



An
Bord
Pleanála

Inspector's Report

ABP-313603-22

Development	The installation of an energy storage unit at an existing data centre facility.
Location	4033 Citywest Avenue, Citywest Business Park, Dublin 24.
Planning Authority	South Dublin County Council.
Planning Authority Reg. Ref.	SD22A/0013
Applicant	Energy Optimisation Solutions Limited.
Type of Application	Permission.
Planning Authority Decision	Grant Permission.
Type of Appeal	First Party against Condition of Permission.
Date of Site Inspection	03/10/2022
Inspector	Enda Duignan

1.0 Site Location and Description

- 1.1. The appeal site has a stated area of c. 1.67ha and is located within the Citywest Business Park. The site is located on the northern side of Citywest Avenue, c. 100m to the west of the roundabout with Citywest Avenue and Kingswood Road. Access to the site is provided from the west via a distributor road connecting to Lake Drive further to the west. The site currently comprises an industrial warehouse which is utilised as a data centre. The existing rectangular shaped building occupies a significant portion of the site with surface level car parking provided within the western portion of the site. Additional car parking and an area of landscaping is located to the south of the site. There are a number of existing buildings and generators located within the rear portion of the site.

- 1.2. In terms of the site surrounds, an existing data centre is located to the east of the appeal site. Areas of surface level car parking are located to the west of the site and the lands to the north of the site are characterised by what would appear to be landscaped open space associated with an existing manufacturing facility. I note the existing Cheeverstown Luas stop and 'Park and Ride' facility is located to the south-east of the site.

2.0 Proposed Development

- 2.1. Planning permission is sought for the installation of an energy storage unit at an existing data centre facility. The proposed energy storage facility is to be housed within 3 no. 40ft shipping containers. The 3 no. containers are proposed to be located within the rear portion of the site and will occupy an area of c. 108sq.m.

3.0 Planning Authority Decision

3.1. Decision

South Dublin County Council granted planning permission for the proposed development subject to compliance with 6 no. conditions. Condition No. 2 was included as follows:

Duration of permission.

This permission shall be for a temporary period of three years, starting on the date of the final grant of permission. Any continued use after this date shall be the subject of a new planning application.

Reason: To ensure that the shipping container structures do not remain as a permanent feature in this area of the Citywest Business Park.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The South Dublin County Council Planning Reports form the basis of the decision. The First Planning Report provides a description of the site and the subject proposal and it identifies the site as being located within lands which were zoned 'EE' of the South Dublin County Development Plan, 2016-2022, the objective of which is "To provide for enterprise and employment related uses". The report then sets out the planning history of the site and an overview of the policies at local through to national level that are relevant to the consideration of the application.

The Planning Authority note that following a review of the site's planning history, it was considered that the data centre use on the site had not been authorised via a planning permission and the proposed development may be considered an intensification of that use. It was noted that the proposed use is therefore not acceptable pending clarification or regularisation of the overall use of the site as a data centre.

The report highlights that the site contains a number of generator buildings which appear to be permanent in nature and construction. It is indicated that the proposed containers could only be permitted as a temporary measure pending permission and development of a permanent accommodation, for a period of 3 years. The applicant was requested to indicate the long-term plans for energy storage at the site and whether permanent premises are envisaged for the future.

The Second Planning Report provides an assessment of the Applicant's response to the request for additional information. With respect to Item No. 1, the Applicant has

argued that the original permission, which describes industrial and related uses, covers a data centre use. This argument is not accepted by the Planning Authority as it is noted that there are considerable differences between certain industrial uses. However, the Planning Authority highlight that documents for an alteration to the parent permission in 2000 (S00A/0730) have since been retrieved which reveal that the data centre use was intended at the time and these details regularise the planning permission for the site. In response to Item No. 2, the Applicant indicates that it is their intention to permanently house the energy storage units in industrial containers. The Planning Authority note that they would not typically grant permanent permission to structures such as industrial containers as they are considered to be temporary structures. It was considered to be appropriate that permission is granted on a temporary basis as permanent features should be housed within permanent structures on the site. In this regard, the Planning Authority noted that Citywest Business Park has been developed as a modern, landscaped business park and in accordance generally with policies now contained in section 11.2.5 of the County Development Plan. A suitable condition has been included by the Planning Authority limiting the use of the structures to a period of 3 no. years.

