



An
Bord
Pleanála

Inspector's Addendum Report ABP 313583-22

Development	Demolish dwellinghouses and construct 2 no. data hall buildings.
Location	Lands adjacent to Huntstown Power Station, North Road, Finglas.
Planning Authority	Fingal County Council.
Planning Authority Reg. Ref.	F0021A/0151.
Applicant	Huntstown Power Company Limited.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third v Grant
Appellants	<ol style="list-style-type: none">1. An Taisce2. John Conway and Louth Environmental Group.
Observers	<ol style="list-style-type: none">1. Roisin Shorthall TD2. Fingal One Future3. Prionsias Mac Fhlannchadha.

Dates of Site Inspection

19 November 2024, 06 March 2023
and 04 February 2023

Inspector

Mairead Kenny.

1.0 Overview

The Board is referred to my report of 6 March 2023, which describes the proposed development, outlines and assess the relevant including those raised by third party appellants and observers and matters relevant to EIA and AA.

This addendum report address the matters raised in the Board's Direction of 9 May 2024 including the updated policy context.

On re-visiting the site I noted the commencement of works at lands close to the Dog's Trust including at a large site to the north the commencement of the Regional Biosolids Storage Facility. Road works were also commenced at the junction of the slip road off the R135 (formerly the N2) with the North Road.

2.0 Board's Direction

- 2.1. The Board issued a Direction to defer consideration of the case and to issue a section 137 notice to all parties and observers as follows.

Having regard to the adoption of the Fingal Development Plan 2023-2029 and the Government Statement on the Role of Data Centres in Ireland's Enterprise Strategy (July 2022) since the lodgement of the appeal, the Board invites all parties to make any submissions or observations on the proposed development noting in particular Objective DMSO92 – Space Extensive Developments and the zoning objective "HI" Heavy Industry relating to the site for the proposed development in the plan and the principles for Sustainable Data Centre Development set out in the Statement. In particular, the agreed principle of Economic Development relating to the end user agreement, the principle of Grid Capacity and Efficiency relating to the connection agreement in place and the principle of Renewables Additionality in the Government Statement.

The Board also invites observations on how the proposed development aligns with the Climate Action Plan 2023, including addressing the matching of demand and supply of renewable energy.

3.0 Planning Context

3.1. Revised National Planning Framework

- 3.1.1. This remains in draft form at the time of writing.
- 3.1.2. The revised draft NPF notes the importance of digital innovation and the attractiveness of Ireland for data centres. Section 9.2 addresses resource efficiency and transition to a zero carbon economy and the topic of climate and planning. The Framework can support the response to climate change by encouraging the reduction of greenhouse gases through a variety of measures including achieving compact growth, addressing commuting patterns, continued decarbonisation of electricity and limiting inappropriate developments in areas where climate impacts are likely to be most severe. In relation to less intensive uses there is a preference for these to be outside the m50 in the Dublin region. The listed key growth enablers in Dublin include district heating.
- 3.1.3. The adopted NPF supports the push for growth in the digital economy, for increased renewables and for low carbon growth.

3.2. Climate Action Plan 2024

- 3.2.1. CAP 24 clearly outlines the very significant challenge in the electricity sector in meeting emissions targets in the context of increasing demand for electricity. Significant progress has been made on the reduction of emissions from the sector over recent decades. CAP 24 also acknowledges a deteriorating situation with respect to the last couple of years, noting amongst other things the factor of increased demand. In terms of the supply and distribution CAP 24 highlights the higher levels of investment required in the grid and the levels of renewables which are required. Moving into the second cycle the overshoot from the first period will be brought forward thus exacerbating the challenge in meeting targets for those years. This challenge is relevant to all sectors of activity which contribute to the total national emissions.
- 3.2.2. Section 12.3 deals with emissions projections for electricity noting that the deployment of renewables needs to outpace the growth in energy demand for it to deliver the absolute reductions in GHG emissions required – the timing of delivery of

renewable energy generation relative to the scale and pace of electricity demand is a critical factor.

3.2.3. Energy efficiency and demand measures

3.2.4. Neither CAP 23 nor CAP 24 increased the target set in CAP 19 that 15% of electricity be met from renewables delivered through CAAPs.

3.3. **EPA Projections**

3.3.1. Regarding the progress towards meeting the adopted targets the EPA records the significant declines in national emissions (due to increased importation and greater use of renewables) but also reports in the latest projections of May 2024 that the currently implemented measures (With Existing Measures, WEM) will achieve a reduction of 9% by 2030, significantly short of the reduction target of 42%. Energy industries still account for 14.3% of national GHG emissions. Emissions from electricity in 2023 were the lowest recorded. Under the WAM (With Additional Measures) scenario total emissions from the public electricity and heat production sectors are projected to decrease steadily between 2023 and 2030.

3.4. **Climate Change Advisory Council Comments**

3.4.1. In its annual report the need for adjustment to budget ceilings is referenced. The adoption of the revised NPF and planning legislation, which it is envisaged will speed the delivery of renewables should be promoted.

3.5. **National Framework Adaptation Plan 2024**

3.5.1. This is a high level document, which does not contain specific measures relevant to the assessment of this case. In terms of the success of sectoral adaption the progress in the electricity / gas sectors is described as 'limited'.

