

Planning and Development Acts 2000 to 2022

Planning Authority: Fingal County Council

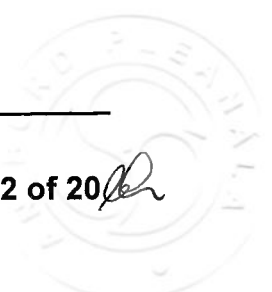
Planning Register Reference Number: FW21A/0151

Appeal by An Taisce of Tailors' Hall, Back Lane, Dublin and by John Conway and Louth Environmental Group care of bkc Solicitors of 252 Harold's Cross Road, Harold's Cross, Dublin against the decision made on the 20th day of April, 2022 by Fingal County Council to grant permission, subject to conditions, to Huntstown Power Company Limited care of Brock McClure Planning and Development Consultants of 63 York Road, Dún Laoghaire, County Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: The development will consist of the following: demolition of two number existing residential dwellings and ancillary structures to the east of the site (circa 344 square metres total floor area); construction of two number data hall buildings (Buildings A and B) comprising data hall rooms, mechanical and electrical galleries, ancillary offices including meeting rooms, workshop spaces, staff areas including break rooms, toilets, shower/changing facilities, storage areas, lobbies, outdoor staff areas, loading bays and docks, associated plant throughout, photovoltaic panels and screened plant areas at roof levels, circulation areas and stair and lift cores throughout; external plant and 58 number emergency generators located within a generator yard to the east and west of Buildings A and B at ground

level. The area is enclosed by a circa 6.5 metres high louvred screen wall; the proposed data halls (Buildings A and B) are arranged over three storeys with a gross floor area of circa 37,647 square metres each; the overall height of the data hall buildings is circa 28 metres to roof parapet level and circa 32 metres including roof plant, roof vents and flues. The total height of Buildings A and B does not exceed 112 metres OD (above sea level); the proposed development includes the provision of a temporary substation (circa 32 square metres), water treatment building (circa 369 square metres and circa 7.7 metres high), seven number water storage tanks (2,800 cubic metres in total and circa 6.4 metres high each), two number sprinkler tanks (circa 670 cubic metres each and circa 7.9 metres high each) with two number pump houses each (circa 40 square metres and circa six metres high each); the total gross floor area of the data halls and ancillary structures is circa 75,775 square metres; all associated site development works, services provision, drainage upgrade works, two number attenuation basins, landscaping and berming (circa six metres high), boundary treatment works and security fencing up to circa 2.4 metres high, new vehicular entrance from the North Road, secondary access to the south west of the site from the existing private road, all internal access roads, security gates, pedestrian/cyclist routes, lighting, two number bin stores, two number bicycle stores serving 48 number bicycle spaces, 208 number parking spaces including 10 number accessible spaces, 20 number electric vehicle charging spaces and eight number motorcycle spaces; existing electricity overhead lines traversing the site will be undergrounded under concurrent application reference number FW21A/0144; all on circa 13.3 hectares lands adjacent to Huntstown Power Station, North Road, Finglas, Dublin. The proposed development was revised by further public notices received by the planning authority on the 24th day of February, 2022.

A proposed 220kv substation located to the south-west of this site will be subject of a separate Strategic Infrastructure Development application to An Bord Pleanála under section 182A of the Planning and Development Act 2000 (as amended).



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.

Reasons and Considerations

The Board made its decision consistent with the Climate Action and Low Carbon Development Act 2015, as amended, and the Climate Action Plan 2024, and in coming to its decision the Board had regard to:

- (a) the National Planning Framework - Ireland 2040,
- (b) the Regional Spatial and Economic Strategy for Eastern and Midland Regional Assembly 2019-2031,
- (c) the policies of the planning authority as set out in the Fingal Development Plan, 2023-2029,
- (d) the Government Statement on the Role of Data Centres in Ireland's Enterprise Strategy, July 2022,
- (e) the Renewable Electricity Corporate Power Purchase Agreements Roadmap April 2022,
- (f) Harnessing Digital - the Digital Ireland Framework (February 2022),
- (g) Eirgrid's All Island Generation Capacity Statement 2021-2030,
- (h) Commission for Regulation of Utilities Direction to the System Operators related to Data Centre Grid Connection processing, cru/21/124, November 2021,

- (i) Ireland's 4th National Biodiversity Action Plan 2023–2030,
- (j) 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,
- (k) the submissions made in connection with the application and appeal, and
- (l) the reports and recommendation of the Inspector.

