S. 37

File With _____

SECTION 131 FORM

Appeal NO: ABP-317304-23 Defer Re O/H

TO:SEO

Having considered the contents of the submission dated/received 7/7/23

From

behalf of Intel

AOS Planning on _____ 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 new material planning issues

E.O.: _____ Date: 20/7/23

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: _____ Task No: _____

Allow 2/3/4weeks – BP _____

EO: _____ Date: _____

AA: _____ Date: _____

S. 37

File With _____

CORRESPONDENCE FORM

Appeal No: ABP- 317304-23

Ms White

Please treat correspondence received on 7/7/23 **as follows:**

1. Update database with new agent for Applicant/~~Appellant~~ AOS Planning	
2. Acknowledge with BP 20	1. RETURN TO SENDER with BP _____
3. Keep copy of Board's Letter ☐	2. Keep Envelope: ☐
	3. Keep Copy of Board's letter ☐

Amendments/Comments
Applicants response to Appeal

4. Attach to file	
(a) R/S ☑ (d) Screening ☐	RETURN TO EO ☐
(b) GIS Processing ☐ (e) Inspectorate ☐	
(c) Processing ☐	

	Plans Date Stamped ☐
	Date Stamped Filled in ☐
EO:	AA: Sinead White
Date: 7/7/23	Date: 7- 7- 23

Lisa Quinn

From: Gael Gibson <gael@caas.ie>
Sent: Friday, July 7, 2023 10:29 AM
To: Appeals2
Subject: Appeal Response: ABP-317304-23/ Planning Authority Ref, 221417
Attachments: Response to Appeal- 317304-23.pdf

Dear Sir/Madam,

Please find attached our appeal response prepared on behalf of Intel.

We trust that this appeal response demonstrates to the Board that the full effects of the development proposal have been examined in detail and fully outlined in the various specialist reports.

Kind Regards,
Gael Gibson

Gael Gibson, | 1st Floor, 24-26 Ormond Quay Upper, Dublin 7, DO7 DAV9 |
087 702 3020 (mobile) | 01 872 1530 (office) | Gael@caas.ie | www.caas.ie
Technical Assistance for Local Authorties/Public Agencies

Response to 3rd Party Appeal on planning application for Overhead Line Diversion at Intel, Leixlip, Co. Kildare

An Bord Pleanála Reg. Ref. ABP-317304-23 (Kildare County Council File Ref 22/1417)

prepared for

Intel Ireland

by

AOS Planning
1st Floor
24-26 Ormond Quay Upper
Dublin 7
D07 DAV9

7 July 2023

Appeal Response

Having regard to the content of the appeal made, and the issues raised therein, it is submitted that all planning matters raised have already been previously covered, and addressed, within the planning application documentation submitted to Kildare County Council (KCC) on 28/11/2022, and further within the Response to the Further Information Request from KCC, submitted on 06/03/2023.

It is intended to respond to the current Appeal made, by addressing the main issues raised and identifying, for ease of reference, where these have been addressed within the application documentation. Where clarification is required in respect of any misinterpretation/ misunderstanding by the appellant, this is also provided. This appeal response also demonstrates to the Board that the full effects of the proposed development have been examined in detail and fully outlined in the various specialist reports.

The following information is provided in the context that the Board are making a *de novo* determination. All the relevant information required to make that determination is available to the Board. It is a matter for the Board to satisfy themselves regarding the sufficiency of the information.

At the outset, it is important to state that the proposed development being appealed is similar to other such developments proposed, granted, and implemented by Intel, and that it is consistent with the use and zoning of the Intel lands for industrial purposes. Intel has operated in Leixlip for 25+ years and has already previously built multiple developments on the site, demonstrating their ability to manage such projects, while respecting and protecting the environment around them.

It is further noted that the Kildare County Development Plan (2023-2029), and the Leixlip Local Area Plan (2020-2026) specifically support Intel's activities on its site.

