

The Secretary,
An Bord Pleanála,
64 Marlborough Street,
Dublin 1.

Date: 21 June, 2024
Our Ref: LW/ MF JN 22058

Dear Sir/ Madam,

RE: RESPONSE TO AN BORD PLEANÁLA UNDER SECTION 131 OF THE PLANNING AND DEVELOPMENT ACT IN RESPECT TO THE PROPOSED DEVELOPMENT COMPRISING THE CONSTRUCTION OF THREE NEW DATA CENTRE BUILDINGS (BULDING E, F, AND G) AND ASSOCIATED WORKS ON LANDS AT CRUISERATH ROAD, DUBLIN 15.

FINGAL COUNTY COUNCIL REG. REF.: FW22A/0308

AN BORD PLEANÁLA REF.: PL06F.318180

INTRODUCTION

On behalf of the applicant, Universal Developers LLC, which has its registered office at 251 Little Falls Drive, Wilmington, New Castle County, Delaware, 19808, USA, we, John Spain Associates, 39 Fitzwilliam Place, Dublin 2, hereby submit a response to a request under section 131 of the Planning and Development Act 2000, as amended, to make further submissions in relation to the above-referenced appeal.

This response is submitted to the Board in advance of the deadline provided in the Board's correspondence (5:30pm on the 24th of June 2024).

The Board's correspondence (dated the 4th of June 2024) enclosed a submission made by one of the third party appellants, Mr Colin Doyle of 12 Cottage Gardens, Ennis, Co. Clare, dated the 28th of May 2024 (referred to hereafter as 'the Colin Doyle further Submission').

A copy of the Board's correspondence and the Colin Doyle Further Submission are enclosed as **Appendix 1** to this document for ease of reference.

Managing Director: John P. Spain
Executive Directors: Paul Turley | Rory Kunz | Stephen Blair | Blaine Cregan | Luke Wymer
Senior Associate Directors: Meadhbh Nolan | Kate Kerrigan | Brian Coughlan | Ian Livingstone
Associate Director: Tiarna Devlin

This planning response to the Colin Doyle further Submission is supported by a detailed response prepared by AWN Consulting, which is included as **Appendix 2** to this document.

Additionally, in order to fully and robustly respond to the grounds set out in the Colin Doyle further Submission (which relate to recent developments in Climate Action Plan objectives and associated EPA projections), to assist the Board's consideration and determination of the current appeals, and to take account of additional developments in policy arising since the applicant's submission in response to third party appeals, the following documents are included as appendices to this document:

- **Appendix 3** prepared by AWN Consulting and John Spain Associates comprises an updated statement on the consistency of the proposed development with section 15(1) of the Climate Action and Low Carbon Development Act 2015, as amended, having regard to the adoption of the 2024 Climate Action Plan and the publication of Ireland's second statutory National Adaptation Framework (NAF), which was published on the 5th of June 2024.
- **Appendix 4** prepared by AWN Consulting comprises an environmental technical note on cumulative impacts of the proposed development in combination with a development (primarily consisting of a Biopharmaceutical Development and Manufacturing Building) on adjacent lands to the east (under Fingal Reg. Ref.: FW23A/0342), the application for which was subject to a final grant of permission on the 20th of February 2024. Appendix 4 also includes additional further detail on the cumulative assessment in respect of any renewable energy project which would be subject to a CPPA and the proposed development that was submitted with the Response to the Appeal dated 6 November 2023.
- **Appendix 5** prepared by AWN Consulting comprises an environmental technical note which sets out the manner in which the Environmental Impact Assessment Report for the Proposed Development and the response to third party appeals have taken into account the uncertainty in line with the relevant guidance.

These additional appendices are directly related to the assessment of climate impact, secondary impacts, and uncertainty as referred to in the Colin Doyle Further Submission and are submitted to assist the Board in their consideration of the appeals.

RESPONSE

As set out above, this summary response is informed by the accompanying technical response provided by AWN Consulting (Appendix 2).

