

File With _____

SECTION 131 FORM

Appeal NO: ABP 317802/25Defer Re O/H ☐Having considered the contents of the submission dated/ received 20/3/25
fromMarston Planning. I recommend that section 131 of the Planning and Development Act, 2000
is/ not be invoked at this stage for the following reason(s): NO new planning grounds.E.O.: C. FlynnDate: 25/3/25

For further consideration by SEO/SAO

Section 131 not to be invoked at this stage. ☐Section 131 to be invoked – allow 2/4 weeks for reply. ☐

S.E.O.: _____

Date: _____

S.A.O.: _____

Date: _____

M _____

Please prepare BP _____ - Section 131 notice enclosing a copy of the attached
submission

to: _____ Task No: _____

Allow 2/3/4weeks – BP _____

EO: _____

Date: _____

AA: _____

Date: _____

File With _____

CORRESPONDENCE FORM

Appeal No: ABP 317 802-25MS. Khatipova

Please treat correspondence received on _____ as follows:

- | | |
|--|--|
| 1. Update database with new agent for Applicant/Appellant _____
2. Acknowledge with BP <u>23</u>
3. Keep copy of Board's Letter <input type="checkbox"/> | 1. RETURN TO SENDER with BP _____
2. Keep Envelope: <input type="checkbox"/>
3. Keep Copy of Board's letter <input type="checkbox"/> |
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Amendments/Comments

Sub Received From Applicant.

4. Attach to file

- | | |
|---|---|
| (a) R/S <input type="checkbox"/> | (d) Screening <input type="checkbox"/> |
| (b) GIS Processing <input type="checkbox"/> | (e) Inspectorate <input type="checkbox"/> |
| (c) Processing <input type="checkbox"/> | |

RETURN TO EO ☒

	Plans Date Stamped <input type="checkbox"/>
	Date Stamped Filled in <input type="checkbox"/>
EO: <u>C. Flynn</u>	AA: <u>Fadime Khatipova</u>
Date: <u>24-3-25</u>	Date: <u>25/3/25</u>

Cathy Carleton
Cathy Carleton

From: Bord
Sent: Thursday 20 March 2025 09:16
To: Appeals2
Subject: FW: First party submission (ABP Ref. ABP317802)
Attachments: Submission to ABP by EdgeConneX Ireland Ltd Ref. 317802.pdf

From: anthony@marstonplanning.ie <anthony@marstonplanning.ie>
Sent: Thursday, March 20, 2025 9:13 AM
To: Bord <bord@pleanala.ie>
Subject: First party submission (ABP Ref. ABP317802)

Caution: This is an **External Email** and may have malicious content. Please take care when clicking links or opening attachments. When in doubt, contact the ICT Helpdesk.

To whom it may concern.

Please find attached submission to the Board on behalf of Edgeconnex Ireland Limited in relation to the first party appeal under ABP Ref. ABP-317802-23.

We look forward to the earliest possible positive decision in this instance. I would be grateful if you could confirm receipt of the attached.

Many thanks.

Kind Regards

Anthony Marston
Principal – Marston Planning Consultancy

M: 086-3837100
23 Grange Park, Foxrock, Dublin 18, D18 T3Y4
www.marstonplanning.ie

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MARSTON

PLANNING CONSULTANCY

The Secretary
An Bord Pleanála
64 Marlborough Street
Dublin 1

19th March 2025

Our Ref: 16008

Re: Planning and Development Act 2000 (as amended) and the statutory regulations (as amended). First Party Appeal by EdgeConneX Ireland Limited against the decision of South Dublin County Council to refuse permission for development that includes the development at this site of 5.14hectares that is located within the townland of Ballymakilly to the west of the Newcastle Road (R120), Lucan, Co. Dublin (the "Decision"). The development will consist of the construction of two no. adjoined single storey data centres with associated office and service areas with an overall gross floor area of 15,274sqm.

South Dublin County Council Planning Ref. SD22A/0333

An Bord Pleanála Ref. ABP317802-23

Period for making submission to An Bord Pleanála on or before: end of 20th March 2025

Dear Sir / Madam,

We, Marston Planning Consultancy, 23 Grange Park, Foxrock, Dublin, D18 T3Y4; are instructed by EdgeConneX Ireland Limited (the "**First Party**"), 6th Floor, South Bank House, Barrow Street, Dublin 4 to lodge this first party submission in response to the An Bord Pleanála letter that was dated the 28th February 2025. The Board's letter primarily related to the EirGrid Connection Agreement that covers the connection of the campus to the Kishoge substation that sits centrally within the site.