3rd Party Appeal

It should be noted that, whilst the appeal cites many of the identified 'issues' as comprising major impacts, it provides no substantiation, nor basis for such statements. Also, as already stated, all of the above have been addressed within the planning application documents. A summary table providing indications, in brief, of these, is provided hereunder:

APPLICATION DETAILS:

The application to Kildare County Council (22/1417), comprised the alteration and realignment of an approximate 1.1km section of existing double circuit overhead line which supports the existing Maynooth-Ryebrook and Dunfirth-Kinnegad-Rinawade 110 kV overhead line circuits. The proposed development comprises of:

(1) Diversion. Diverting a section of the existing 110 kV double circuit overhead line to the north of the River Rye, along the eastern edge of the Intel site at Collinstown, linking back into the existing overhead line section at the carpark of the Lidl supermarket, directly south of the R148.

(2) Removal of Existing Double Circuit Towers. The decommissioning and removal of 4 No existing double circuit steel lattice towers and associated electrical conductors to include the removal of the existing towers and associated electrical conductors from site.

(3) Double Circuit Towers. The installation of 7 No new double circuit steel lattice towers. Two of these will be replacement towers (Towers T1 & T7). The towers will range in height from approximately 20.75 m to approximately 39.75 m above ground level and will support six electrical conductors (overhead lines).

(4) Site Works. All ancillary site development, preparation and reinstatement works, including access, landscaping and connection to existing services and utilities and miscellaneous site works.

No.	Grounds for appeal on planning terms	Appeal Response:
1.	Preliminary Ground - Absence of legible drawings and other necessary details on the online file [*Items 1-8*]	**Legibility of Drawings -Items 1-3** The points raised in Item 1-3 are noted. However, the drawings are legible. With regard to Item 2, it is noted that the Department of Housing, Local Government and Heritage who had previously raised queries regarding legibility have confirmed that they are satisfied with the responses to the Further Information received in relation to its observations. **Photomontages- Item 4** The point raised by the appellant in relation to adequacy of photomontages provided was addressed under the response provided to Item 5(a) of the KCC request for Further Information which both confirmed the adequacy of the images contained in Chapter 11 of the EIAR and provided panoramic photomontages as requested by KCC.

		Preparation of photomontages for a project of this nature would be beyond the level of detail required to provide an 'indication of the of the main reasons for the option chosen, taking into account the effects of the proposed development on the environment' as required by the Planning and Development Regulations, 2001, as amended. Also, to do so would be contrary to: the Guidelines on the information to be contained in Environmental Impact Assessment Reports, (EPA, 2022) which state that 'A detailed assessment (or 'mini-EIA') of each alternative is not required'; and to the judgement on Holohan v An Bord Pleanála (CJEU: C-461/17) which states that alternatives do not need 'to be subject to an impact assessment equivalent to that of the approved project'. Furthermore, preparation of photomontages for alternative route options would not be reasonable or practicable because the level of design detail required to generate photomontages would require development of a full design for each option. **Compliance with Article 22,23 and 25 of the Planning and Development Regulations,2001, (as amended) - *Items 5-7*:** The planning drawings were validated as per Article 22, 23 and 25 of the Planning and Development Regulations, 2001, (as amended) (hereafter referred to as *Planning Regulations*) and, as such, comply with statutory requirements. Furthermore, the planning application was accompanied by a Site Location Map, scaled at 1:2,500 [Drawing No. AE-P001], which included the level of detail required to allow an assessment on the proposed development as required by the Planning Regulations. Also included with the application were Existing and Proposed Site Layout Drawings at 1:500 [Drawing Nos. AE-P002 to AE-P007] and Site Context Elevations both at 1:500 [AE-P008] and at 1:200 [AE-P009 to AE-P012, AE-P017] in order to provide the appropriate level of clarity in both the location and details of the development. In relation to Article 25(2) of the Planning Regulations, the drawings submitted included the required number of copies of drawings (minimum 6 no copies required, 10 no copies submitted), at the correct scale (1:100), describing the structure/apparatus which will support, or form part of, the lines i.e. the detailed drawings of the towers. (Drawing Nos. AE-P012 TO AE-P016, AE-P020.) The drawings submitted to the Local Authority as part of the application include all of the required details at the correct scale and, as such, comply with the Planning Regulation requirements, so as to adequately describe the proposed development, as listed in the *Schedule of Documents and Drawings* included in the planning application document set.
2.	Unacceptable visual impacts of the overground option proposed [*Items 9 -11*]	**Visual Impact of the Proposed Development:** Impacts on protected views are addressed within Chapter 11 of the EIAR *Landscape & Visual Impact* and Section 5.1 of the Planning Report accompanying the planning application for the proposed development which demonstrate that it is not envisaged that the development will compromise the Protected Views listed in Kildare County Development Plan (2017-2023). Protected Structures and associated curtilages are addressed in Chapter 14 *Built Heritage*, and 11 (as above). Section 14.4 *Heritage Impact Assessments* which was prepared by a RIBA Accredited Specialist Conservation Architect states as follows: 1. Louisa Bridge: a negative impact on this Protected Structure is acknowledged and more detail is provided in Section 14.4.2.1.

