

File With _____

SECTION 131 FORM

Appeal NO: ABP 3 B503-22

Defer Re O/H

☐

TO: SEO

Having considered the contents of the submission ~~dated~~ received 22/7/24
fromJohn Conway + Lenth
Environmental Group
be/not be invoked at this stage for the following reason(s): NO IN 1880E.O.: Date: 22/7/24

To EO: _____

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: _____

Allow 2/3/4 weeks – BP _____

EO: _____

Date: _____

AA: _____

Date: _____

File With _____

CORRESPONDENCE FORM

Appeal No: ABP 313583

M _____

Please treat correspondence received on 22/7 as follows:

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

Amendments/Comments

S131 Dep J Connery + Environ Group
LTD 22/7

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 <input type="checkbox"/>
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	Plans Date Stamped <input type="checkbox"/>
	Date Stamped Filled in <input type="checkbox"/>
EO: <u>[Signature]</u>	AA: <u>Dillon Corcoran</u>
Date: <u>22/7/24</u>	Date: <u>22/7/24</u>

Ronan Megannety

James

From: Brian Burns <Brian@bkcsolicitors.com>
Sent: Monday 22 July 2024 11:15
To: Appeals2
Cc: Bord
Subject: Re: Our Clients: John Conway and Louth Environmental Group of 91 St. Nicholas Avenue, Dundalk, Co. Louth Re: Third Party Appeal Response to First Party Submission
Attachments: S45C-0i24072210100.pdf

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.

*The Secretary
An Bord Pleanála
64 Marlborough Street
Dublin 1*

BB/COC

22nd July 2023

Re: Our Clients: John Conway and Louth Environmental Group of 91 St. Nicholas Avenue, Dundalk, Co. Louth

Re: Third Party Appeal Response to First Party Submission

Fingal County Council Planning Application Reference Number: FW21A/0151

ABP Ref. 313583-22

Dear Sir/Madam,

On behalf of the above-named Clients, we^[1] wish to lodge the within Response to the First Party's Submission dated June 2024. (A letter inviting comments up to 22nd July 2024 was received from the Board).

Contrary to the Applicant's submission our Clients do not accept that the development complies with Development Plan policy DMS092. It materially contravenes policy DMS092 of the Fingal County Development Plan which requires, inter alia, an applicant to address how the development supports and contributes to national targets towards a net zero carbon economy. Despite various references to CPPAs etc. in the Applicant's submission it is particularly difficult to see how the development of 2 energy intensive Data Centres will support of national targets towards a net zero carbon economy, including renewable energy generation where the Data Centres typically consume vast amounts of electricity, and draw on existing and proposed renewable energy generation capacity which cannot then be used by other sectors of the economy. This is particularly troubling where the EPA has recent reported that Ireland is projected to exceed National AND EU climate targets, especially in the area of electricity generation.

For example, the EPA press release (May 2024 available here^[2]) that shows that Ireland is projected to exceed its National and EU climate targets (and the associated grounding report which is available here: <https://www.epa.ie/publications/monitoring--assessment/climate-change/air-emissions/EPAGHG-Projections-Report-2022-2050-May24--v2.pdf>). The press release states, inter alia, that:

- *“Ireland is projected to achieve a reduction of up to 29 per cent in total greenhouse gas emissions by 2030, compared to a target of 51 per cent, when the impact of the majority of actions outlined in Climate Action Plan 2024 is included.*
 - *To achieve a reduction of 29 per cent would require full implementation of a wide range of policies and plans across all sectors and for these to deliver the anticipated carbon savings.*
 - *Almost all sectors are on a trajectory to exceed their national sectoral emissions ceilings for 2025 and 2030, including Agriculture, **Electricity** and Transport.*
 - *The first two carbon budgets (2021-2030) will not be met, and by a significant margin of between 17 and 27 per cent.*
 - *Ireland will not meet its EU Effort Sharing Regulation target of 42 per cent reduction by 2030 28th May 2024.*