As already outlined in the first party appeal submitted to the Board, we submit that the Proposed Development is fully in accordance with both local and national policy as they relate to data centres, and this remains the case at the time of making this submission. The grounds set out under the appeal has not changed. Our response to the Board's letter of the 28th February 2025 has been undertaken on the basis of advice from Mason Hayes and Curran LLP in terms of the EirGrid Connection Agreement that is in place (see letter forming Appendix B of this submission).

1. Confirmation from Eirgrid that the Eirgrid Connection Agreement Letter (submitted with this appeal) includes the proposed data centres the subject of this appeal. (A drawing identifying the data centre buildings, subject to this agreement would assist)

Following receipt of the request from the Board, we forwarded this letter to EirGrid for comment. EirGrid's response is attached in Appendix A and is dated the 11th March 2025. Their letter confirms that a "D48 Connection Agreement" is in place for a "*facility ... at Grangecastle Business Park Extension, Dublin 22.*"

The Connection Agreement sets out that the name of the connecting facility is "Kishoge", and it is therefore clear that by "facility", EirGrid refers to the Kishoge 110kV substation that is sited centrally within the campus and was permitted under Planning Ref. SD22A/0105 with the transmission lines serving it permitted under ABP Ref. VA06S.314567.

We refer the Board to the fact that the connected Customer, and the addressee of the EirGrid letter, is Energy Continuity Xchange Ireland II Limited, which is an affiliate company of EdgeConneX Ireland Limited (who are the applicant in this instance) that is responsible for owning the electrical connection assets through which the data centres of EdgeConneX Ireland Limited are powered at this campus.

The EirGrid letter does not go so far as to confirm that the D48 Connection Agreement "includes" the proposed data centre that is the subject of the current planning appeal (the "**Proposed ECX Data Centre**"). It is important, as a matter of clarity for the Board that the reason for this is clarified, which we now proceed to do:

In common with the form of Connection Agreement that EirGrid is required by law to offer, the D48 Connection Agreement does not specify that it applies to any particular data centre, or indeed, to any particular electrical "load". Under this structure, the D48 Connection Agreement simply:

- provides for the construction of the Kishoge substation and the carrying out of other connection works; and
- reserves to the Customer certain Maximum Import Capacity (MIC) at the substation. MIC is approximately described as the maximum rate at which electrical energy can be imported across the connection.

The Customer is then left to construct its desired electrical load, of a type of its choosing, behind the connection point. EdgeConneX confirms that it intends to connect the Proposed ECX Data Centre with the Kishoge 110kV substation, so that this data centre enjoys the benefit of the D48 Connection Agreement. EdgeConneX considers that the MIC of the D48 Connection Agreement, that has been confirmed by EirGrid, is sufficient to accommodate Proposed ECX Data Centre, in addition to the other data centres that have been permitted on site under the permissions granted under Planning Ref. SD19A/0042 and SD21A/0042.

2. The Board noted the Advisory Note dated 10th August 2023, which was submitted with the appeal, para 1.17 states-

While the Applicant recognises the TSO has identified constraints it is important to note that the Applicant is contracted to connect to and use the electricity system and does not fall to be considered as a 'prospective data centre project' in this respect. The Connection Agreement was entered into in Advance of the above policy measures. However, the Connection agreement was received and the Connection Agreement entered into following the introduction of the DCCOPP and the identification of the greater Dublin area as a constrained area. (emphasis added)

The Board note The Eirgrid Data Centre Connection Process and policy, V 2 (17.7.2020) requires planning permission to be in place before a customer progresses to stage 2 of the connection offer process, and that the planning permission must be specific to the connection agreement. As no planning permission is in place for the data centres the subject of this appeal please clarify if/how the connection agreement in place includes the data centres the subject of this appeal.

Response

For the reasons set out in our response to point 1 above, our client consider that the D48 Connection Agreement accommodates the Proposed ECX Data Centre, and they have confirmed to us that the D48 Connection Agreement does include the Proposed ECX Data Centre.

We submit that EdgeConneX is not privy to the decision-making processes within EirGrid that led to EirGrid's issuing of the connection offer, that was then accepted and ultimately given legal force by way of the D48 Connection Agreement. It is sufficient, for EdgeConneX's purposes, that the D48 Connection Agreement exists in a form that accommodates EdgeConneX's commercial requirements for its three pairs of data centres on this campus.

