 6.5 metres in height) with three number Water Tanks (circa 190 square metres Gross Floor Area, circa 7.0 metres in height) to the south-west of the site; one number Attenuation Pond (circa 409 square metres) to the south-east of the site; and a wastewater treatment plant (below ground level) to the west of Shelton Abbey (access road), within the application site; and
- all landscaping, boundary treatments and site development works above and below ground.

**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**

Having regard to:

- the nature and extent of the proposed development,
- the characteristics of the site and of the general vicinity,
- the established nature of Avoca River Park,
- the policies of the planning authority as set out in the Wicklow County Development Plan 2016-2022,
- the Environmental Impact Assessment Report submitted,
- the appeal and observations made in connection with the planning application, and
- the report of the Inspector.

## **Environmental Impact Assessment**

The Board completed an environmental impact assessment of the proposed development, taking into account:

- the nature, scale and extent of the proposed development,
- the Environmental Impact Assessment Report (EIAR) and associated documentation submitted in support of the planning application,
- the submissions from the planning authority, the appellant and the observers in the course of the application, and
- the Inspector's report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, adequately considers alternatives to the proposed development and also adequately identifies and describes the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

The Board agreed with the examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in the course of the planning application.

The Board considered and agreed with the Inspector's reasoned conclusions, that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

### **Reason Conclusion on the Significant Effects**

Having regard to the examination of the environmental information contained above, to the Environmental Impact Assessment Report and supplementary information provided by the applicant, it is considered that the main significant direct and indirect effects of the proposed development on the environment are as follows:

- Impacts on population and human health as a result of noise and vibration during the operational phase. The potential impacts would be mitigated by noise and vibration mitigation measures, such as the use of plant with low inherent potential of noise and/or vibration and locating the plant away from noise sensitive receptors. Noise and vibration levels would be within acceptable emissions limits during normal operation.
- Landscape and visual impacts would arise on the landscape with new structures proposed. The location of such on an existing industrial site, implementation of the landscape management plan, and ongoing landscape maintenance would greatly assist in assimilating the works into the landscape and reduce the impact at operational phase.
- While no direct significant impacts would arise in respect of Material Assets (including energy and climate), there is potential for impacts arising from the consumption of energy associated with the data centre and the indirect generation of carbon monoxide emissions. It is considered that, in a National and European context, the scale of electricity consumption for the overall data centre development and the

indirect impact on carbon emissions would not result in significant environmental impacts.

- Positive significant impacts would arise during the operation phase as a result of the overall data centre scheme, which is directly dependent on the proposed substation. Benefits would include data security, employment and economic benefits.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures set out in the Environmental Impact Assessment Report, and subject to compliance with the conditions set out below, the effects of the environment of the proposed development, by itself and in combination with other development in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector.

### **Appropriate Assessment Screening**

The Board considered the Report to Inform Screening for Appropriate Assessment and all other relevant submissions and carried out an appropriate assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites. The Board noted that the proposed development is not directly connected with or necessary for the management of a European Site and considered the nature, scale and location of the proposed development, as well as the report of the Inspector. In completing the appropriate assessment screening, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other plans or projects in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the sites' conservation objectives and that a Stage 2 Appropriate Assessment is not, therefore, required.



## **Proper Planning and Sustainable Development**

It is considered that, subject to compliance with the conditions set out below, the proposed development would be consistent with national, regional and local planning policy, notably the Wicklow County Development Plan 2016-2022 and Arklow and Environs Local Area Plan 2018. It would

- have an acceptable impact on the landscape,
- not seriously injure the residential or visual amenities of the area,
- not adversely affect the archaeological or natural or built heritage,
- be acceptable in terms of traffic safety and convenience, and
- ensure the development is adequately protected from flooding and would not exacerbate flood risk elsewhere.

The Board concluded that 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 18<sup>th</sup> day of December 2018, 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. The mitigation measures and commitments identified in the environmental impact assessment report, and other plans and particulars submitted with the planning application shall be implemented in full by the developer, except as may otherwise be required in order to comply with the following conditions. Prior to the commencement of development, the developer shall submit a schedule of mitigation measures identified in the Environmental Impact Assessment Report, to the planning authority for its written agreement.

**Reason:** In the interest of clarity and protection of the environment during the construction and operational phases of the proposed development.

3. The period during which the development hereby permitted may be carried out shall be 10 years from the date of this Order.

**Reason:** Having regard to the nature of the purpose of development, the Board considered it reasonable and appropriate to specify a period of the permission in excess of five years.