		2. Hexagonal Well: a negative impact on this Protected Structure is acknowledged and more detail is provided in Section in 14.4.2.3. 3. Leixlip Spa/Romanesque Bath: a negative impact on this Protected Structure is acknowledged and more detail is provided in Section 14.4.2.4. 4. Rye Water Aqueduct: a negative impact on this Protected Structure is acknowledged and more detail is provided in Section 14.4.2.5 Chapter 11 of Kildare County Development Plan includes several Heritage Objectives, and the following Protected Structure Objectives are noted as relevant as they were referenced by KCC's Architectural Conservation Officer: **AH021**- *Protect the curtilage of protected structures or proposed protected structures and to refuse planning permission for inappropriate development that would adversely impact on the setting, curtilage, or attendant grounds of a protected structure, cause loss of or damage to the special character of the protected structure and/or any structures of architectural heritage value within its curtilage. Any proposed development within the curtilage and/or attendant grounds must demonstrate that it is part of an overall strategy for the future conservation of the entire built heritage complex and contributes positively to that aim.* **AH032** - *Ensure that new development will not adversely impact on the setting of a protected structure or obscure established views of its principal elevations* It is worth noting that the proposed development is not located within the attendant grounds or the curtilage of any protected structures or proposed protected structures. Therefore, the development is not contrary to either of these Conservation Objectives.
3.	Failure to supply information on the alternatives studied by the developer [*Items 12-25*]	**Alternative Design Options** The points raised by the appellant in relation to alternatives have been comprehensively addressed by the systematic consideration of ten alternative design options as presented in Chapter 3 of the EIAR and further clarified in the responses provided to items 4, to 4(c) of KCC's request for FI. In relation to the suggestions in the appeal that other alternatives ought to have been considered, it is considered that this has also been covered by the response provided to 4(c) of KCC's request for FI in which it is confirmed that 'The reasonable alternatives studied by the team who prepared the EIAR are set out in Chapter 3 and in Appendix 3.1 *Multi-criteria comparison for Identifying the Best Performing Option*.' For additional clarity it may be noted that the alternative location *strategies* outlined in s3.2.1 of the EIAR preceded, and were provided as context to, the selection of the reasonable alternatives that were described and evaluated in s3.3 - s3.6. Figure 3.1 did not indicate if or where any specific underground or overground options would be considered. Notwithstanding, an underground route referred to as *UGC Option U1 - Western Route* and running beneath the western parts of the Intel campus was one of the ten alternatives considered in the EIAR and its Appendix 3.1.