3.6. **Fingal County Development Plan**

3.6.1. Space extensive development such as large warehousing and data centres generate low intensity employment. They will be supported on a case by case basis. They

should not be located on lands that are more suitable for employment intensive developments which are close to public transport infrastructure and built-up areas.

3.6.2. DMS092 outlines policy with respect to space extensive developments such as data centres . This sets a requirement to address the following:

- Energy efficiency measures to reduce carbon footprint in support of a net zero carbon economy including renewable generation,
- The extent of energy demand and proximity to multiple high voltage strategic grid connections with significant electricity supply capacity available, including areas with high concentration of renewable energy electricity generators,
- The availability of appropriate infrastructure such as high voltage electricity, fibre optic cables, water and wastewater,
- Measures to support the just transition to a circular economy,
- Measures to facilitate district heating or heat networks where excess heat is produced,
- High quality design approach to buildings,
- Employment numbers,
- Levels of traffic,
- Evidence of sign up to the Climate Neutral Data Centre Pact,
- Decommissioning report,
- Principles for sustainable data centre development as per Government Statement.

3.6.3. The site zoning remains HI and the relevant objective, which is unchanged from the previous plan, is ‘ to provide for heavy industry’. The vision is to facilitate opportunities for uses, activities and process that might give rise to land use conflicts is located within other zonings. Such uses, activities and processes would be likely to produce adverse impacts by way of noise, dust or visual impacts. HI areas shall be reserved solely for such uses. Space extensive developments are not included as being ‘permitted in principle’ or ‘not permitted’ and will be assessed in terms of their contribution towards the achievement of the zoning objective and vision and their

compliance and consistency with the policies and objectives of the development plan. Uses which are permitted in principle include utility installations, plant storage and ancillary office.

4.0 Planning Authority Response to Board's Direction and to Submissions

The planning authority confirms in two submissions that there are no further comments.

5.0 Applicant's Response received 13 June 2024 to Board's Direction

A submission by Brock McClure Planning and Development Consultants on behalf of the applicant was received by the Board on 13 June 2024 and is summarised below.

5.1. End User

- 5.1.1. The end user will be Microsoft, an experienced data centre operator who is a founding member of the Green Software Foundation, committed to achieving 100% renewable energy coverage by 2025 and entering into CPPAs to add clean energy to the grid. Microsoft has a strong track record in procuring renewable energy supply amounting to close to 30% of Ireland's CPPA target by 2030; the Climate Action Plan sets a target of 15% of electricity demand to be met by CPPAs by 2030.
- 5.1.2. Last year Microsoft outlined plans to use uninterruptible power supply (UPS) batteries within their data centres in Dublin for real time interaction with Ireland's power grid and using these to help maintain a steady flow of energy and reducing reliance on fossil fuel burning power plants. UPS is included in the design of the Huntstown data centre.
- 5.1.3. Section 3.3 of the Brock McClure report refers to water use and recycling measures.

5.2. Maximising Use of Renewables

- 5.2.1. The applicant has entered into binding legal agreements with Microsoft to provide CPPAs for new renewable energy. These agreements are in place and have been signed and a letter of confirmation is appended. They provide for establishment of

new renewable energy generation projects by the applicant's group that will not be supported by government or consumer subsidies, concentrated in south Meath / north Dublin. They will be developed in parallel to the energy demand of the proposed development. In total the annual generation should exceed the annual data centre demand. Energia Group has approximately 900 MW of renewables in the pipeline which are committed to Microsoft. Construction of this portfolio is contingent on the proposed data centre development proceeding. The portfolio of renewable projects have all been subject of applications for a 10 year permission. Two initial contracts totalling 74MW have been advanced prior to securing permission for this data centre which demonstrates the commitment.

- 5.2.2. Condition 3 imposed by Fingal County Council refers and in any similar condition which the Board may attach it is requested that account be taken of the two renewable energy generation projects that have already commenced and which are back by Microsoft under the CPPAs.

5.3. Strategic location

- 5.3.1. Energia have engaged with Eirgrid from the start and Eirgrid have been supportive of the proposed location adjacent existing generating power stations thereby minimising additional infrastructure requirements. The design of the associated substation and grid connection was completed in conjunction with Eirgrid and it provides the grid services needed to strengthen the electricity grid in the area.
- 5.3.2. The proposed substation will provide for dispatching the electricity generated by Huntstown 1 and 2 to nearby existing nodes. This new flexibility for the electricity network operator will help alleviate the electricity network constraints in north Dublin and make the network more resilient.

5.4. Grid capacity

- 5.4.1. A transmission connection agreement with Eirgrid to provide electricity to the proposed development dates to 8 March 2021. Eirgrid has the requirement to ensure that their connection will not impact or reduce the capacity within the local network and the TCA confirms availability of sufficient power to facilitate the proposed

development. The proposed data centre is not classified as new demand. It will not place any further burden that is not already forecast by the grid operator.

