

An
Bord
Pleanála

Board Order
ABP-312371-22

Planning and Development Acts 2000 to 2022

Planning Authority: Kildare County Council.

Planning Register Reference Number: ED907.

WHEREAS a question has arisen as to whether the use of the existing building number 7 as a data centre (with ancillary offices) and physical works proposed at the former Hewlett Packard 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) Sections 2(1), 3(1) and 4(1)(a) of the Planning and Development Act, 2000, as amended,
- (b) articles 5(1), 9(1) and 10(1)(c) of the Planning and Development Regulations, 2001, as amended,
- (c) Part 4 of Schedule 2 to those Regulations,
- (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, and
- (g) the report of the Planning 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) of the 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,

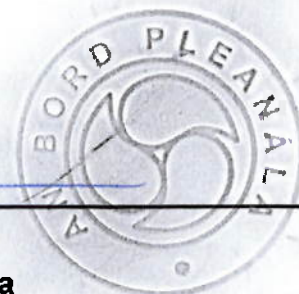
- (b) the change of use from manufacturing to a Data Centre would constitute a change of use that is a material change of use; on the basis the change of use from industrial use to a Data Centre, as described above, raises planning considerations that are materially different to the planning considerations relating to the permitted use (that is, 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 2000 Act, 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.



Paul Caprani

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



Dated this 12 day of November 2024.