		In relation to item 18 of the appeal regarding specific potential environmental effects of alternative options, the response to Item 4 of KCC's request for FI clarifies that the environmental criteria used in the analysis presented in the EIAR were selected to enable an appropriate level of appraisal of likely significant effects for the consideration of alternatives stage. The response provided to item 4 above clarifies the appropriate level of appraisal, as set out in relevant guidelines and case law. Furthermore, it is notable that the information presented in the NIS (Section 7.1.6), as clarified in the RFI and elsewhere in this response, confirms that the proposed development on its own does not pose a risk of adversely affecting and will not adversely affect (either directly or indirectly) the integrity of the Rye Water Valley/Carton SAC in view of its conservation objectives. In relation to item 20 of the appeal which relates to planning ref 05/296, this was generally considered, insofar as relevant, in the response provided to item 20 of the Killross submission as included in Attachment 1 to the response to the KCC request for FI. Due *inter alia* to its age, that permission is not considered to be of any specific relevance to the current application including the requirements regarding consideration of alternatives.
4.	No proper Appropriate Assessment Screening informed the NIS [*Items 26-33*]	***Foraging ranges of Cormorant and other birds / Migratory birds – Items 26, 27 & 29***: These matters have been addressed in the NIS and in items 1 (c) and 1 (d) of the FI Response. Notwithstanding, supplementary information is now provided in response to the appellant's grounds as follows. Ireland's Eye SPA is a documented breeding colony for Cormorant (NPWS Site Synopsis document). This SPA is approximately 29 km from the proposed development location. Foraging trips by Cormorant are typically within a mean range of 10 km (*BirdLife International Seabird Database*, Birdlife International, 2011). This information, as set out in s5.3.2 of the NIS, shows that the use of a foraging range of 20-25 km in the assessment of the proposed development represents implementation of the precautionary principle. The following paragraphs provides an additional detailed explanation of Cormorant foraging ranges. ***Detailed explanation of Cormorant foraging ranges*** For the majority of SPAs for which Cormorant are listed as a Special Conservation Interest (SCI), only population trend and distribution are given as Conservation Objective targets - with no distance set by the National Parks and Wildlife Service (NPWS). However, the NPWS does list a small number of SPAs (Saltee Islands, River Shannon and River Fergus Estuary and Inner Galway Bay SPA) which have Site-Specific Conservation Objective (SSCO) targets. The following foraging ranges are listed: 50 km maximum; 31.67 km mean maximum; and 8.46 km mean (*BirdLife International Seabird Database* (Birdlife International, 2011). On this basis a precautionary 10 km mean foraging range was applied as a key consideration in assessing impacts on likely usage by Cormorant of the lands in and around the Intel site. More recently and following updated guidance, new foraging ranges have been identified (Woodward *et al.*, 2019). There is only one Irish SPA for which these new foraging distances have thus far been used as site specific targets, namely Connemara Bog Complex SPA [004181]. The SSCOs for this SPA note that during the breeding season, Cormorant can forage over waters up to 33.9 km away from the colony (Woodward *et al.*, 2019).

It is anticipated that the new foraging ranges will continue to be used in SSCOs as these are drawn up by the NPWS for other SPAs, including for Ireland's Eye SPA. In the event such a change to the Ireland's Eye SPA SSCOs, the maximum foraging range (of 25 km +- 8.3km standard deviation) from the 2019 Woodward *et al.* document would be similar to the 20-25 km used in the assessment of the proposed development. Notwithstanding the minor difference between these maximum ranges, the 10 km mean foraging range used in the assessment, which represents the range within which the majority of birds would be expected to forage, would account for the majority of SCI Cormorant population, owing to significantly higher energy usage (35%) when this species travels further away from coastal waters (Woodward *et al.* 2019).

The argument introduced in respect of Cormorant migration pathways between natal colonies and wintering areas is not strictly applicable, as they are resident at Ireland's Eye SPA and typically the foraging ranges set out in Woodward *et al.*, 2019 are applicable. However, even in the case that migrating birds pass through the proposed development area (migration would be twice yearly, and it is noted that they may not be associated with the Ireland's Eye SPA, but rather other undetermined SPA sites), measurable population level effects would not arise for any Cormorant travelling through or adjacent to the proposed development land by virtue of the low numbers of this species recorded at the development site, distance to breeding sites in the SPA, the general lack of disturbance to suitable habitat and the fact that industry standard mitigation measures, such as recommended in Eirgrid's 2016 Guidance - *Evidence Based Environmental Studies Study Number 5: Birds* have been specified for the proposed development.

Collision Risk – Items 28 & 31:

It is considered that this is addressed adequately in Item 1(d) of the FI Response. Notwithstanding, supplementary information is now provided in response to the appellant's grounds as follows.

While the original response may not have been explicit in noting that 5 wires as opposed to 3 wires are proposed to be strung between towers, the overall assessment considered the relocation of the towers and the suspended wires.

It is also known that many birds can become habituated to changes in the landscape, particularly in built up areas. In respect of the relocated towers, data provided in the *Evidence based Environmental studies documents number 5 Birds* (EirGrid 2016: https://www.eirgridgroup.com/site-files/library/EirGrid/EirGrid-Evidence-Based-Environmental-Study-5-Birds.pdf), would suggest few collision records. The guidance documents that certain birds are more at risk of collision with transmission lines than others. Large species such as swans, geese, and poor fliers such pheasant are most at risk.