5.5. Fingal County Development Plan (FCDP) 2023-2029 objective DSM092

5.5.1. DSM098 sets out the requirements for space extensive developments and the proposed development aligns with this policy as follows:

- Energy efficiency measures in the building design and technology include free air cooling for the majority of time, on site solar to assist with on-site use in offices, planned use of HVO in the generators, support from Applicant and end user for development of heat recovery and reservation of necessary lands, use of UPS.
- CPPAs which deliver the objective of operating the proposed development on an annual net zero energy basis.
- Use of innovative low carbon building materials is being advanced.
- The 150MW maximum operational capacity is referenced as is the ramping up and the typical operating by data centres at 81% IT load. The application is assessed based on the worst case capacity of 150MW.
- Site is proximate to grid, a TCA is in place and is proximate to a large cluster of renewable developments. Of the 2GW solar expected to be developed in south Meath and north Dublin 634 MW MEC is part of the portfolio available to Microsoft and is within 35km of the site.
- The TCA confirms the availability of sufficient power from the existing area network electricity. A new fibre optic cable can be installed. A water connection offer has been accepted by the Applicant. A wastewater connection offer has been accepted.
- The transition to the circular economy will be supported by measures relating to waste, district heating and rainwater harvesting.
- The requirement for a high quality design approach has been achieved.
- Up to 181 full time staff will be employed on a shift basis during the operation.
- The predicted construction and operational traffic are set out in 4.1.8.

- The requirements for sign up to the Climate Neutral Data Centre Pact and a decommissioning plan are met.

- 5.5.2. The site zoning at the time of preparing my previous report was HI, heavy industry. In the adopted FCDP 2023 - 2029 there is no change to the zoning vision and zoning objective but 'data centre' is now a defined use class. There are 22 zoning classes in the FCDP and data centres are listed as 'not permitted' uses within all zoning classes with the exception of HI and two others. None of the zoning objectives list 'data centres' as 'permitted in principle'. Data centres should be considered to be essentially 'open for consideration' within HI zones. The nature and operational requirements of data centres are sympathetic to the heavy industry zoning due to the scale and ancillary plant requirement.
- 5.5.3. It is considered that notwithstanding the adoption of the 2023–2029 development plan, the proposed development continues to contribute towards the achievement of the zoning objective and vision and to be supported by a range of policies.
- 5.5.4. Specific elements of the proposed development align with the permissible use class under the HI zoning as described in table 7 of this report and including 'industry high impact'. It is considered that the 13 ha scale and size of ancillary plant required including on-site power generation, cooling towers, fuel tanks, transformers, substation and other electrical equipment would give rise to land conflicts referred to in the HI zoning such as noise, vibrations and appearance if located in other areas. If developed in another land use zoning such as general employment or high technology the necessary dispatchable generation assets required would create conflicts due to noise, vibrations, appearance in business park settings.
- 5.5.5. The subject site is considered appropriate in terms of the nature of the use proposed and compliance with the zoning objective as defined in the development plan.

5.6. **Compliance with Government Statement**

- 5.6.1. The Statement outlines 6 principles. The response provided by the Applicant addresses all principles – in my summary below I refer only to the matters highlighted by the Board in its Direction.
- 5.6.2. The proposal complies with the Principle of Economic Development relating to the end user agreement as follows :

- Is supportive of the overall growth strategy outlined in the NPF and RSES.
- Digital Ireland Framework and the IDA acknowledge that data centres are core infrastructure enablers of technology.
- Provides direct employment and supports indirect economic impacts as the end user Microsoft is a major employer. Other indirect economic impacts arise from the construction of the renewables and community benefit funds.

5.6.3. The proposal complies with the Principle of Grid Capacity and Efficiency relating to the connection agreement in place as follows :

- There has been collaborative engagement with Eirgrid who are supportive of the proposed location which minimises additional infrastructure requirements. The new substation grid connection provides the services needed to strengthen the redundancy of the transmission network in north Dublin making the electricity grid in the area more robust and resilient to faults.
- The TCA was accepted by Eirgrid in March 2021. Eirgrid is obliged to ensure that any new grid connection will not impact or reduce the capacity available within the local network to support the neighbouring area. The TCA confirms that there is sufficient power available. As the connection agreement is in place the proposed data centre does not fall under new demand in the context of the Government Statement.
- The strategic location relative to the existing Huntstown power station and the two existing substations is noted. The development of a new node would provide flexibility which does not already exist to dispatch the electricity generated by either power station at Huntstown to either existing substations making the system more resilient to faults.

5.6.4. The proposal complies with the Principle of Renewables Additionality as follows:

- Microsoft is committed to using 100% renewable energy coverage globally by 2025. We reiterate points made in relation to the renewable energy portfolio available under the CPPA agreements which are in place.

5.7. Compliance with CAP 23 and CAP 24

- 5.7.1. A standalone document has been prepared by AWN Consulting and is enclosed. Having regard to the emissions associated with the proposed development relative to the carbon budget and the emission ceiling for the electricity sector and the level of renewable additionality that will be provided under agreements between the applicant and the end user it is assessed that a minor adverse impact results. The report details the applicant's position regarding alignment with the CAP 2023 including addressing the matching of demand and supply of renewable energy.