Appropriate Assessment Screening

The proposed development was considered in light of the requirements of 177U of the Planning and Development Act 2000, as amended. The Board agreed with the Inspector's Screening for Appropriate Assessment of the project and conclusion in the Inspector's report that the project individually (or in combination with other plans or projects) would not have a significant effect on any of the qualifying interests of European Sites: Baldoyle Bay Special Area of Conservation (site code: 000199), Malahide Estuary Special Area of Conservation (site code: 000205), North Dublin Bay Special Area of Conservation (site code: 000206), Rogerstown Estuary Special Area of Conservation (site code: 000208), South Dublin Bay Valley/Carton Special Area of Conservation (site code: 000210), Rye Water Valley/Carton Special Area of Conservation (001398), North Bull Island Special Protection Area (site code: 004006), Rogerstown Estuary Special Protection Area (site code: 004015), Baldoyle Bay Special Protection Area (site code: 0040160), South Dublin Bay and River Tolka Estuary Special Protection Area (site code: 004024), Malahide Estuary Special Protection Area (site code: 004025) or any other European site, in view of the sites' conservation objectives and

Appropriate Assessment is, therefore, not required. The Board also considered the potential for significant effects on the North-west Irish Sea Special Protection Area (Site Code: 004236) can be excluded as the proposed development, which is further distant to sites assessed by the Inspector, would not result in impacts that could undermine the attainment of conservation objectives. No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site were relied upon in the screening exercise. In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of any European sites in view of the sites' conservation objectives and appropriate assessment, and the submission of a Natura impact statement is not, therefore, required.

Environmental Impact Assessment

The Board completed an environmental impact assessment of the proposed development and concurrent application for a power station and grid connection taking account of:

- (a) the nature, scale, location and extent of the proposed development,
- (b) the Environmental Impact Assessment Report (EIAR) and the Addendum Environmental Impact Assessment Report and associated documentation submitted in support of the application,
- (c) the submissions and additional information received from the prescribed bodies, planning authority and third parties, and
- (d) the Inspector's reports.

The Board considered that the Environmental Impact Assessment Report (EIAR) and the Addendum Environmental Impact Assessment 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 and conclusions, set out in the Inspector's reports, of the information contained in the Environmental Impact Assessment Report and the Addendum Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in the course of the application.

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 reports and conclusions of the Inspector.

Reasoned Conclusion of the Significant Effects

Having regard to the examination of environmental information contained above, and to the submission by the planning authority and prescribed bodies and appellants and observers in relation to this proposed development and the concurrent application for the proposed development of a power station at Mooretown and the necessary grid connections before the Board and to the Environmental Impact Assessment Report and the Addendum Environmental Impact Assessment Report, it is considered that the main significant direct, indirect and cumulative effects of the proposed development on the environment are as listed below:

- Positive moderate long-term economic impacts from increased direct employment as a result of the data centre which is facilitated by the substation.
- Neutral moderate long-term effects on local amenities due to the change in the visual environment of the area, which is the place of residence for a small population, as a result of the construction of the data centre.