The Colin Doyle Further Submission focuses on a report published by the EPA in May 2024 titled Ireland's Greenhouse Gas Emissions Projections 2023-2050. The EPA report provides *"an assessment of Ireland's total projected greenhouse gas (GHG) emissions from 2023 to 2050, using the latest inventory data for 2022 as the starting point. The focus of the assessment is out to 2030 given current national and EU 2030 climate targets."*

Exceedance of Sectoral Emissions Ceiling and Projected Renewables Delivery

The Colin Doyle Further Submission states that the EPA report notes a predicted exceedance of the Sectoral Emission Ceiling threshold for the electricity sector of 0.9MtGHG over the period to 2030.

The Colin Doyle Further Submission argues that the EPA report has taken account of all renewable electricity projected to be delivered under the 2024 Climate Action Plan (CAP24),

and that the report projections therefore encompass any project in respect of which the applicant might enter into a Corporate Power Purchase Agreement (CPPA).

As set out within the AWN Consulting Response (Appendix 2), the EPA report predicts emissions based on two scenarios as follows:

1. A scenario which takes account of measures committed to by the Government which were in place by the end of 2022.
2. A scenario which takes account of additional measures committed to by the Government under subsequent Climate Action Plans, which have not yet been implemented.

Additionally, AWN Consulting set out that the EPA report has excluded some measures set out in CAP24 to deliver additional renewable energy, or assumed that those measures are not achieved in full or are delayed beyond 2030.

As set in Section 4 of the AWN Environmental Response, which formed Appendix 3 of the previously submitted appeal response, the development itself will not make achievement of adherence to the Sectoral Emissions Ceilings (or the objectives of CAP24) more challenging, regardless of whether any renewable energy development that would be subject of a CPPA in support of the proposed development has been factored into the EPA report.

This is due to the fact that the new load added to the electricity system in respect of this particular development will be supported by new renewable energy generation which will be subject of a CPPA in line with the Government Statement on the Role of Data Centres in Ireland's Enterprise Strategy and the Government's CPPA Roadmap, which is identified as an appropriate mitigation measure against the secondary GHG emissions associated with the proposed development (in line with the IEMA 2022 Guidance).

Hence, the argument put forward in the Colin Doyle Further Submission (i.e. that the EPA report has taken into account any renewable project in respect of which a CPPA might be entered into) is a moot point.

Whether or not the wider economy and other developments (i.e. apart from the proposed development) can ultimately comply with the Sectoral Emissions Ceiling targets is immaterial to the Board's decision on the current application, given that the new load added to the system as a result of the proposed development will be supported by new renewable energy pursuant to a CPPA, and the development itself is therefore clearly in accordance with the emissions reduction targets of the Sectoral Emissions Ceilings and the policies of CAP24 and the Government Statement on Data Centres.

Balance of New Development and Renewables

The Colin Doyle Further Submission goes on to contend that "*a balance will not be achieved between the electricity demands of new developments and the supply of renewable electricity up to 2030*". For this proposed development a balance between development and renewable generation will be achieved as a result of the proposed development being supported by new renewable energy pursuant to a CPPA.

Firstly, as set out previously in the submitted Appeal Response, and detailed in the appended AWN Response document (Appendix 2), on the contrary to the above argument, the applicant is committed to engaging in a CPPA for new renewable generation in line with the Government Statement on the Role of Data Centres in Ireland's Enterprise Strategy and the Government's CPPA Roadmap. Thus, the proposed development itself, supported by a

CPPA, will clearly achieve a 'balance' between additional electricity demand from this new development, and the supply of renewable electricity.

Additionally, Mr Doyle's argument is clearly seen to be without merit if it is followed to its logical conclusion. Were this argument to succeed, it would follow that any new development proposal requiring electricity to operate, irrespective of whether the additional electricity was offset by a CPPA, could not be granted permission. This is clearly not a tenable position.

The proposed form of development, which is subject to a commitment to engage in CPPAs at the planning stage, is unusual (compared to other types of development, including other types of large energy user development) in that a commitment to provisioning new renewable energy generation has been made at planning application stage. Condition 13 attached to the Fingal County Council decision to grant permission included a requirement for the applicant to enter into such a CPPA, and a condition of this nature is acceptable and welcomed by the applicant. As such, this development goes beyond many other forms of development which have been approved without a commitment to enter into a CPPA.

The proposed development is therefore fully aligned with Government policy in this regard and will not be detrimental to the achievement of the Sectoral Emission Ceilings targets or result in an imbalance between new development and the supply of renewable electricity up to 2030 as claimed in the Colin Doyle Further Submission.