6.0 An Taisce submission of 13 June 2024 responding to the Direction

- 6.1.1. The Government Statement could constitute setting a framework for future development consent of projects listed in the EIA directive and was never subject to SEA or Screening. Therefore the Statement and the content therein should not be used as a framework or criteria to justify or permit development.
- 6.1.2. Progress towards the national 80% renewables target has been significantly diluted by high energy demand developments in particular data centres. There is a finite amount of land and marine area available for renewables. The more renewables that are built purely for offsetting demand from new LEUs means less area is available for renewables to go towards meeting our significant existing mitigation needs.
- 6.1.3. CAP 2024 is now the relevant plan that must be taken into account by the Board. Alignment of the proposed developments with the requirements of the Climate Action and Low Carbon Development Act 2015 (as amended) must be determined. There is an obligation on the Board to ensure that it performs its functions in a manner which is consistent with the Climate Action Plans which are legally bound by the carbon budgets and sectoral ceilings .
- 6.1.4. In the intervening time since the subject application was appealed both the CCAC and the EPA project a failure to comply with the first two carbon budgets. The EPA's latest emissions protection report of May 2024 indicates that the first two carbon budgets 2021 – 2030 will not be met, and by a significant margin of between 17 and 27 percent. Any overshoot for 2021-2025 will be carried into the carbon budget for

2026-2030 making that budget and the corresponding sectoral ceilings, including for electricity, even more stringent.

7.0 Applicant's response submission of 22 July 2024 in response to Planning Authority and An Taisce

- 7.1. The Government Statement is not a plan or programme that requires SEA as it does not set the framework for future development consent – as established by the ECJ this would require locational criteria. Nor could the Statement have been subject to mandatory SEA by virtue of Article 3(2)(a) or Article 3(2)(b) as these relates to plans and programmes which require EIA and AA.
- 7.2. The Statement is non binding. It expresses government preferences, which by their nature are indicative and non binding. The Principles are not mandatory and do not limit the discretion of the Board. The Statement is not therefore subject to SEA. The Statement is not a plan or programme that required public participation.
- 7.3. As the Board must have regard to the Statement, we confirm that the proposal is fully compliant with the Statement but, for the reasons above, the applicant has in no way relied on the Statement to justify the proposal.
- 7.4. Regarding the points made by An Taisce in relation to the Climate Action and Low Carbon Development Act 2015 as amended, the applicant's response notes that CAP 24 sets a series of measures actions and key performance indicators. The proposed development aligns with the measures, actions and KPI's set out in CAP 24 as is considered in the review of the applicant's case under these headings in this response:
- Increasing renewable generation
 - transforming the flexibility of the electricity system
 - net zero demand growth
 - district heating
 - measures to achieve further emissions reduction
 - long term climate strategy and
 - electricity sector sectoral emissions ceilings.

- 7.5. Data centres will be expected to operate within sectoral emissions ceilings and further signals will be required to locate demand where existing or future electricity grid is available and close to renewable energy generation. The application documentations set out measures included as part of the development which demonstrate alignment with this strategy including information to demonstrate that the proposed development can operate within the sectoral ceiling emissions and in this regard IEMA assessed that there would be a minor adverse impact. Regarding the requirements to locate demand where existing or future grid is available the Applicant reiterates comments relating to the TCA, proximity to new renewables notably the portfolio of solar farms within 35km of the site.
- 7.6. It is also noted that the proposed development incorporates highly efficient technologies and methodologies and we reference the Energy Statement prepared by Ethos Engineering and the response to the Board of 13 June 2024.
- 7.7. The proposed development is considered to align with the National Climate Objective and the Board is referred to the measures which demonstrate alignment with CAP 2024, the Long Term Climate Action Strategy and the National Adaptation Framework.
- 7.8. The Applicant has not relied on the ETS calculations for justification. The development has been assessed against the national carbon budget and the sectoral emission ceiling. A minor adverse impact is assessed.
- 7.9. The recent submission of An Taisce which refers to ‘dilution’ regarding renewable additionality with data centres appears to be at odds with their own previous recommendations, including as presented in the original appeal.
- 7.10. CAP 2024 sets an electricity target by 2030 requiring 80% of our electricity to be sourced from renewable energy. EPA in May states that ‘with additional measures’ energy sector GHG emissions are projected to reduce by 62% and to achieve over 80% renewable generation by 2030. Preliminary analysis by the EPA shows a significant drop of almost 24% in emissions from electricity generation between 2022 and 2030. On 8 July 2024 the EPA announced total emissions are down 6.8% in a single year, the largest such reduction. This has been achieved while still allowing the Irish ICT infrastructure sector and economy to be developed. The applicant is

making an express and unqualified commitment to enter into the CPPA irrespective of the imposition of a specific planning condition.

- 7.11. It is considered that the development complies with national, regional and local planning policy and is in accordance with the proper planning and sustainable development.

8.0 An Taisce response to Applicant's submissions of 7 and PA submission of 13 June 2024.

- 8.1. This was received by the Board on 7 August 2024.
- 8.2. Data centres with CPPAs are still increasing the overall demand for electricity. The higher total electricity demand, the more renewable capacity is needed to reach the national target of 80% renewable generated electricity by 2030. Unless CPPAs are used for existing LEUs or industries, they are not actually contributing to decarbonization.
- 8.3. We reiterate our concern that the Government Statement was not screened for SEA. The FCDP requires compliance with the Statement's principles and further cements it as a framework and criteria for granting development consent. The Statement has not been assessed against our obligations under the Climate Action and Low Carbon Development Act 2015(as amended) and cannot be used as a justification for the proposal's compliance with the Climate Action Plan.
- 8.4. Regarding the AWN response, both CAP 23 and CAP 24 are bound by the carbon budgets and sectoral emission ceilings, which have not changed. The 2026-2030 budget figures will lie within the range of 174-181 MtCO_{2e} and not 200 MtCO_{2e} as used for the basis of the AWN report. The development will have a more significant impact on the carbon budgets and sectoral ceilings than stated.
- 8.5. Taking into account the lower carbon budget of 181Mt(WAM) the percentage of national carbon budget resulting from the contribution of the plant annually is 0.29%, a significant contribution to exceeding the second carbon budget at a time when the CAP is envisaging major reductions.
- 8.6. Section 1.41 of the AWN report states that the risk of exceedance of sectoral emission ceiling is associated with an expansion of demand including data centres