3.2.2. Other Technical Reports

Environmental Services: Report received stating no objection subject to conditions.

Roads: Report received stating no objection.

3.3. Prescribed Bodies

Irish Water: Report received stating no objection subject to compliance with a condition.

3.4. Third Party Observations

None.

4.0 Planning History

4.1. A summary of the planning history of the appeal site is included as follows:

- **SD18A/0453:** Planning permission granted by the Planning Authority for a new external plant and equipment zone to the side of the existing building and included louvre screening plus associated site development works.
- **SD17A/0441:** Planning permission granted by the Planning Authority for a new secure fencing & gates to perimeter of the site plus internal alterations to car park & service road plus associated site development works.
- **S00A/0730:** Planning permission granted by the Planning Authority for the construction of a mezzanine floor over the production warehouse area, amendments to facades, construction of service yard, wall and gates, plant and equipment housing, ESB switch and transformer rooms, relocation of entrance to site northwards and signage.
- **S00A/0357:** Planning permission granted by the Planning Authority for an advance facility including two storey offices for industrial and related uses, with provision for sub-division into two units, ESB sub-station, and associated site development works with access from new interchange.
- **S00A/0232:** Planning permission granted by the Planning Authority for a modification to existing building at Unit 4027- 4029 Citywest Business Campus. The modifications to the northern tenancy (4029) include additional 1st floor area within the existing building as constructed, new external chiller, plant and oil tank enclosures, alterations to the roof and facades, alterations to the site boundaries, provision of E.S.B. substation and change of use to telehouse (Internet Protocol Hub) with reduced office accommodation.
- **S00A/0215:** Planning permission granted by the Planning Authority for modifications to existing building - Register Reference No. S99A/0723. The modifications included the extension of the first floor area within the existing structure, external plant enclosure, ESB sub-station, revised site entrance location and associated site development works with access from the new interchange on Naas Road.
- **S99A/0723:** Planning permission granted by the Planning Authority for modifications to previously approved building including two storey offices for industrial and related uses - Register Reference No. S99A/0478. The

modifications included the sub-division of the building into three units, provision of additional two-storey offices, alterations to the facades and associated site development work with access from the new interchange on Naas Road, Brownsbarn.

- **S99A/0478:** Planning permission granted by the Planning Authority for one of two previously approved buildings on a revised site location, including two storey offices for industrial and related uses, gross floor area 11,000sq.m, ESB sub-station and associated site development works with access from new interchange on Naas Road.

5.0 Policy Context

5.1. Project Ireland 2040 National Planning Framework (NPF) Local Policy

- 5.1.1. The NPF acknowledges that Ireland is very attractive in terms of international digital connectivity, climatic factors and current and future renewable energy sources for the development of international digital infrastructures, such as data centres. This sector underpins Ireland's international position as a location for ICT and creates added benefits in relation to establishing a threshold of demand for sustained development of renewable energy sources. It is notes that there is also greater scope to recycle waste heat from data centres for productive use, which may be off-site. In terms of Digital and Data Innovation, an objective of the NPF is to ensure the "Promotion of Ireland as a sustainable international destination for ICT infrastructures such as data centres and associated economic activities".

5.2. Climate Action Plan (CAP) 2021, Securing Our Future

- 5.2.1. The CAP notes that in Ireland, total electricity demand over the next ten years is forecast to grow by between 19% and 50%, largely driven by new large energy users, many of which are data centres, based on existing policies and strategies. Section 11.3.1 (Electricity Demand Management) of the CAP acknowledges that the management of electricity demand will be a central part of the county's approach to achieving emissions reductions. The significant increase in electricity demand expected from data centres, as well as from the electrification of industry, heat and transport means that Ireland needs a new approach to electricity demand management. An objective of the CAP is to ensure the 'Government Statement on the

Role of Data Centres in Ireland's Enterprise Strategy 2018' be reviewed to guarantee alignment with: sectoral emissions ceilings and the country's renewable energy targets; ongoing security of supply concerns; and the demand flexibility measures that are now needed. Further regulatory levers will also be considered to manage demand from large energy users in the context of emissions and future network needs.

- 5.2.2. Action No. 99 of the CAP seeks to "Review the policy context for Large Energy Users (including Data Centres), ensuring alignment of enterprise policy and wider regulatory environment with electricity emission targets and security of supply".