The thin wire at the top of powerlines is widely reported as the main cause of bird collisions, although collisions with powerlines are considered to be rare events. Most studies conclude that mortality from collisions is unlikely to affect bird populations. However, where rare or protected species occur, impacts could be significant in the absence of mitigation. The EirGrid document points to research indicating positive results from marking overhead lines on sensitive flight paths.

The surveys at the site of the proposed development recorded little overflying of the site by birds and a key focus was on SCI birds – gulls and waders. The evidence from surveys did not record significant numbers of SCI species within or overflying or of others that fly at similar heights to the proposed towers. The typical flying height for Geese and swans when migrating is typically above 50 m. However, in terms of commuting between suitable sites, this flying height is lower – between 30 and 50 m, so there is potential for collision risk across the Rye water river and adjacent lands. Other than small numbers of swan on the adjacent canal, none were recorded over the Rye Water, which is not considered a suitable area for such birds owing to the relatively shallow nature along much of the Intel owned lands, as the presence of trees and scrub which would preclude landing and take-off.

Furthermore, and in any event, migration (as opposed to commuting) is limited to two short periods in the year and typically at higher flight paths above the potential height of collision risk presented by overhead electrical lines. Inclusion of visible bird diverters on the proposed relocated wires spanning the Rye Water will provide further indication of a potential collision hazard. In terms of Golden Plover, the typical migration height is 50-100m, which is greater than the height of the towers. In term of Kingfisher, this is a low flying bird along suitable watercourses including the Rye Water. As there are no towers, there is no risk of collision or impediment to flight path.

Notwithstanding the fact that the proposed development will result in the relocation of physical structures in the landscape, no population effect on bird numbers are predicted by virtue of the low number of species recorded during surveys, distance to breeding sites in the SPA, the general lack of suitable habitat that will be impacted by the development and the fact that industry standard mitigation measures have been specified.

Special Conservation Interest(s) (SCIs) – Item 30:

The RFI response, which clarified certain issues raised in respect of the planning application, did consider the NPWS-identified reference, and contended that an accepted approach in respect of international thresholds for SCI species including use of published mean foraging ranges, was appropriate. The contention that the RFI response did not address recent updates in foraging ranges which were developed in respect of wind farms (Woodward *et al.* 2019) is not accepted (ref response to items 26, 27 and 29 above). Notwithstanding the changes to foraging distances to some SCI species and the extension of the maximum foraging range, the original assessment, although not mentioning it, took a precautionary approach based on the published data, as referenced in the NIS and the assessment outcome does not change, for the following reasons.

The survey data recorded relatively low numbers of birds. Despite the potential for collision risk posed by the proposed towers, particularly for slower moving birds, as noted by the 2016 Eirgrid *Evidence based Environmental studies documents number 5 Birds guidance,* the habitats impacted by the proposed tower locations and wire stringing do not provide suitable foraging habitat, nor do the towers or cables pose a population level collision risk or impediment to migration, by virtue of low numbers recorded during surveys in respect for the proposed development, the absence of flight path and the application of industry standard mitigation measures. As no population effects on bird numbers and hence adverse impacts on the integrity of any SPA can be concluded. Any