not already in receipt of a TCA. However, the EPA are projecting an exceedance of sectoral emissions ceiling for electricity (see Table 2) on the basis of existing TCAs and the proposal *would* contribute to an exceedance of the sectoral emission ceiling.

- 8.7. Given the need to comply with the legally binding budgets in relevant sectoral ceilings and the projected exceedances for carbon budget 2 and the ceilings therein budget and sectoral ceiling compliance must mean cutting back on projected WEM/ WAM activities as well as not adding further new demand. This should be considered by the Board in terms of whether the proposed development constitutes proper planning and sustainable development in the context of carbon budget constraints.
- 8.8. The assessment of a minor adverse outcome ignores the period beyond 2030 when emissions reduction requirements and carbon budgets will be even more stringent. The IEMA framework does not account for the legally binding carbon budgets sectoral ceiling constraints. Even taking the AWN calculations at face value without correcting for budget exceedances etc one single development accounting for 2.9% of the entire 2026-2030 sectoral ceiling for electricity is extremely significant.
- 8.9. The latest Long Term Strategy submitted to the EU sets a target of 3 MtCO_{2e} Mt for 2030 emissions relating to electricity and the proposed 104,637t of plant emissions for 2030 is 3.5% of this target value.
- 8.10. The AWN report does not address how CPPAs resolve the issue of our legally binding obligation to ensure on time budget and sectoral compliance particularly in light of the projected exceedances.
- 8.11. The proposal increases ETS emissions and compromises the flexibility whereby Ireland can offset some of its ETS emissions to ESR overshoots. Any participation in the EU ETS and the purchase of associated emissions permits relates to mitigation obligations and does not negate obligations under the national carbon budgets and sectoral emissions ceilings in accordance with the Climate Act which covers both the ETS and non ETS sectors.
- 8.12. Obligations under section 15(1) of the Climate and Low Carbon Development Act 2015 refer. In performing its functions the Board is very likely precluded from granting permission for the proposal.

9.0 John Conway and Louth Environmental Group response to Applicant's submission of June 2024

9.1. This legal submission on behalf of the above appears to respond to the Brock McClure / AWN submission received by the Board on 13 June 2024.

9.2. The main points made in this submission include:

- Difficult to see how the proposed development will support national targets towards a net zero carbon economy given the amount of electricity consumed and the reliance on existing and proposed renewables which cannot then be used by other sectors of the economy. This is troubling given the recent EPA report of May 2024. EPA analysis shows that the planned climate policies and measures will be insufficient, that the first two carbon budgets will be significantly exceeded and that all sectors are projected to underperform with electricity being one of the three sectors furthest from the sectoral ceiling in 2030.
- Policy DMS092 will be materially contravened. As DMS092 is not met the zoning objective is materially contravened.
- The Board is required to perform its functions in a manner consistent with section 15 of the Climate Act as amended by section 17 of the Climate Action and Low Carbon Development Amendment Act 2021, including the Climate Action Plan, furtherance of the National Climate Objective and objective of mitigating GHGs and adapting to the effects of climate change in the State.
- The Statement was not subject to SEA and should not be relied upon as a framework for development consent.
- Cumulative impact on the grid of other data centres needs to be considered as well as the missing out of opportunity to direct renewables to other sectors of the economy.

10.0 Prionsias Mac Fhlannchadha response to Applicant submission

10.1. The following points are made :

- The stated goal of the end user to achieve 100% energy cover by 2025 should be challenged as no information has been provided.
- In section 2.2 the report of Brock McClure states that the plans to offset the energy consumed with renewables are subject to planning permission. There is no indication as to how readily achievable these schemes are.
- The Board should seek clarification regarding the number of Amber alerts issued in the past few months and whether sufficient capacity exists in the grid.
- The conclusion that there would be a minor adverse impact does not take into account the cumulative effects in combination with similar data centre developments.
- Responding to sections 1.36 and 1.37 of AWN and the assumption of a linear decrease in GHG emissions this should be challenged in the context of the EPA conclusion that almost all sectors are on a trajectory to exceed national sectoral emissions ceilings for 2025 and 2030.
- The objectives of 83% renewable by 2030 is questioned as to whether it is realistic.
- The suitability of the CRU as a prescribed body is questioned. There is no clarity in planning legislation as to responsibility for assessing large projects for adherence to carbon budgets period.

11.0 Planning History Update

11.1. Following examination of the online register map and having regard to the fact that none of the parties refer to any significant planning history changes, I am satisfied that there is no further recent relevant planning history relating to developments of significance at lands in the vicinity of the site of the proposed data centre. I have referred earlier to the progression of some permitted developments including the Regional Biosolids Storage Facility.