5.3. South Dublin County Development Plan, 2022 -2028 (CDP)

- 5.3.1. The South Dublin County Development Plan (CDP), 2022-2028 was made on 22nd June 2022 and came into effect on 3rd August 2022. The site is located within an area zoned 'EE' of the current CDP, the objective of which is "To provide for enterprise and employment related uses". The lands immediately to the north, west and east of the site are also zoned 'EE'. The lands to the south of the subject site are zoned 'RES-N', the objective of which seeks "To provide for new residential communities in accordance with approved area plans". A 'Cycleway Proposal (Cycle South Dublin)' is located to the south of the appeal site along Citywest Avenue.

- 5.3.2. Chapter 9 (Economic Development and Employment) of the current CDP is relevant to the consideration of the application given the nature of the use and the applicable zoning objective. Relevant policy and objectives include:

- **Policy EDE1:** Overarching Support sustainable enterprise and employment growth in South Dublin County recognising the County's role in the Dublin region as a driver of economic growth
- **EDE1 Objective 3:** To ensure that there is a sufficient supply of zoned and serviced lands at suitable locations to accommodate a range of enterprise and employment development types and to promote compact growth by strengthening the integration between employment, housing and transportation.

5.3.3. Section 9.3 (Space Extensive Land Use) of the current CDP acknowledges that alongside warehousing, data centres are one of the most space extensive land use types in the County. It is stated that Dublin is one of the fastest growing data centre markets in Europe with a significant element of this growth in South Dublin County. It is recognised that the requirement for data centres is increasing with social and technology needs such as 5G, smart cities and artificial intelligence.

- **Policy EDE7:** Space Extensive Land Use Recognise the need for land extensive uses and ensure that they are located within appropriate locations having regard to infrastructural, transport and environmental considerations and the need for orderly growth.

5.3.4. The vision included within Chapter 10 (Energy) of the current CDP seeks to “Deliver a green society and circular economy adaptable to new technologies, a home and place of employment for people and industries striving towards reducing their carbon footprint”. Relevant policies and objectives of the current CDP include:

- **Policy E3:** Energy Performance in Existing and New Buildings Support high levels of energy conservation, energy efficiency and the use of renewable energy sources in new and existing buildings including the retro fitting of energy efficiency measures in the existing building stock in accordance with relevant building regulations, national policy and guidance and the targets of the National and South Dublin Climate Change Action Plans.
- **E3 Objective 1:** To reduce the need for energy, enhance energy efficiency and secure the use of renewable energy sources in refurbished and upgraded dwellings, and other buildings through the design and location of new development, in accordance with relevant building regulations and national policy and guidance.
- **E3 Objective 2:** To prioritise the retrofitting of buildings over demolition and reconstruction where possible to reduce the large quantities of embodied carbon energy generated from building materials when building from the ground up.
- **E3 Objective 3:** To require all new development to be designed to take account of the impacts of climate change, and that energy efficiency, energy provision

and renewable energy measures are incorporated in accordance with national building regulations and relevant policy and guidelines.

- **E2 Objective 4:** To support and facilitate the actions and targets of the National and South Dublin Climate Action Plans where they relate to private and public buildings in the County.

5.3.5. Section 12.9.2 (Enterprise and Employment Areas) of the current CDP outlines the “Key Principles for Development within Enterprise and Employment Zones” (Table 12.27).

5.4. Natural Heritage Designations

5.4.1. The nearest designated site is the Glenasmole Valley Special Area of Conservation (SAC) (Site Code: 001209) c. 4.8km to the south of the site. The proposed Natural Heritage Area (pNHA): Lugmore Glen is also located c. 2.3km to the south of the site. The proposed Natural Heritage Area (pNHA): Glenasmole Valley is also located c. 4.8km to the south of the site.

5.5. EIA Screening

5.5.1. Having regard to the nature and scale the development, which consists of the installation of an energy storage unit at an existing data centre facility in a serviced urban location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The main grounds of the appeal can be summarised as follows:

- The First Party planning appeal relates specifically to Condition No. 2 of the permission.
- It is considered that the inclusion of this specific condition does not comply with the Development Management Guidelines for Planning Authorities.