		doubt in respect of unidentified SCI or migratory birds that were not recorded or that might, on an occasional basis, overfly the site would similarly not result in a population effect. ***Golden Plover – Item 32:*** It is considered that this was adequately addressed in Item 2(c) of the FI Response, the survey data recorded a single occurrence of Golden Plover across all survey dates and the assessments consider the potential impacts at all stages, contextualising the potential impact to SCI species by virtue of number of records, the distance to the SPA with considerable suitable foraging habitat in between, and the fact that the bulk of the habitat underneath the proposed development (largely rank grassland, scrub, landscape tree screening and wet ground along the low-lying Rye Water) is not a suitable corridor for foraging by Golden Plover. The North Bull Island SPA Conservation Objective supporting documents note that Golden Plover were faithful to the SPA, but as terrestrial waders, do on occasion make use of suitable inland sites (*ex-situ* sites). However, no distance is provided in respect of the potential foraging distance for the SPA population. It is noted in the NIS that Golden Plover have a core foraging range of 3 km, with maximum range of 11 km as documented in Section 5.3.2 of the NIS. Given that the numbers of Golden Plover recorded were low and only recorded on a single occasion, this suggests that the area is not a foraging area and the bulk of the habitat underlying the prosed development is not of a suitable type or condition that would be used by Golden Plover. In addition, there is considerable distance from the SPA with a considerable number of alternative foraging sites. As the survey numbers for the development site don't approach population records quoted for the SPA of 97 birds (peak at low tide) and because the NPWS Conservation Objectives Supporting document for North Bull Island SPA (Site Code 4006) published in October 2014 notes that the counts were below the threshold of all-Ireland importance, it was concluded that the site is not an important site supporting SCI populations of Golden Plover and, as such, no population effects on SCI Golden Plover are predicted. ***Validity of Appropriate Assessment – Item 33:*** The AA Screening report, which is but a stage in the overall AA process, only presents information in support of the Competent Authority's assessment. The process is not completed until the CA satisfies itself as to the potential for likely significant effects and publishes a determination.
5.	No proper Appropriate Assessment can be conducted [*Items 34-38*]	***Denyer Report – Item 34:*** The baseline reports provided by Ms Joanne Denyer and Professor Johnston provide the baseline scenario explaining the distribution, likely conditions for presence and the characterisation of the petrifying springs habitat. Their purpose is not to provide an impact assessment in respect of this development. The hydrological and hydrogeological assessment used this baseline and confirmed that this project has no connection.

Ms Maria Cullen's criticism all related to alleged adverse effects of ammonia on petrifying springs in respect of an entirely different project and are not relevant to this project because it will generate no ammonia emissions.

Mollusc Report – Item 35:

The reports referred to are historic reports in respect of monitoring baseline surveys undertaken for Intel that have been superseded by up-to-date surveys undertaken for this project that represent best scientific knowledge. For the avoidance of doubt, the up-to-date surveys confirm the findings of the historic surveys.

Dewatering of the Petrifying Springs- *Item 36:*

The conclusions and statements included in the response provided to item 1 (a) of the KCC request for further information (RFI), which refers to Chapter 7 of the EIAR, are also applicable to the additional petrifying springs identified in the Denyer Ecology Report.

There is no likely hydraulic continuity between towers 5 or 6 and the identified petrifying springs named as L03 and L04 in the Denyer Ecology Report. All the towers are located outside the springs' potential hydrological zones of contribution.

With regard of the spring named as L13, tower 6 is also located outside its zone of contribution. This spring is associated with a small stream, for which the likely catchment is located directly to its north-northeast and tower 6 is located c. 50 to the west.

As stated in Section 7.3.20 of Chapter 7 of the EIAR, the natural groundwater and surface water regime which supports the spring/seepage at the Louisa spring complex will be unchanged by the proposed development. No significant soil excavation, dewatering or disturbance of natural drainage is required as part of the projected works. This also applies to the petrifying springs identified in the Denyer Ecology Report.

Additionally, as stated in Section 7.4.1.1 of the Chapter 7 of the EIAR, the temporary impact during construction caused by the proposed dewatering will have no effect on the petrifying springs at the Louisa spring complex, as it will not impact on the deep or shallow groundwater feeding these springs. The shallow groundwater at the proposed excavation and these springs are not in hydraulic continuity and the groundwater flow directions differ. This is also valid for the petrifying springs identified in the Denyer Ecology Report.

NPWS Recommendation regarding hydrogeological analysis- *Item 37:*

It is not appropriate to respond on behalf of the NPWS and the issue raised. It is noted that NPWS have raised no further concerns based on RFI responses.

