

Elaine Sullivan

S.37

File With

[Empty box]

SECTION 131 FORM

Appeal No

ABP-318180

Defer Re O/H

[Empty box]

✓ FR

Having considered the contents of the submission dated/received 24/6/24 from John Conroy + Louisa Env I recommend that section 131 of the Planning and Development Act, 2000 be/not be invoked at this stage for the following reason(s):

no no [scribble]

Section 131 not to be invoked at this stage.

Section 131 to be invoked — allow 2/4 weeks for reply.

Signed

[Signature]

Date

26/4/24

EO

Signed

[Empty box]

Date

[Empty box]

SEO/SAO

M

Please prepare BP — Section 131 notice enclosing a copy of the attached submission.

To

[Empty box]

Task No

[Empty box]

Allow 2/3/4 weeks

BP

Signed

[Empty box]

Date

[Empty box]

EO

Signed

[Empty box]

Date

[Empty box]

AA

James



Planning Appeal Online Observation

Online Reference
NPA-OBS-003582

Online Observation Details

Contact Name
Christine O Connor

Lodgement Date
24/06/2024 15:47:04

Case Number / Description
318180

Payment Details

Payment Method
Online Payment

Cardholder Name
Brian Burns

Payment Amount
€50.00

Processing Section

S.131 Consideration Required

Yes — See attached 131 Form

N/A — Invalid

Signed

EO

Date

26/4/24

Fee Refund Requisition

Please Arrange a Refund of Fee of

€ 50

Lodgement No

LDG-072902-24

Reason for Refund

no fee required

Documents Returned to Observer

Yes No

Request Emailed to Senior Executive Officer for Approval

Yes No

Signed

EO

Date

26/4/24

FK 27/06

Finance Section

Payment Reference

ch_3PVEAeB1CW0EN5FC1tBvagtx

Checked Against Fee Income Online

EO/AA (Accounts Section)

Amount

€

Refund Date

Authorised By (1)

SEO (Finance)

Authorised By (2)

Chief Officer/Director of Corporate Affairs/SAO/Board Member

Date

Date



The Secretary
An Bord Pleanála
64 Marlborough Street
Dublin 1

BB/COC

24th June 2024

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

Re: Third Party Appeal against Grant of Permission

Fingal County Council Planning Application Reference Number: FW22A/0308

Board Reference Number ABP 318180-23

Applicant: Universal Developers LLC

Address: Site at Cruiserath Road, Dublin 15

Dear Sir/Madam,

We¹ are writing to you on behalf of our clients and in response to an invitation from the Board² to make observations/comments on the submission of Colin Doyle which comments on EPA projections.

My clients endorse Mr Doyle's comments and adopt them as if traversed seriatim in this observation (for completeness a copy of Mr Doyle's observation is at Appendix 1).

Our clients also draw the Board's attention to an EPA press release (May 2024 available here³) 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/EPA-GHG-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.

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

² Received by letter dated 4th June 2024.

³ <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.>

- 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]

Our client also:

- Reminds 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 of planning permission would not cause a deterioration of the status of a body of surface water.



We trust that the Board will take the above (and the information at Appendix 1) and the associated into considerations in performing its functions in determining the Appeal.

Yours faithfully,

Christine O' Connor

Christine O' Connor,
BKC Solicitors

Encl.
€220
Observation of Dr Colin Doyle



APPENDIX 1:

An Bord Pleanála
64 Marlborough Street
Dublin 1, D01 V902

AN BORD PLEANÁLA
29 MAY 2024
Fee: € _____ Type: _____
Time: 9:34 By: leg post

Colin Doyle
12 Cottage Gardens
Ennis
Co. Clare
28th May 2024

Re: ABP 318180 Universal Developers LLC Data Centre Development Cruiserath
Addition to earlier submission concerning EPA Report published May 2024

A chara,

I posted a submission on the above case on 27th May which you will most likely receive this week.

I wish to make a short addition to my submission in light of the recently published GHG projections by the EPA which are a cause for grave concern. I enclose a copy of the EPA report which can be downloaded from the EPA website¹.

The relevant information which I wish to bring to the Board's attention is that the EPA projections to 2030 indicate there will be a significant breach of the legally binding national carbon budgets (p.16) and that emissions from the Electricity Sector are also projected to exceed its sectoral budget. In 2030, the EPA projects emissions of 3.9 MtGHG (p. 23) from the Electricity Sector. This is 0.9 MtGHG in excess of the 2030 target of 3 MtGHG which was planned in the state's Sectoral Emissions Ceiling (September 2022). Consequently the projections indicate significant exceedence of the budget for the Electricity Sector. As the EPA projections are just six years into the future, they are likely to be reliable.

Note also, that a CPPA entered into by the proposed development would not make the projected exceedence go away. The EPA has already factored in all renewable electricity projections in CAP 24 which have supporting implementation measures and which can be achieved by 2030 (p.7). The projected renewable electricity would therefore already encompass whatever CPPA could conceivably be arranged by the applicant.

One could reasonably conclude that a balance will not be achieved between the electricity demand of new developments and the supply of renewable electricity up to 2030. If it were the case that a balance would be achieved then there would be a projected compliance with the Sectoral Budget which is not the case.

¹ <https://www.epa.ie/publications/monitoring--assessment/climate-change/air-emissions/irelands-greenhouse-gas-emissions-projections-2023-2050.php>

According to data provided by the applicant² the proposed development would result in GHG emissions of 499,213 t GHG (0.5 Mt GHG) over the second carbon budget period 2026-2030. This would add to emissions in the Electricity Sector, which are already projected to be in excess of budget. A decision to grant permission would permit these emissions to occur and therefore would not be consistent with the national climate objectives.

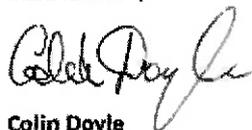
I trust that the Board will take the above facts into account in performing its functions in accordance with section 15 of the Climate Act 2015/21.

The EPA has also prepared projections beyond 2030, and these are available as a spreadsheet on the EPA website. While projecting to 2040 clearly involves uncertainties, it is the most robust estimate available at present to inform policymakers and competent authorities. In its response documents the applicant repeatedly referred to the possibility of achievement of zero carbon electricity by 2040 (as opposed to 2050 in national plans). In view of the EPA projection, this claim must be dismissed as nonsense. For 2040, emissions from the Electricity sector are projected to be around 2.8 MtGHG, which is a marginal reduction on the projection for 2030, but is still very far from zero carbon. An excerpt from the EPA spreadsheet is reproduced below:

2023-2050 ETS GHG Emissions Projections (kt CO2 eq)	2035	2036	2037	2038	2039	2040
Energy Industries	3734.85	3536.59	3568.41	3908.81	3491.64	3206.66
Public electricity and heat production	3425.48	3227.23	3259.04	3599.44	3212.27	2897.29

In balancing the claims of the applicant against the reasoned grounds for my objections I trust that the Board and its competent experts will take account of these recent EPA projections.

Mise le meas,



Colin Doyle