

An
Bord
Pleanála

Board Order
ABP-307546-20

Planning and Development Acts 2000 to 2020

Planning Authority: Meath County Council

Planning Register Reference Number: RA/191593

Appeal by An Taisce of Tailors Hall, Back Lane. Dublin, by EngineNode Limited care of John Spain Associates of 39 Fitzwilliam Place, Dublin, and by Others against the decision made on the 17th day of June, 2020 by Meath County Council to grant subject to conditions a permission to EngineNode Limited in accordance with plans and particulars lodged with the said Council:

Proposed Development: The development consists of the following to be constructed in a minimum of four phases: Construction of four number two-storey data storage buildings with a combined gross floor area of circa 92,172 square metres, associated single storey energy centre with a gross floor area of circa 8,906 square metres with an ancillary one storey MV operations building with part basement with a gross floor area of circa 1,016 square metres, EngineNode two-storey offices with a gross floor area of 736 square metres. The data storage campus shall comprise of the following uses: offices, canteen, computer and associated support areas, electrical component rooms, plant and associated equipment. Each data storage building includes for a total of 18 number 21.5 metres high back-up generator exhaust flues which are incorporated on to the building facade. The energy

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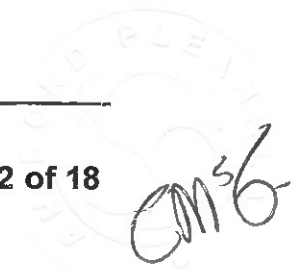
centre shall comprise of gas engines, ancillary plant and associated equipment. The energy centre includes for four number 40 metres high by five metres diameter exhaust flues and a standby diesel generator with a 22 metres high exhaust flue. An IE Licence is required for under the First Schedule of the Environmental Protection Agency Act 1992, as amended, under "Activity 2.1 Combustion of fuels in installations with a total rated thermal input of 50MW or more". Ancillary facilities on site include for an above ground installation for gas connection, and a temporary ESB MV substation with gross floor area of 40 square metres in support of this development. Included in this application are all associated storage tanks, flues, access roads, services, entrance gates, railings, perimeter fencing at three metres high, landscaping and infrastructure inclusive of 245 number car parking spaces and three number attenuation retention ponds, all at Bracetown and Gunnocks, to the north of Clonee, County Meath. The proposed development was revised by further public notices received by the planning authority on the 2nd day of March, 2020.

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 arriving at its decision, the Board had regard to:

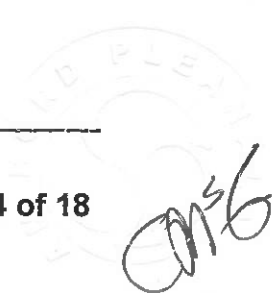
- (a) the National Planning Framework - Ireland 2040, published by the Department of Housing Planning and Local Government in February, 2018,
- (b) the Climate Action Plan 2019, published by the Department of Environment, Climate and Communications in June, 2019,
- (c) the Government Statement on the Role of Data Centres in Ireland's Enterprise Strategy, prepared by the Department of Business Enterprise and Innovation in June 2018,
- (d) the Regional Spatial and Economic Strategy for the Eastern and Midlands Region, 2019,
- (e) the policies of the planning authority as set out in the Meath County Development Plan, 2013 to 2019,
- (f) the distance to dwellings or other sensitive receptors,
- (g) the submissions made in connection with the application and the appeal, including those made in respect of the amended application which omits the energy centre,
- (h) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects of the proposed development on European Sites, and

- (i) the report and recommendation of the Inspector.

Screening for Appropriate Assessment

The Board noted that the proposed development is not directly connected with or necessary to the management of a European Site. In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment and conclusion in the Inspector's report in respect of the identification of the European sites which could potentially be affected, and the identification and assessment of the potential likely significant effects of the proposed development, either individually or in combination with other plans or projects, on these European sites in view of the site's Conservation Objectives. The Board was satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on Rye Water Valley/Carnton Special Area of Conservation (Site Code: 001398) or on any other European site, in view of the site's Conservation Objectives.

This screening determination is based on the assessment of the nature of the European sites identified, the Qualifying Interests/Special Conservation Interests, and the absence of a downstream aquatic or any other connection between the European site Rye Water Valley/Carnton Special Area of Conservation (Site Code: 001398) and the proposed development, and the substantial separation distance between any other European sites and the proposed development.



Environmental Impact Assessment

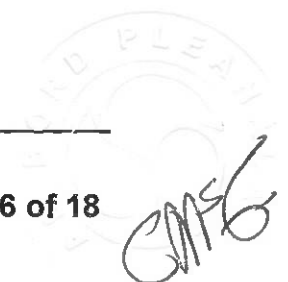
The Board completed an environmental impact assessment of the proposed development taking account of:

- (a) the nature, scale, location and extent of the proposed development on a site,
- (b) the Environmental Impact Assessment Report (EIAR), the EIAR Addendum report, and associated documentation submitted in support of the application,
- (c) the submissions received from the prescribed bodies, planning authority and observers, including those received in relation to the proposed omission of the energy centre, and
- (d) the Inspector's report.