- It is considered that Condition No. 2 does not meet the basic criteria outlined in the Development Management Guidelines for Planning Authorities in terms of necessity and relevance to the development and is, ultimately, not reasonable. It is stated that the development of the proposed energy storage facility requires a high level of investment and cannot be funded if the planning permission would expire in three years.
- Based on the modest size of the proposal and the positive policy towards management of energy consumption and peak demand, particularly as it relates to data center facilities, it is considered by the Appellant that the proposed development supports sustainable development in both the county and country and should be supported. The limiting of time that is being put in place through Condition No. 2 undermines policy objectives relating to energy conservation and could threaten the feasibility of future projects of this nature in Ireland.
- It is stated that the energy storage facility is to be housed in three shipping containers so that if there are any issues with the storage unit, the containers can be removed and repaired safely before being returned on site. It is stated that it is standard within energy storage compounds to use containers for energy storage. The time limiting condition has not been applied to other similar projects across Dublin and it is considered unreasonable that it has been applied in this case. Reference has been made within the appeal submission to other decisions of a similar nature where a condition limiting the time has not been applied.
- It is noted by the Appellant that the site in which the development is proposed has very high security in place and is not accessible to the public. It is stated that the proposed containers would not be visible from any location outside of the site and as such, there would be no visual or landscape impact for the wider business park.

6.2. Planning Authority Response

None.

6.3. Observations

None.

6.4. Further Responses

None.

7.0 Assessment

The main issues are those raised in the Planning Report and the Appellant's grounds for appeal. Overall, I am satisfied that no other substantive issues arise. I note that this appeal specifically relates to the inclusion by the Planning Authority of Condition No. 2. Although the Planning Authority deemed the principle of the proposed development to be acceptable, I note that the South Dublin County Development Plan (CDP), 2022-2028 has come into effect since the Planning Authority's Notification of Decision has been issued. In this regard, the following planning assessment represents my *de novo* consideration of all planning issues material to the proposed development. I can confirm that the issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Development.
- Inclusion of Condition No. 2.
- Appropriate Assessment.

7.1. Principle of Development

7.1.1. Planning permission is sought for the installation of an energy storage unit at an existing data centre facility. The proposed energy storage facility is to be housed within 3 no. 40ft shipping containers and are to be located within the rear portion of the site. In their assessment of the planning application, the Planning Authority was satisfied, following a search of the site's planning history (notably Reg. Ref. S00A/0730), that the data centre use on site is authorised and the principle of the proposed development was therefore acceptable at this location.

7.1.2. As indicated earlier in this report, the South Dublin County Development Plan (CDP), 2022-2028 has come into effect since the Planning Authority's Notification of Decision had been issued. I note that the zoning of the appeal site remains unchanged (i.e. zone 'EE') from the previous CDP. However, a 'Data Centre' is now a use that is

specifically defined under the current CDP and is identified as a 'Not Permitted' use on lands zoned objective 'EE'. In this regard, I refer to Section 12.2.1(vi) (Non-Conforming Uses) of the current CDP. The policy notes that there are instances throughout the County where land uses do not conform with the zoning objective of a site. These include instances where such uses:

1. Were in existence on 1st October 1964 (that is, prior to planning legislation), or
2. Have valid permission, or
3. Have no permission and may or may not be the subject of enforcement proceedings.

The policy highlights that development proposals that relate to uses referred to under categories 1 and 2 above, particularly those that would intensify non-conforming uses, will be permitted only where the proposed development would not be detrimental to the amenities of the surrounding area and would accord with the principles of proper planning and sustainable development. This includes the integration of land use and transport planning.

- 7.1.3. The information supporting the application highlights that the proposal is required to accommodate the necessary storage provision for the continued operation of the existing data centre facility. In this regard, I consider the proposed development to be ancillary to the ongoing operations of this established use. As per Section 12.2.1(vi) of the current CDP, development proposals will be permitted only where the proposed development would not be detrimental to the amenities of the surrounding area and would accord with the principles of proper planning and sustainable development. I note that the existing structures are located within the rear portion of the site and will occupy an area of c. 108sq.m. The proposed containers each measure c. 12.2m long by c. 3m wide and have a maximum heights of c. 3.4m. As they are located to the rear of the existing facility, they will not be visible from the public realm. Having regard to the permitted use on the site and the pattern of development in the immediate area, the scale and height of the structures and their location to the rear of the facility, I am satisfied that the proposed development will not adversely impact the residential and visual amenity of the surrounding area and is compatible with the established use on site.