12.0 Assessment

The following are considered relevant in the context of the Board's Direction, the additional submissions received and changes in the prevailing policy context :

- Whether the proposed development aligns with the Climate Action Plan 2024, which has been adopted since lodging of the application and preparation of my previous report, including 'addressing the matching of demand and supply of renewable energy' as highlighted in the Board's Direction. This matter can be considered in conjunction with the Principle of Renewables Additionality as outlined in the Government Statement and other national policy provisions.
- Whether the proposed development is in accordance with the Government Statement on the Role of Data Centres in Ireland's Enterprise Strategy (July 2022) in particular the Principle of Economic Development relating to the end user agreement and the Principle of Grid Capacity and Efficiency relating to the connection agreement in place as highlighted in the Board's Direction.
- Whether the proposed development complies with the Fingal County Development Plan 2023-2029, including objective DMS092 and the HI zoning. The current development plan has been adopted since the lodging of the application and preparation of my previous report. The Board's Direction specifically mentions objective DMS092 and the zoning.
- Any other matters relevant since the preparation of my previous report including matters raised by the parties in response to the Board's Direction and which do not readily fall under the above sections.

12.1. Climate Action Plans 2023 and 2024 and Principle of Renewables Additionality

- 12.1.1. In my previous report I relied on CAP 23. It has specific provisions relating to large energy users which are not replaced in CAP, but are not explicitly reiterated either. It appears to me that while the updated CAP 24 incorporates new measures and up to date figures, it is reasonable that the Board take into account the specific policy which is expressed in CAP 23 and which is in keeping with CAP 24. If the Board forms the view that CAP 23 is completely superseded by CAP 24 then reason 2 as outlined should be re-worded.

- 12.1.2. In line with other national policy approaches CAP 24 explicitly supports sustainable economic growth and under CAP 24 and the preceding CAP 23 there is considerable emphasis on management of electricity demand. Economic growth shall rely on measures which minimise carbon energy demand growth and be accompanied by combinations of energy efficiency, flexible energy demand and provision of renewables including through the use of CPPAs, which are an accepted mechanism. It is considered that local balancing of flexible demand and renewable generation will contribute to an increase in renewable electricity usage and a reduction in carbon emissions. Section 12.4.1.3 of CAP 24 refers. The topic of flexibility is incorporated also in the Long Term Climate Action Strategy, which is government policy to which the Board shall have regard. This highlights the importance of management of electricity demand and identifies unlocking the flexibility of large energy demand users as a key challenge. Locating of demand from large energy users where there is existing or future electricity grid and close to renewable energy generation is one of the key objectives. The provisions of CAP 23 outline more specific requirements relating to large energy users including a requirement for matching energy consumption with renewables on an hourly basis.
- 12.1.3. In its opposition to the proposed development as outlined in the most recent statements on this case third parties object to the principle of permitting overall growth in the scale of the electricity sector, notwithstanding the provision of offsetting renewables. In these submissions there is no evidence of any support for the use of CPPAs except where they might be used in support of existing facilities. Ultimately the third parties query whether the Board is precluded from a grant of permission by reason of section 15(1) of the Climate Act.
- 12.1.4. The Board is bound by the legal and policy provisions which are in place. In carrying out its functions the Board is required to consider the impact of the proposed development and its alignment with CAP 24 and other national objectives and measures including the development plan. It is not open to the Board to question the principle of CPPAs as an offsetting mechanism. I note that the target of 15% of renewables to be provided through CPPAs by 2030 is likely to now be significantly exceeded and that the target / level which was set in 2019 legislation has not been raised. An Taisce refer to the limited amount of land which is available for renewable energy development. While I accept that there may be some legitimate point

underlying An Taisce's submissions, including that CPPAs could support other competing uses in this highly populated area, I do not see any policy or legislative basis for a refusal of permission for the proposed development on the basis that the target of 15% is too low, or is already met.

- 12.1.5. On the other hand I do consider it appropriate that the Board examine carefully whether or not the measures under the CPPA appear to be sufficient and capable of being implemented. In addition the Board should be satisfied that the proposed development incorporates all reasonable design measures to ensure that the design and operation of the proposed facility is in keeping with the objective of being climate neutral.
- 12.1.6. In my previous report I outlined the high energy performance and suitable construction of the building, the provision for district heating should demand arise, the aim to achieve certification under a sustainability accreditation scheme and provisions of the Energy Report which reference sustainable design.
- 12.1.7. I also previously highlighted a number of significant reservations regarding the proposed development, particularly the information underlying the applicant's claim that the proposed development would operate on a net zero carbon basis. My reservations focused on the absence of information to fully demonstrate temporal and spatial matching of the renewables with the demand from the data centre, the absence of any commitments to cease operation when only non-renewables are available, whether or not the grid capacity is available to cater for the permitted renewables and the vague nature of the information provided regarding the renewables portfolio and the legal connections between the portfolio and the end user to connect a particular future renewable development to the operation of the proposed development.
- 12.1.8. In my original report on this appeal I concluded that the proposed development would not align with the requirement under CAP 23 that large energy users need to deliver high levels of flexibility and match energy consumption with renewable generation on an hourly basis. This conclusion would also apply to CAP 24. Further detail now has been provided regarding the pipeline of 634 MW (MEC) solar and 275 MW (MEC) onshore wind in the Energia pipeline, including Attachment 1 associated with the applicant's response of 13 June 2024, which outlines the overall

commitment under the Framework Agreement of 900 MW of new renewables. It is stated that two initial contracts have been signed resulting in a total of 74 MW and the development of one of these, a wind asset, was expected to be operational by July 2024. In addition it is made clear from a recent announcement that the end user will utilise UPS in all of their data centres; this will provide for much closer temporal matching allowing the use of stored renewables. Taking into account this information I consider that there can be much greater confidence in the applicant's case that the proposed development will be climate neutral and compliant with CAP 23 and CAP 24.