We note that, as part of this request for Further Information issued under section 132 of the Planning and Development Act 2000 (as amended), An Bord Pleanála have referred to the Advisory Note by Mason Hayes and Curran LLP that was submitted as Appendix B of the First Party Appeal. That note related to reason no. 1 of the South Dublin County Council's reasons for refusal and the requirements of Policy EDE7 Objective 2 of the South Dublin County Council Development Plan 2022-2028.

The proposed development adheres to Policy EDE7 Objective 2, including the requirement to demonstrate "sufficient capacity within the relevant water, wastewater and electricity network to accommodate the use proposed". As explained in further detail in this response, the D48 Connection Agreement is sufficient to accommodate the Proposed ECX Data Centre.

The D48 Connection Agreement includes a mechanism that EirGrid refers to as the “*Kishoge Flexible Demand Arrangement*”, under which EirGrid may restrict the load under the D48 Connection Agreement. EirGrid has therefore reserved for itself a contractual mechanism to ensure that the D48 Connection Agreement does not exceed the “*capacity within the relevant ... electricity network*”.

Without prejudice to the above, it is respectfully submitted that it is not within the remit of An Bord Pleanála to determine capacity allocation or connection to the electricity grid, or indeed the operation and management of contracted grid capacity. This falls squarely within the remit of the two state licensed entities which determine applications to connect to the grid and maintain and operate the grid, namely ESB Networks Limited at distribution level as the licensed Distribution System Operator (DSO) and EirGrid plc at transmission level as the licensed Transmission System Operator.

Indeed, section 34(13) of the Planning and Development Act 2000 (as amended), states that: “*A person shall not be entitled solely by reason of a permission under this section to carry out any development.*” Accordingly, we respectfully submit that it is not within An Bord Pleanála’s remit to take into account any other separate statutory processes (separate to its determination of the planning appeal) that EdgeConneX undertakes as part of operating the development see for example *Freeney v An Bord Pleanála* [2024] IEHC 427)..

Furthermore, as set out in the appeal, EdgeConneX provided “*evidence of engagement with power purchase agreements in Ireland*” in accordance with Policy EDE7 Objective 2. The Proposed Development can also, where required, be supported by the on-site power plant.

The principal use, scale, and capacity of the Power Plant is established in planning terms by planning permission reference: under Planning Ref. SD22A/028. As required, the power plant provides stability to the grid and has capacity to be fuelled by green gas and/or hydrogen (or similar fuels) when they become widely available.

3. If no connection agreement is in place for the data centres, the subject of this appeal, please provide confirmation from Eirgrid that stage 1 of the Application Process has been completed for the proposed data centre.

Response

This part of the Further Information request is conditioned on there being no connection agreement being in place for the Proposed ECX Data Centre. For the reasons set out in our responses to parts 1 and 2 above, EdgeConneX considers that a connection agreement (namely, the D48 Connection Agreement) is in place for the Proposed ECX Data Centre. The remaining elements of this part of the Further Information request therefore do not require any further response.

Conclusion

We respectfully submit that this submission has comprehensively addressed the three points requested to be addressed relating to the EirGrid Connection Agreement. It is without doubt the role of EirGrid to provide connection agreements to data centre operators in Ireland. It is also not in doubt that the First Party has a Connection Agreement with EirGrid that relates to both the Permitted Development and the Proposed Development.

The importance of the flexibility in demand both for the enterprise economy that forms a corner stone of Government policy but also facilitating the transition to decarbonisation is recognised in the recent Government document in that it states:

“Securing flexibility in demand from a data centre is more straightforward than getting the same flexibility from a similarly sized block of demand made up of a diverse set of small businesses, public facilities, and domestic users. As renewables grow in importance, a more flexible pattern of data centre demand can reduce the need for fossil-fuel generated electricity and help with decarbonisation.”

We respectfully request the Board to conclude that the First Party in this instance is in receipt of a connection agreement for the overall campus, similar to other data centre campuses that include several

data centres and a single connection agreement. The adjacent UBC Properties and nearby Vantage campuses within Grange Castle, have similar arrangements.

We submit that the First Party already has a 'connection agreement' with EirGrid. The Proposed Development will operate under the same connection agreement as the already Permitted Development. There will be no need for a new connection into the National Grid from the Proposed Development. We can confirm that the First Party is acting fully in accordance with the terms and conditions of the existing Connection Agreement.