The Environmental Protection Agency (EPA) has today published its greenhouse gas emissions projections for the period 2023-2050. EPA analysis shows that planned climate policies and measures, if fully implemented, could deliver up to 29 per cent emissions reduction by 2030 compared to 2018, a reduction of 4 per cent each year from 2023 to 2030. This is insufficient to achieve the ambition of 51 per cent emissions reduction in Ireland’s Climate Act. The first two carbon budgets (2021-2030), which aim to support achievement of the 51 per cent emissions reduction goal, are projected to be exceeded by a significant margin of between 17 and 27 per cent. All sectors, except Residential buildings, are projected to underperform relative to the sectoral emissions ceilings. Agriculture, Industry and Electricity sectors are projected to be the furthest from their sectoral ceiling in 2030.”[emphasis added]

The Board should have regard to the above in considering the application for development.

Further, despite the Applicant’s assertions (at 4.2.1) that the development of Data Centers complies with the site’s HI zoning our Client believes that it materially contravenes the Development Plan for the following reason:

Data Centers are not listed as being permitted in principle on HI zoned lands.

Where a use is neither ‘permitted in principle’ nor ‘not permitted’ the Development Plan states that:

“uses which are neither ‘Permitted in Principle’ nor ‘Not Permitted’ will be assessed in terms of their contribution towards the achievement of the Zoning Objective and Vision and their compliance with and consistency with the policies and objectives of the Development Plan”

As set out above it is considered that the development does not, particularly in the light of the EPAs May press releases identifying electricity generation as being on a trajectory to exceed its sectoral emission ceiling, comply with Objective DMSO92.

Our Clients also:

- Remind the Board that it has a mandatory obligation under section 15 of the Climate Action and Low Carbon Development Act 2015 (as amended by Section 17 of the Climate Action and Low Carbon Development (Amendment) Act 2021), namely in so far as practicable, to perform its functions in a manner consistent with the matters stated in section 15, including (a) the most recent approved climate action plan, (the Climate Action Plan 2023), (d) the furtherance of the national climate objective, and (e) the objective of mitigating greenhouse gas emissions (GHG emissions) and adapting to the effects of climate change in the State.
- Notes that the Government Statement on the Role of Data Centres in Ireland's Enterprise Strategy July 2022 was not assessed for the purposes of Articles 1 and 3 of Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment, and it should not therefore be relied on as a framework for development consent in respect of data centres.
- Reminds the Board that Article 4(1) of Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy

(the "Water Framework Directive") and/or Regulations 4 and 5 of the European Communities Environmental Objectives (Surface Waters) Regulations 2009 requires that the Board ensure that a grant planning permission would not cause a deterioration of the status of a body of surface water.

As the Board will be aware there are a substantial number of Data Centre applications in Dublin before it at present. It is particularly important, when considering applications for such energy intensive development, their cumulative impact on the grid, on the ability of the States electricity sector to meet carbon targets, and the cumulative impact of permitting those applications on the ability of other parts of the economy to meet climate and carbon emission targets (where renewable energy might otherwise be directed to) and where Data Centres do not generate much in the way of direct employment ('up-to' c. 181 employees in the operational phase in this case (pe 4.1.7 of the Applicant's submission)).

For these reasons our Clients request that the Board refuse permission for the development.

Yours faithfully,

Brian Burns,
Solicitor
BKC Solicitors
252 Harold's Cross Road,
Dublin 6 W
Tel. +3531- 4976877
Fax. +3531- 4976865
DX 222 004



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^[1] BKC Solicitors, 252 Harold's Cross Road, Harold's Cross, Dublin, D6W T384

^[2] <https://www.epa.ie/news-releases/news-releases-2024/ireland-is-projected-to-exceed-its-national-and-eu-climate-targets.php#:~:text=In%20April%202023%20the%20Effort,42%20per%20cent%20by%202030.>

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Christine O'Connor,
BKC Solicitors

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