- Negative slight long-term air quality effects on human health as a result of the operation of the data centre and in particular the use of on-site emergency generators, which is facilitated by the substation. The adverse effects would be mitigated by the measures set out in the Environmental Impact Assessment Report.
- Positive moderate and long-term impacts on biodiversity due to enhancement of the ecological value of the overall site as a result of landscape proposals.
- Potential long-term effects on hydrology, soil and hydrogeology during the operation of the data centre in the event of accidental spillages, which will be mitigated by the incorporated design features which will contain potential pollutants and by the implementation of an Environmental Management Plan and which will be imperceptible. This is particularly relevant to the operation of the data centre but has relevance also to the substation and the overall development.
- Potential for indirect adverse residual effects on power supply which has been mitigated by the design of power management measures and relevant connection agreements.
- Potential for a significant effect on water supply as a result of operation of the data centre which has been mitigated by design and will be further mitigated by the upgrade works which have been prescribed by Uisce Éireann and which the applicant has agreed to implement.

Conclusions on Proper Planning and Sustainable Development

The National, regional and local policy clearly sets out support in principle for the development of data centres. The Government Statement on the Role of Data Centres in Ireland's Enterprise Strategy, July 2022, (Government Statement) identifies data centres as core infrastructure and enablers of a

technology rich innovative economy and of significant importance from a national and international perspective. Having regard to relevant policy and the information submitted, it is considered that the applicant has demonstrated that the proposed development would be in accordance with the twin transitions of “digitisation and decarbonisation” and the principles outlined in the Government Statement. The proposed development is co-located with an on-site gas powered plant to provide energy to the development, has demonstrated the availability of renewable energy through a Corporate Power Purchase Agreement, has provided evidence of a Transaction Connection Agreement with Eirgrid and an advanced energy storage system and includes the potential to avail of district heating opportunities in the future. The Board noted the concurrent application for the Mooretown power station under An Bord Pleanála reference number 311528-21 and associated grid connection on adjacent lands.

Having regard to the information submitted with the application and appeal, it is considered that a grant of permission for the proposed development, would be in accordance with the national climate ambitions and the relevant provisions of the Climate Action Plan 2024 which explicitly supports sustainable economic growth and references Harnessing Digital - the Digital Ireland Framework (February 2022). The incorporation of all reasonable design measures to ensure the operation of the facility is in keeping with the objective of being climate neutral, the availability of renewables through a Corporate Purchase Power Agreement, the location of the facility adjacent to the necessary infrastructure and grid connections and the ability to be flexible in the demand and use of energy are indicative of a pathway towards net zero. In reaching this decision, the Board has performed its functions in relation to the making of its decision, in a manner consistent with Section 15(1) of the Climate Action and Low Carbon Development Act 2015, as amended by Section 17 of the Climate Action and Low Carbon Development (Amendment) Act 2021.

The proposed development is located in an area zoned Heavy Industry in the Fingal Development Plan 2023-2029, the land use zoning objective of which is to 'facilitate opportunities for industrial uses, activities and processes which may give rise to land use conflicts if located within other zonings'. The Board concurred with the planning authority that the nature of the proposed development, having regard to its character as a space extensive development at a location outside the M50, is not located on lands that are more suitable for employment intensive developments/facilities, which are close to public transport infrastructure and built-up areas where compact growth is encouraged and would, therefore, not be contrary to the zoning objective, particularly given the high quality design and availability of high-capacity transmission system infrastructure and renewable energy generation. The proposed development would comply with Objective DMS092 – Space Extensive Developments of the Fingal Development Plan 2023-2029 and would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse planning permission, the Board noted the Government Statement on the Role of Data Centres published in July 2022 (the Government Statement) which identifies data centres as core infrastructure contributing to a technology rich innovative economy enabling the twin transitions of "digitalisation and decarbonisation". The Board acknowledged the Inspector's reason that there is limited capacity available for further data centre development in the short-term, pending upgrades to the electricity infrastructure and the connection of more renewables. In this regard, the Board considered the responses of the applicant to each of the principles set down as guidance for decision makers in the Government Statement and concluded that the availability of a grid connection, the connection agreement with EirGrid, the Corporate Purchase Power Agreement and the ability to manage electricity demand, demonstrated that the proposed data centre, albeit located in a constrained region, would meet the principle requirements including renewables additionality, and grid

capacity and efficiency set down in the Government Statement. The Board considered that the matter of future grid capacity management and compliance with the directions from the Commission for Regulation of Utilities is for the system operators. Therefore, the Board considers that the proposed development would be consistent with national policy.