4. Prior to commencement of development, full details, including drawings and samples, of:
  - (a) all proposed external finishes to the proposed buildings, including to the flue stacks,
  - (b) all proposed signage to serve the development, and
  - (c) all site fencing (site fencing shall be coloured in a dark green colour only),

shall be submitted to, and agreed in writing with, the planning authority.

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

5. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no additional development, other than that shown on submitted drawings, shall take place above roof parapet level including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunications aerials, antennae or equipment, unless authorised by a further grant of permission.

**Reason:** In the interest of visual amenity, and to allow the planning authority to assess any such further development through the statutory planning process.

6. 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.

7. Prior to commencement of development, the developer shall submit to, and agree in writing with the planning authority –
  - (a) details and drawings of the entrances from the site to the public roads, which shall comply with the Design Manual for Urban Roads and Streets issued by the Department of Transport, Tourism and Sport in 2013;
  - (b) details of the location, type, design and construction of the proposed gates access points in the security fence line; and
  - (c) details and drawings showing the segregation of the loading bay area turning movement from the staff parking area.

**Reason:** In the interests of pedestrian and cyclist permeability and safety across the proposed entrances to the site, and of traffic safety.

8. 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.

9. (a) A proprietary effluent treatment and disposal system shall be provided. This shall be designed, constructed and maintained in accordance with the requirements of the planning authority. Details of the system to be used, and arrangements in relation to the ongoing maintenance of the system, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) Treated effluent shall be discharged to a raised percolation area which shall be provided in accordance with the requirements of "Treatment Systems for Small Communities, Business, Leisure Centres and Hotels", Environmental Protection Agency (current edition).
- (c) Within three months of installation and operation of the wastewater treatment system, the developer shall submit a report from a suitably qualified person with professional indemnity surface certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the raised percolation area is constructed in accordance with the standard set out in the Environmental Protection Agency document.

**Reason:** In the interest of public health.

10. 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 hours of working, noise management measures, dust minimisation measures and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and residential amenity.

11. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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 (including hydrological and geotechnical investigations) relating to the proposed development,
  - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
  - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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 site and to secure the preservation and protection of any remains that may exist within the site.

12. A project ecologist with the necessary expertise in habitat management and bat protection issues shall be engaged to oversee the protection of biodiversity both during construction and for a monitoring period of five years following the completion of the proposed development. The primary responsibilities of the Project Ecologist will be those as set out in the Biodiversity Management Plan. Annual reports shall be submitted to the planning authority.

**Reason:** In the interest of habitat and bat protection.

13. Prior to the commencement of development on site, a Construction Environmental Management Plan shall be submitted to, and agreed in writing with, the planning authority.

**Reason:** In the interests of orderly development, the environment and public health.

14. All planting/landscaping required to comply with the specification of the landscaping scheme submitted to the planning authority shall be maintained, and if any tree or plant dies or is otherwise lost within a period of five years, it shall be replaced by a plant of the same species, variety and size within the planting season following such loss.

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

15. Lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of the environment, amenity and public safety.

16. (a) The noise level arising from the operation of the proposed development shall be in accordance with the predicted noise limits for daytime, evening and night time detailed in the Environmental Impact Assessment Report and in any case shall not exceed ambient noise levels by more than 5 dB(A) (Leq 15 min) at noise sensitive receptors.
- (b) As and when required by the planning authority, a survey of noise levels at monitoring stations on adjacent properties (to be agreed with the planning authority) shall be undertaken by an agreed professional (at the expense of the developer) and the results submitted to the planning authority within one month of such a request.

The results of such surveys shall include, inter alia:-

- (i) Type of monitoring, equipment used, sensitivity or calibration evidence, and the methodology of the survey.
- (ii) Prevailing climatic conditions at the time of the survey.
- (iii) The time interval over which the survey was conducted.
- (iv) What machinery was operating at the time of the survey.

The results shall be submitted to the planning authority within two weeks of the survey date in each case. If the noise survey has not been carried out, or the results not submitted to the planning authority within one month, the planning authority shall arrange to have such a survey carried out and the cost of the survey shall be recouped from the developer.



**Reason:** In the interests of the proper planning and sustainable development, residential amenity and to prevent noise pollution.

17. A minimum of three number car parking spaces shall be provided for disabled drivers or disabled passengers within the site. Each such space shall have a minimum area of 3 metres wide by 4.8 metres deep and shall be substantially level. Each such parking space shall be clearly marked “Disabled Drivers or Passengers” and with the International Symbol of Access for the Disabled.

**Reason:** To facilitate access to these premises for disabled persons.

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 during construction, 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 such agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** In the interest of traffic safety and the proper planning and sustainable development of the area.

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.

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

**Dated this            day of            2019.**