EirGrid deemed it appropriate to agree for the First Party to connect to the grid confirming that based on the Proposed Development and Permitted Development there is no capacity issues that preclude the application connecting to the electricity network.

We respectfully submit that it is a matter solely for EirGrid / CRU to determine who should connect into the electricity network in light of capacity constraints to the electricity network. In this instance the First Party has successfully "passed" EirGrid's connection requirements.

We respectfully submit that the Proposed Development is fully aligned and in accordance with Government policy set out under the Government's revised "*Statement on the Role of Data Centres in Ireland's Enterprise Strategy*" on the 27th July 2022. The First Party is committed to advancing the goals behind the Six Principles and the Proposed Development and Permitted Developments are fully aligned with government policy.

In conclusion, for all of the foregoing arguments, reason and considerations, An Bord Pleanála are invited to overturn the decision of South Dublin County Council and to grant permission on the basis that there is sufficient capacity within the electricity network and the First Party has also engaged in seeking PPAs ; and therefore is fully in accordance with Policy EDE7, objective 2 of the South Dublin County Development Plan 2022-2028 as well as National Data Centre Policy and is therefore fully in accordance with the proper planning and sustainable development of this area including the preservation and improvement of amenities thereof.

We look forward to an early and favourable response on this matter.

Yours faithfully,



Anthony Marston (MIPI, MRTPI)
Marston Planning Consultancy

APPENDIX A – EirGrid confirmation of connection agreement in place



EirGrid plc
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Droichead na Dothra,
Baile Átha Cliath 4,
D04 FW28
Éire

EirGrid plc
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160 Shelbourne Road,
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T +353 1 677 1700
E info@EirGrid.com
EirGrid.com

Edmund Wilson
ENERGY CONTINUITY XCHANGE IRELAND II LIMITED
6th Floor, South Bank House
Barrow Street
Dublin 4
D04 TR29

11th March 2025

CP1175 Kishoge 110 kV Station / D48 contract reference

Dear Edmund,

I can confirm that there is an existing D48 Connection Agreement between the Company (EirGrid) and the Customer (ENERGY CONTINUITY XCHANGE IRELAND II LIMITED) in place.

This D48 Connection Agreement was executed 18th August 2022.

As outlined in the executed D48 Connection Agreement, this connection is for a facility with Maximum Import Capacity (MIC) of 48.2 MVA at Grangecastle Business Park Extension, Dublin 22.

The grid connection (CP1175 Kishoge Station) energised on 9th December 2024 for the facility with Maximum Import Capacity (MIC) of 48.2 MVA at Grangecastle Business Park Extension, Dublin 22.

Yours sincerely,

Kilian Murphy (on behalf of EirGrid)

Stiúrthóir: Brendan Tuohy Cathaoirleach, Mark Foley Príomhthreidhmeannach, an Dr Theresa Donaldson Leas Cathaoirleach, Shane Brennan, Tom Coughlan, Michael Hand, Rosa M Sanz García (An Spáinn), James Nyhan, Michael O'Sullivan, Pauline Walsh

Directors: Brendan Tuohy Chair, Mark Foley Chief Executive, Dr Theresa Donaldson Deputy Chair, Shane Brennan, Tom Coughlan, Michael Hand, Rosa M Sanz García (Spain), James Nyhan, Michael O'Sullivan, Pauline Walsh

Uimhir Chláraithe na Cúldeachta No. 1 Company Reg No. 318552



19 March 2025	Your ref:	South Dublin County Council Planning Ref. SD22A/0333 An Bord Pleanála Ref. ABP-317802-23	Our ref:	PM/45427.26
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MHC-37018285-2

Dear Mr Marston,

We confirm that our client, EdgeConneX Ireland Limited ("**ECX**"), has instructed us to review a draft letter (the "**ECX Response**") that is proposed to be sent by you, on behalf of ECX, in response to a request for information received from An Bord Pleanála in relation to the above matter and dated 28 February 2025.

We confirm that, having reviewed the ECX Response, we are satisfied that:

- (a) the analysis of the relevant elements of the electricity grid connection agreement that is included therein; and
- (b) the summary of matters of Irish law that is set out therein,

are accurate.

At the request of ECX, we consent to the submission of this letter as part of and in support of the ECX Response, on a non-reliance basis.

Yours faithfully

Mason Hayes & Curran

MASON HAYES & CURRAN LLP

[illegible]

MHC .ie