Predicted GHG Emissions

Additionally, the Colin Doyle Further Submission states that the applicant has indicated that the development would result in GHG emissions of 499,213t (0.5Mt GHG) over the second carbon budgeted period of 2026-2030. On this basis, the Colin Doyle Further Submission argues that granting permission for the proposed development would permit these emissions to occur and therefore would not be consistent with the national climate objectives.

With regard to the above claim, Mr Doyle appears to have misinterpreted the assessment and conclusions provided as part of the previously submitted appeal response (Appendix 3 to the previously submitted response).

The GHG emissions figures quoted in the Colin Doyle Further Submission are those which were predicted prior to mitigation (i.e. in the absence of a CPPA).

In fact, as set out within the AWN response (Appendix 2 to this document), the proposed development entails a commitment to a CPPA which is a recommended project specific 'substitution' mitigation measure as per the IEMA 2020 and 2022 guidance, and that will see the 'prior to mitigation' GHG emissions quoted by Mr Doyle mitigated in the 'with mitigation' scenario committed to by the applicant. This is set out in detail under Section 4 of the AWN Environmental response, which was Appendix 3 to the submitted appeal response.

Therefore, it is inherently incorrect to claim that a grant of permission for the proposed development would "*permit these emissions to occur*" and this argument is without any merit or basis in the documentation submitted, as the emissions referred to were those which were projected prior to mitigation. As outlined above, the development must be operated on the basis of the CPPA and these emissions will be mitigated by the CPPA.

2040 Predictions

Finally, the Colin Doyle Further Submission argues that GHG emissions from the electricity sector are predicted by the EPA to remain at 2.8 MtGHG by 2040, and that this undermines any claim that zero carbon electricity could be achieved in that timeframe.

With regard to this argument, we refer to the accompanying AWN response document (Appendix 2), which sets out the following:

“The electricity from the national grid, used to power the Proposed Development, will be supported by new renewable energy pursuant to a CPPA, and the development itself is therefore clearly in accordance with the aim of achieving the emissions reduction targets of the Sectoral Emissions Ceilings and the policies of CAP24 and the Government Statement on Data Centres. The continued use of CPPAs and the operation of the facility within the EU ETS will ensure that GHG emissions from the facility will be fully mitigated throughout its lifetime with the facility having a net zero operational impact in terms of GHG emissions.

CONCLUSION

This response to the request for Further submissions under section 131 of the Act is submitted on behalf of the applicant, Universal Developers LLC. As set out in this response document, and further substantiated by the technical response provided in Appendix 2 (AWN Consulting response), the additional arguments raised by Colin Doyle are without any merit.

The application has demonstrated the compliance of the proposal with national, regional, and local planning policy, and with relevant Government policy including the Government Statement on the Role of Data Centres in Ireland’s Enterprise Strategy 2022, including via a strong commitment to engaging in a CPPA in respect of the Proposed Development, which will provide for renewables additionality in line with the Government Statement.

Additionally, as set out within the introduction of this response document, Appendices 3-6 herewith provide additional and updated information in connection with the response to assist the Board in undertaking a comprehensive assessment of the proposed development when determining the third party appeals.

We trust the Board will afford the responses set out herein due consideration in determining the appeals. Should you have any queries or require any further information please do not hesitate to contact the undersigned.

Yours sincerely,



John Spain Associates

APPENDIX 1 – COPY OF CORRESPONDENCE FROM AN BORD PLEANALA AND COLIN DOYLE FURTHER SUBMISSION

APPENDIX 2 – AWN CONSULTING RESPONSE TO COLIN DOYLE FURTHER SUBMISSION

APPENDIX 3 – UPDATED CONSISTENCY STATEMENT WITH SECTION 15 OF THE CLIMATE ACTION AND LOW CARBON DEVELOPMENT ACT

APPENDIX 4 – AWN CONSULTING NOTE ON CUMULATIVE IMPACT WITH ADJACENT DEVELOPMENT AND RENEWABLE ENERGY PROJECT

APPENDIX 5 – AWN CONSULTING NOTE ON CONSIDERATION OF UNCERTAINTY