The Board considered that the Environmental Impact Assessment Report (EIAR) and EIAR Addendum report, supported by the documentation submitted by the applicant, adequately considers alternatives to the proposed development and identifies and describes adequately 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 EIAR report and EIAR addendum report and associated documentation submitted by the applicant and submissions made in the course of the application.

The Board considered that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

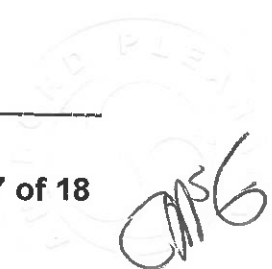
- **The risk of pollution of ground and surface waters during the construction and operation phases** through a lack of control of surface water during excavation and construction, the mobilisation of sediments and other materials during excavation and construction, and the necessity to undertake construction activities in the vicinity of existing watercourses. The construction of the proposed project could also potentially impact negatively on ground and surface waters by way of contamination through accidents and spillages. These impacts would be mitigated by the agreement of measures within a Construction and Environment Management Plan, and the implementation of mitigation measures related to control and management of sediments, accidental spills and contamination, and drainage management.
- minor localised increase in **vehicle movements and resulting traffic impacts** during the construction and operational phases. These impacts would be mitigated by the agreement of measures within a Construction and Environment Management Plan.
- minor localised impacts on **residential amenity** during the construction (noise, dust, traffic safety, and general disturbance) phase. These impacts would be mitigated by the implementation of measures related to the protection of air quality, control of noise and dust, traffic management, and the erection of screening berms, by the agreement of measures within a Construction and Environment Management Plan.



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

Proper planning and sustainable development

It is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with national, regional and local planning and related policy, would not have an unacceptable impact on the landscape or ecology, would not seriously injure the visual or residential amenities of the area or of property in the vicinity, and would be acceptable in terms of pedestrian and traffic safety. 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 information received by the planning authority on the 25th day of February 2020, and the documents received by the Board on the 12th day of August 2020, 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. This permission shall be for a period of 10 years from the date of this Order.

Reason: In the interest of clarity and orderly development.

3. The mitigation measures 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 conditions of this permission.

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

4. For avoidance of doubt, the energy centre shall be omitted from the development in accordance with the documents received by the Board on the 12th day of August, 2020. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority revised plans which describe the full extent of this omission, and the landscaping plans for the site.

Reason: In the interest of clarity and orderly development.

5. The developer shall comply with the following specific transportation requirements:
 - (a) The proposed access on to the R147 shall be temporary. Once the major distributor road has been completed and taken in charge by the local authority the development shall be accessed from the major distributor road. The developer shall submit details of the closure of the temporary access on the R147 to the planning authority for written agreement within three months of the opening of the permanent access onto the major distributor road.
 - (b) Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority, an amended road layout within the site that facilitates a link road between a long term/permanent access point on the eastern boundary of the site to the third-party lands along the southern boundary of the site. This shall include a detailed design of the revised road layout and the developer shall transfer this section of the land and the road, free of charge to Meath County Council, when complete.

- (c) Prior to commencement of development, the developer shall enter into an agreement, under Section 47 of the Planning and Development Act 2000, as amended or otherwise, to finalise details of their proposal to provide access to third party lands (item (b) above refers) and agree the phasing for the completion of the design, construction and handover to Meath County Council of same.
- (d) Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority, the detailed design of the proposed access points to the site from the R147 regional road and the local road L-1010. This shall include, but not be limited to, the footpaths, kerbs, fencing, public lighting, drainage and the R147 right turn lane.
- (e) The developer shall bear all costs associated with the design, construction and transfer to Meath County Council of the works agreed in items (b), (c) and (d) above.
- (f) The developer shall implement the mitigation measures identified in section 13 of the Environmental Impact Assessment Report. The details of same shall be agreed in writing with the planning authority prior to commencement of development.
- (g) Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority, a revised Masterplan reflecting this permission and the conditions detailed in items (a) to (f) above.

Reason: In the interest of traffic safety, infrastructure provision, and the proper planning and sustainable development of the area.

6. The developer shall comply with the following nature conservation requirements:
- (a) No felling or vegetation removal shall take place during the period 1st March to 31st August.
 - (b) A pre-construction bat survey shall be carried out by a suitably qualified ecologist during the active bat season.
 - (c) Any destruction of bat roosting sites or relocation of bat species shall be carried out by a suitably qualified ecologist under a Derogation Licence granted by the Minister for Housing, Local Government and Heritage.
 - (d) A 30 metre cordon shall be installed around any badger sett entrances, which shall be screened and remain in place throughout the construction works.
 - (e) There shall be no artificial lighting of any badger sett entrances during the construction and operational phases.

Reason: In the interest of biodiversity and nature conservation.

7. The developer shall comply with the following general requirements:
- (a) Lighting within the site shall be provided in accordance with a scheme, details of which shall be submitted to and agreed with the planning authority prior to commencement of development.