12.1.9. Nevertheless, I consider that there remains a level of uncertainty regarding the proposals for the matching of new major renewables proposals with the ramping up of demand from the data centre as it is built out. At first glance it may be concluded that the Energia portfolio is large relative to the proposed data centre. However, as set out in the Government Statement the fact is that a data centre consuming on average 100 MW would require an additional 230 MW of onshore wind or 730 MW of solar to match this extra demand with sufficient renewables when account is taken of intermittency. The case made by the applicant is that for every unit of energy consumed by the data centre a unit of new renewable energy would be despatched to the wider electricity system to offset it. This claim needs to be carefully considered in terms of the amount of renewables which will be required to balance the data centre demand taking into account the Government Statement comments on intermittency. Again, however the provision of UPS is a strong factor supporting the first party case.

12.1.10. Regarding the detail of the Framework Agreement I am satisfied that the letter of 12 June 2024 demonstrates a clear connection between the 900MW portfolio and the Huntstown data centre, and not with the wider plans for data centres which may be being pursued by Microsoft. The letter acknowledges a level of attrition in renewable projects achieving commercial operations but states that even allowing for attrition the collective annual generation 'should' exceed the data centre's annual electricity use.

12.1.11. I am not satisfied that the Framework Agreement provides sufficient certainty necessary for the Board's assessment of climate impacts, including under EIA, for the following reasons: firstly the scale of the overall renewables which will ultimately

be capable of being developed is unknown, secondly is not clear that due to intermittency the scale of the renewables additionality in the portfolio will match the extra demand from the data centre and that this will be achieved on a temporal basis and thirdly the location of the proposed portfolio includes wind energy proposals which are not proximate to the proposed development and proximity of offsetting renewables to the demand is a key element of policy provisions. For these reasons I am not satisfied that it is fully demonstrated that the demand from the proposed development offset by the proposed renewables and that it complies with CAP.

12.1.12. The Board must make a judgement as to whether or not the proposed condition 3 of the recommendation of the planning authority is sufficient to ensure that the annual electricity use from the proposed development is at least met. In terms of the location of the new renewables condition 3 requires only that they be in Ireland but that would not accord, in my opinion, with policy provisions which emphasise that renewables proposed for offsetting also be in the vicinity of the proposed development. The Government Statement clearly envisages that data centre demand would arise at a location proximate to the renewables generated.

12.1.13. At this point I refer to section 8.2.36 of my earlier report. This notes that the Statement does not make exceptions for data centres which already have their grid connection agreement.

12.1.14. In conclusion, having regard to the uncertainties regarding the delivery of renewables proximate to the proposed development I do not consider that the information available to the Board sufficiently addresses the requirements of the Statement or the climate plans as they relate to the provision of renewables additionality in a form that provides for temporal and spatial matching of demand and I am not satisfied that the provisions of CAP 24 is met in relation to electricity demand management and I refer to the more specific matching requirements which are expressed in CAP 23, which I consider remain relevant. Notwithstanding the many positive aspects of the design of this proposal, I consider that significant matters outlined in the reasons for refusal previously outlined (1 and 2) are not overcome. Accordingly I have re-drafted these reasons and reiterate my previous recommendation.

12.2. Fingal Development Plan 2023-2029

- 12.2.1. Regarding the HI zoning objective, which is largely unchanged in the current development plan, I refer the Board to sections 8.3.4 and 8.3.5 of my earlier report on this case. I reiterate that the vision of the zoning objective is to accommodate uses which would essential give rise to adverse impacts if located on other lands. I have concluded in section 8.3.4 that there is no evidence of such effects. Therefore, the only conclusion which I consider it is reasonable to draw is that the proposed development materially contravenes the zoning objective.
- 12.2.2. I refer the Board to the fact that the development plan now recognises data centres as a category of development and in all but three zoning objectives this use is not permitted. The applicant states therefore that the use should be considered in terms of whether it contributes to achieving the zoning objective. The applicant relies on the scale of the proposed development, the suitability of the location adjacent the power source and certain aspects of the facility. In my opinion none of this justifies the proposed development in terms of its suitability for location in this zone as it is simply not demonstrated that it would be associated with adverse effects such as to make it unsuitable in other locations.
- 12.2.3. Regarding objective DMS092 this policy relates to space extensive developments such as data centres and consistutes new development plan guidance on the assessment of such facilities. DMS092 sets a requirement to address a number of items as listed below:
- Energy efficiency measures to reduce carbon footprint in support of a net zero carbon economy including renewable generation. I consider that this is partly achieved as there are a range of measures incorporated in the design which reduce energy usage.
 - The extent of energy demand and proximity to multiple high voltage strategic grid connections with significant electricity supply capacity available, including areas with high concentration of renewable energy electricity generators. I am not convinced that this location would be described as having a high concentration of renewable electricity generators but it is proximate to high voltage strategic grid connections and to a major gas fired plant and is considered by the applicant to be a highly strategic location, one which is

supported by Eirgrid. The applicant relies heavily on the construction of new renewables but the main provision for renewables is off site and includes large wind farms in the relatively distant locations in the midlands, as well as solar within 35km and in general it is not demonstrated that the offsetting renewables will be proximate to the site.