Furthermore, under the provisions of the Climate Action Plan 2024, which outlined some specific measures relating to data centres, it is national policy that large energy users shall play a critical role in the acceleration of decarbonisation through delivering high levels of additionality and flexibility across time and geographical locations. The Board noted the information provided in relation to on-site generation capability, an advanced storage solution on site, the availability of proximate additional renewables in Meath and Dublin through a Corporate Purchase Power Agreement and the planned trajectory to net zero emission offsetting arrangements for the operation of the proposed data centre and considered that the proposed development has the capacity to comply with the provisions of national policy with respect to flexibility and electricity demand management.

Finally, the proposed development is located in an area zoned Heavy Industry (HI) in the Fingal Development Plan 2023-2028, the land use zoning objective of which is to 'facilitate opportunities for industrial uses, activities and processes which may give rise to land use conflicts if located within other zonings'. The Board, concurred with the planning authority, that having regard to the required size and configuration of the site and its co-location with energy compatible infrastructure that the proposed development would align with the zoning objective and would, therefore, be consistent with Objective DMS092 - Space Extensive Developments of the Fingal Development Plan 2023-2029.

It is considered that, subject to compliance with the conditions set out below, the proposed development would accord with European, 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 traffic safety and convenience. 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 to the planning authority on the 11th day of February 2022, 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 the Order.

Reason: In the interests of clarity and orderly development.

3. The mitigation measures contained in the submitted Environmental Impact Assessment Report (EIAR) and Addendum Environmental Impact Assessment Report, shall be implemented.

Reason: To protect the environment.

4. Prior to the commencement of operation of the development hereby permitted, the developer shall submit for the written agreement of the planning authority, details of the Corporate Purchase Power Agreement that the developer has entered into which demonstrates that the energy consumed by the development on site is offset with new renewable energy generation. The Agreement shall comply with the following:
- (a) the new renewable energy projects shall not be supported by government, consumer or other public subsidies,
 - (b) the new renewable energy projects shall be located in Ireland, and
 - (c) the new renewable energy generation shall relate to energy that is not being generated at the date of grant of this permission.

Reason: In the interest of sustainable development.

5. Prior to commencement of development, the following requirements shall be submitted to and agreed in writing with the planning authority:
- (a) a footpath and segregated cycle path along the boundary of the existing site and the North Road including ducting, drainage, lighting and replacement hedgerow designed in accordance with the National Transport Authority Cycle Manual,
 - (b) internal crossing points for pedestrians shall be raised or ramped so the pedestrians and cyclists retain priority through the site, and
 - (c) road safety audits shall be carried out as part of the proposed development at the relevant stages as outlined in the current edition of Transportation Infrastructure Ireland guidelines.

Reason: In the interests of clarity and orderly development.

6. A minimum of 10% of EV charging points shall be available from completion of the proposed development with all ducting and services provided as part of the proposed development to facilitate EV charging points for all of the remaining parking spaces.

Reason: To provide for and future proof the development.

7. A final Mobility Management Plan shall be submitted within one year following occupation of the development for the written agreement of the planning authority.

Reason: In the interests of encouraging the use of sustainable modes of transport.

8. No additional artificial lighting shall be installed or operated on site unless authorised by a prior grant of planning permission.

Reason: In the interests of clarity and orderly development.

9. Details of all the external finishes to the proposed structures shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity and to ensure an appropriate high standard of development.