7.1.4. In addition to the foregoing, I refer the Board to the Draft Ministerial Direction to the South Dublin County Development Plan, 2022-2028 made by the Minister of State at the Department of Housing, Local Government and Heritage consequent to a recommendation made to him by the Office of the Planning Regulator under Section 31AM(8) of the Planning and Development Act 2000 (as amended). Within this Draft Ministerial Direction, the Planning Authority was directed to amend the land use zoning objectives in tables 13.4, 13.8 and 13.10 to reinstate data centre use class as an 'open for consideration' use class in the REGEN, Enterprise & Employment (EE) and Major Retail Centre (MRC) zoning objectives.

7.2. Inclusion of Condition No. 2.

7.2.1. In their initial assessment of the application, the Planning Authority noted that the proposed containers could only be permitted as a temporary measure pending permission and development of a permanent accommodation, for a period of 3 years. At additional information stage, the Applicant confirmed that there are no long-term plans to provide a premises for energy storage other than the shipping containers that are proposed to be placed on site. In their assessment of the Applicant's response, the Planning Authority noted that they would not typically grant permanent permission to structures such as industrial containers as they are considered to be temporary structures. The Planning Authority also noted that Citywest Business Park has been developed as a modern, landscaped business park and in accordance generally with policies contained in section 11.2.5 of the County Development Plan (i.e. 2016-2022). In this regard, the Planning Authority considered it appropriate for permission to be granted on a temporary basis only and permanent features should be housed within permanent structures on the site.

7.2.2. Given the nature and location of the proposed development, I have had regard to Section 12.9.2 (Enterprise and Employment Areas) of the current CDP which outlines the "Key Principles for Development within Enterprise and Employment Zones" (Table 12.27). The policy provides guidance with respect to access and movement, open space and landscape, green infrastructure and built form and corporate identity. Whilst I acknowledge the concerns of the Planning Authority, I note that the proposed development is located within the rear portion of the site. Given the scale of the

proposed development, its siting within this portion of the site and the existing boundary treatments, the structures will not be visible from the public realm or from surrounding sites. I note that from my inspection of the site that the existing structures which are similar to what is currently proposed are well maintained and I see no benefit or requirement for them to be housed in a permanent structure in this specific instance.

- 7.2.3. I am conscious of the commentary included within the appeal submission which notes that containers such as those proposed can be removed and repaired safely before being returned on site. I also note that there does not appear to be any specific policy contained within the current CDP which prohibits structures of this nature. Given the structures are not visible from the public realm, I am satisfied that the proposed development will not detract from the visual amenity of the area and is not contrary to policy set out in Section 12.9.2 of the current CDP. I therefore consider the inclusion of Condition No. 2, which limits the lifetime of the permission to a period of 3 years, to be overly onerous in this specific instance and I consider the removal of this condition to be appropriate.

7.3. Appropriate Assessment

- 7.3.1. Having regard to the nature and scale of the proposed development, which comprises the installation of an energy storage unit at an existing data centre facility in a serviced urban location, and to the nature of the receiving environment, with no direct hydrological or ecological pathway to any European site, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. Grant of permission is recommended.

9.0 Recommendation

9.1. Having regard to the provisions of the South Dublin County Development Plan, 2022-2028, including the 'EE' zoning objective for the site, the location of the proposed development within the rear portion of the site, the established use on site and the pattern of development in the surrounds, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would constitute an acceptable form of development at this location. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The proposed development shall comply with the plans and particulars lodged with the application submitted, and as amended by Further Information received on 24th March 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
3.	<p>Prior to commencement of development, the developer shall enter into water and waste water connection agreement(s) with Irish Water and adhere to the standards and conditions set out in that agreement. All development shall be carried out in compliance with the Irish Water Standards codes and practices.</p> <p>Reason: In the interest of public health.</p>

4.	<p>In terms of Operational Noise, the Applicant shall comply with the requirements of the Planning Authority.</p> <p>Reason: In the interest of public health and residential amenity.</p>
5.	<p>Site development and building works shall be carried out only between the hours of 8am to 7pm Mondays to Fridays inclusive, between 9am to 2pm 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.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
6.	<p>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. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000 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.</p>

Enda Duignan
 Planning Inspector
 07/11/2022