- The availability of appropriate infrastructure such as high voltage electricity, fibre optic cables, water and wastewater. This requirement is met.
- Measures to support the just transition to a circular economy. Such measures are outlined in the applicant's response. This requirement is met.
- Measures to facilitate district heating or heat networks where excess heat is produced. The applicant has made provision towards facilitating future district heating, which is the requirement. However, it is also clear that there is presently no market for waste heat at this location, which greatly undermines the suitability of this location for this type of development.
- High quality design approach to buildings. This is achieved in my opinion.
- Employment numbers. In the operation phase 181 people will be employed and they will work in shifts. This level of employment is likely to be compatible with other land uses in this area.
- Levels of traffic. Traffic generated can be accommodated.
- Evidence of sign up to the Climate Neutral Data Centre Pact. The applicant complies.
- Decommissioning report. This has been submitted and is reasonable.
- Principles for sustainable data centre development as per Government Statement. As outlined earlier I am not satisfied that these principles are met.

12.2.4. My conclusion in relation to DMS092 is that while the proposed development aligns very well with aspects of this policy, the fact that it is at variance with the Government Statement is a significant matter, which must be given considerable weight in considering DMS092. I do not consider that the proposed development complies with this policy. In view of the other reasons for refusal I do not propose to amend my recommendation to add a further reason.

12.3. Other comments

- 12.3.1. For completeness this section provides a brief comment on some other relevant matters in this case.
- 12.3.2. The Board will note that the end user is now named as Microsoft. I am satisfied that this complies with the preference expressed in the Statement for data centres which are associated with strong economic activity and employment. I consider that the Economic Impact principle in the Statement is now met.
- 12.3.3. I note the arguments made by An Taisce and others in relation to the assessment of emissions in the AWN report including the objection to the averaging across each year. This is a convenient method of assessment and there is not a significant difference between the results of AWN and An Taisce. Furthermore I note that while the appellant criticises the resulting conclusion that there would be a minor (not significant) adverse outcome, it is not claimed that their method of calculation would result in a 'major adverse' outcome. A major or moderate adverse impact is one which follows a 'business as usual' or 'do minimum' approach and I am satisfied the proposal does not fall into that category. I am satisfied that the applicant has presented suitable information in support of the conclusion that a minor adverse impact is relevant (after mitigation) under the IEMA guidance – however this includes the use of best practice such as facilitating district heating and use of CPPAs and there is not sufficient supporting evidence of the effect of these mitigations bearing in mind the feasibility of implementation of district heating and the lack of clarity relating to the renewables.
- 12.3.4. Regarding cumulative impact I do not consider that there is any requirement for an assessment of emissions from the data centre sector overall or the existing data centres in the region as part of the consideration of this appeal.
- 12.3.5. The Board is required to have regard to the Government Statement which is national policy and that requirement is not undermined by the lack of SEA.
- 12.3.6. The submitted decommissioning reports includes an updated ecology survey, which reports no material changes on the site.

13.0 Recommendation

13.1.1. I recommend that permission be refused. I have drafted two modified reasons for refusal below and I reiterate reason 3 which is largely unchanged.

1. It is national policy as set out in the Government Statement on the Role of Data Centres published in July 2022 to enable the twin transitions of digitalisation and decarbonisation and to support the development of data centres, which are core infrastructure. The Government Statement indicates 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 and in this regard a range of principles are set down as guidance for the decision makers. It is considered that the information provided in the application and appeal, including the information submitted in response to the Board's Direction of 9 May 2024, does not demonstrate that the proposed data centre, which is located in a constrained region would meet the requirements set down in the Government Statement including in relation to the making use of available grid capacity and the provision of renewables additionality in a form which provides for temporal and spatial matching of the demand from the data centre.

Therefore the Board considers that the proposed development would be contrary to national policy.

2. Under the provisions of the Climate Action Plan 2024 and having regard to the preceding CAP 23, which outlined some specific measures relating to data centres, it is national policy that large energy users shall play a critical role in the decarbonisation acceleration through delivering high levels of flexibility across time and geographical locations, and the matching of energy demand with supply on a temporal and spatial basis. The Board noted the information provided in relation to the offsetting arrangements and the operation of the proposed data centre and considered that it was not demonstrated that the proposed development would comply with the provisions of national policy with respect to electricity demand management.
3. The proposed development is located in an area zoned HI, the land use zoning objective of which is to 'facilitate opportunities for industrial uses,

activities and processed which may give rise to land use conflicts if located within other zonings'. It is considered that the proposed development does not constitute heavy industry and that having regard to its size and configuration the site is capable of accommodating a heavy industry use and should be reserved partly for such use in the interest of the proper planning and sustainable development of the area and to comply with the provisions of the development plan.

- 13.1.2. I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Mairead Kenny
Inspector

20 November 2024