- (b) CCTV cameras shall be fixed and angled to face into the site and shall not be directed towards adjoining property or the road.
- (c) Each fencing panel shall be erected such that for a minimum of 300 millimetres of its length, its bottom edge is no less than 150 millimetres from ground level.
- (d) Cables within the site shall be located underground.
- (e) No additional signage or advertising shall be erected on the lands or buildings without a prior grant of planning permission.

Reason: In the interest of clarity, and of visual and residential amenity, to allow wildlife to continue to have access to and through the site, and to minimise impacts on drainage patterns and surface water quality.

8. The landscaping proposals shall be carried out within the first planting season following commencement of construction of the proposed development. All existing hedgerows (except at access point openings) shall be retained. The landscaping and screening shall be maintained at regular intervals. Any trees or shrubs planted in accordance with this condition which are removed, die, become seriously damaged or diseased within two years of planting shall be replaced by trees or shrubs of similar size and species to those original required to be planted. The berms located in the northern and western sections of the site, parallel to the boundaries with the Bracetown Business Park and the R147 shall be constructed during the first phase of the works.

Reason: To assist in screening the proposed development from view and to blend it into its surroundings in the interest of visual amenity.

9. Water supply and drainage arrangements, including the attenuation and disposal of surface water, and flood risk management, shall comply with the requirements of the planning authority for such works and services as appropriate.

Reason: In the interest of public health.

10. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.

Reason: In the interest of public health.

11. The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, including mitigation measures as referenced under condition number 3 above, 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 noise management measures, traffic management, protection of wayleaves, an invasive species management plan, and off-site disposal of construction/demolition waste.

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

12. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 hours to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

13. The site development and construction works shall be carried out such a manner as to ensure that the adjoining roads are kept clear of debris, soil and other material and cleaning works shall be carried on the adjoining public roads by the developer and at the developer's expense on a daily basis.

Reason: To protect the residential amenities of property in the vicinity.

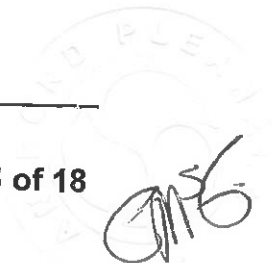
14. The developer shall comply with the following aviation requirements:
- (a) Notify the Irish Aviation Authority of their intention to commence crane activities with a minimum of 30 days prior notification of their erection.
 - (b) Consult with the Irish Aviation Authority and the Dublin Airport Authority and develop mitigation measures for bird hazards. Details in this regard shall be submitted to the planning authority for written agreement.
 - (c) Carry out an aircraft noise impact study for the existing and predicated noise environment. The study shall demonstrate that internal noise levels appropriate for the proposed office use can be achieved and maintained. The developer shall submit a report on the study with any necessary mitigation measures for the written agreement of the planning authority prior to the occupation of the development.

Reason: In the interest of orderly development.

15. The developer shall comply with the following archaeological requirements:
- (a) Pre-development archaeological testing shall be undertaken by a suitably qualified archaeologist, licensed under the National Monuments Acts 1930-2004. No sub-surface work shall be undertaken in the absence of the archaeologist without his/her written consent.
 - (b) 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. A copy of the report shall be submitted to the Department of Housing, Local Government and Heritage.
 - (c) The planning authority and the Department of Housing, Local Government and Heritage shall be notified in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development.

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 (in-situ or by record) and protection of any archaeological remains that may exist within the site.



16. Prior to commencement of development, the developer shall lodge with the planning authority a bond of an insurance company, a cash deposit, or other security to secure the provision and satisfactory completion of the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion of any part of the development.

Reason: To ensure the satisfactory completion of the development.

17. 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 authorities 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 the Board 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.

18. The developer shall pay to the sum of €1,859,000,00 (one million, eight hundred and fifty-nine thousand euro) (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the CSO), to the planning authority as a special contribution under Section 48 (2) (c) of the Planning and Development Act 2000 in respect of the provision of the distributor road, known as the Bracetown Link Road and identified in the Council's LAP (CER OBJ 3), between the north roundabout at Junction 4 on the M3 and its terminus on local road L-1010 north-east of the Bracetown Business Park. This contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition 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.

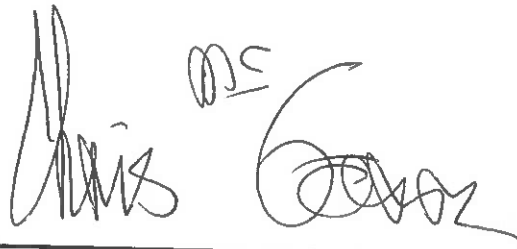
Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and will benefit the development.

19. The developer shall pay to the planning authority a financial contribution in respect of the Navan to Dublin Railway Line Phase 1 – Clonsilla to Dunboyne (PACE) in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under Section 49 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. The application of indexation required by this condition shall be agreed between the planning authority

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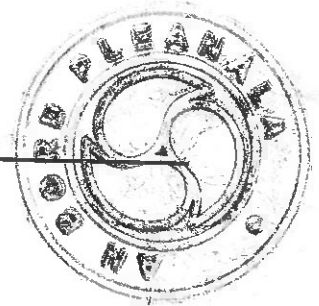
and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.



Chris McGarry

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



Dated this *3th* day of *July* 2021.