10. The developer shall comply with the following nature conservation requirements:

- (a) a suitably qualified and experienced Project Ecologist shall be appointed to oversee the protection of biodiversity during the construction phase, and for a monitoring period of five years following completion of development,
- (b) the Project Ecologist shall certify that the completed development is compliant with the Environmental Impact Assessment Report mitigation measures,
- (c) no felling or vegetation removal shall take place during the period 1st March to 31st August,
- (d) a pre-construction bat survey shall be carried out by a suitably qualified ecologist during the active bat season, and
- (e) mammal friendly fencing shall be installed during the construction and post construction phases.

Reason: In the interests of biodiversity and nature conservation.

11. The landscaping proposals shall be carried out within the first planting season following commencement of construction of the proposed development during the first phase of the works. Only native species of trees and hedgerow shall be planted. All planting shall be adequately protected from damage until established. Any plants which 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: To assist in screening the proposed development from view and to blend it into its surroundings in the interest of visual amenity, in the interest of biodiversity and to protect wildlife.

12. Prior to commencement of development, a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interests of reducing waste and encouraging recycling.

13. Prior to the commencement of development, the developer shall enter into a Connection Agreement with Uisce Éireann to provide for a service connection to the public water supply and/or wastewater collection network. Water supply and drainage arrangements, including the attenuation and disposal of surface water, and flood risk management shall comply with the requirements of Uisce Éireann and the planning authority for such works and services as appropriate.

Reason: In the interest of public health and to ensure a proper standard of development.

14. The construction of the development shall be managed in accordance with a Construction and Environmental 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, noise management measures, traffic management and protection of wayleaves.

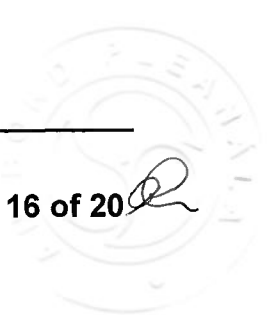
Reason: In the interests of environmental protection, public safety and residential amenity.

15. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 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.

16. 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.



17. 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.

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

Reason: To protect the visual amenities of the area.

19. A strategy in relation to the use of cranes during construction shall be agreed in writing with the Irish Aviation Authority (IAA) and the Dublin Airport Authority (DAA) prior to the commencement of any development on site.

Reason: In the interest of aviation safety.

20. During the operational phase of the proposed development, the noise level shall not exceed (a) 55 dB(A) rated sound level between the hours of 0700 to 2300, and (b) 45 dB(A) 15min and 60 dB LAfmax, 15min at all other times as measured at any point along the boundary of the site. 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.

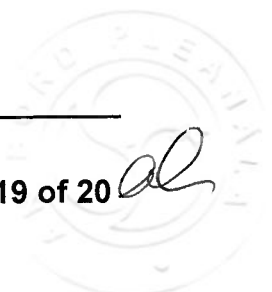
Reason: To protect the amenities of property in the vicinity of the site.

21. The developer shall provide a piece of public art or sculpture or architectural feature, to be designed in consultation with the Public Art Coordinator within the Community Culture and Sports Division of Fingal County Council. The piece of art shall have a relationship with the area. The location of the piece of art shall be agreed with the Parks and Green Infrastructure Division prior to the commencement of works on site.

Reason: To comply with Objective DMS05 of the Fingal Development Plan 2017-2023.

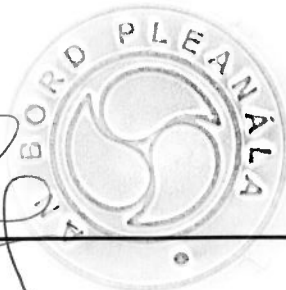

22. Prior to commencement of development, the developer shall lodge with the planning authority a bond of an insurance company, a cash deposit, or other security to secure the provision and satisfactory completion of the development, coupled with an agreement empowering the planning authority to apply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

Reason: To ensure the satisfactory completion of the development.



23. The developer shall pay a financial contribution to the planning authority 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 the 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 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.



Mick Long

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**

Dated this 21st day of March 2025.