As stated in the EIAR and in the response to Item 36 above, the natural groundwater and surface water regime which supports the spring/seepages at the Louisa Bridge spring complex and the petrifying springs identified in the Denyer Ecology Report will be

		unchanged by the proposed development. There is no hydrogeological (or hydrological) connection between the proposed development and the spring /seepages identified in the Denyer Ecology report. Therefore, the condition of groundwater or soil underlying the site has no bearing on the potential for the proposed development to cause significant effects on these features. **Removal of Trees - *Item 38:*** The proposed development will not generate any ammonium. Notwithstanding, the potential effect of trees acting as absorbers of ammonia (NH_3) has been addressed in the response to item 1(b) of KCC's request for FI. This details that conservative modelling techniques were discussed in s9.1.1 of the EIAR for the Revised and Extended Manufacturing Facility (KCC ref. 19/91, ABP ref. PL09.304672) where it is noted that the model does not take account of the potential mitigating factors of the trees' absorption of ammonia. The air dispersion model was run with "depletion" turned off, which is the regulatory default approach. This approach leads to higher ambient concentrations compared to the option of running with "depletion" turned on. If the model wished to account for the mitigation of the trees absorbing NH_3, this could be done by turning on "depletion" and changing the surface roughness (see Technical Note in Attachment B to the FI response for explanation) within the model to account for trees in the area. If "depletion" was turned on, the presence of vegetation would reduce the mass in the plume, through deposition onto vegetation, leading to lower ambient concentrations downwind of the vegetation. However, this was not the case and conservative modelling assumptions were made which do not account for the trees as potential mitigating factors. Therefore, the impact of cutting down trees would not materially change the assessment as they were not accounted for as a mitigating factor within the assessment.
6.	No proper Environmental Impact Assessment can be conducted [*Items 39-49*]	**EIA Screening and compliance with EIA Directive - *Item 39:*** An EIAR has been provided to enable the Council to undertake an EIA in respect of it. While the EIAR has been done voluntarily, Sections 2.1, 2.3 and 2.4 make it clear that it has been prepared so as to be compliant with the requirements of the applicable Directive. **Consideration of alternatives - *Item 40:*** This is covered under the topic of alternatives above (ref. heading 3 of this appeal response). **Ground Water- *Item 41:*** The information presented in Chapter 7 of the EIAR in relation to groundwater quality (ref s7.3.11) does not show in any case that the groundwater under the site is "contaminated". The threshold values established in the Groundwater Directive S.I. No. 9 of 2010 and amendment; S.I. No. 366 of 2016 were exceeded only for the following parameters Chloride (BH3, BH4 and BH5), Cadmium (BH5) and Lead (BH5). The recorded exceedances in Chloride (250 mg/l, 310 mg/l and 220 mg/l in BH3, BH4 and BH5, respectively, versus a threshold value of 187.5 mg/l) are not indicative of "pollution from sewage and industrial effluents". According to the EPA groundwater quality

database for the Dublin Ground Waterbody, results collected to the north of the site (Carton Demesne) have presented concentrations up to 275 mg/l during the period 2010-2022 (Rye Water RW1 well; refer to www.catchments.ie).

As stated in s7.4.1.1 of the EIAR, dewatering is only anticipated to be required during the excavation of tower 6. Therefore, groundwater associated with the location of the borehole BH5 will not be pumped. (Borehole numbering corresponds to tower numbers (ref EIAR Figure 7.8)).

As there is no hydrogeological or hydrological pathway nor potential to impact the zone of contribution that supports the Spring vegetation, if follows that there can be no impact on habitats or species as a result of excavations or temporary groundwater pumping.

Impact on Petrifying Springs- Item 42:

As mentioned in response to item 36 above, there is no hydrological or hydrogeological pathway nor potential to impact the hydrological/ hydrogeological zone of contribution that supports the petrifying springs. It follows that there can be no impact on petrifying springs.

Collision Risk Impact- Item 43:

In respect of birds, the response to Item 1(d) of KCC's request for FI addressed this item. The responses provided above to items 28 and 31 of the appeal further address this issue.

In terms of bats, the EIAR documents that 6 species were recorded along 3 transect surveys focused on suitable bat commuting and foraging habitat, including woodland, hedgerows and treelines, and watercourses. Transects covered the wider study area, including farmland and woodland in the north and south of the study area, Louisa Bridge, sections of the Royal Canal, and the Intel facility itself. High levels of bat activity were recorded along the Rye Water and the Canal. With exception of Leisler's bat, the majority of bat species fly relatively low and thus would avoid potential collision with OHL elements, which are set back from watercourses. Section 6.4.2.3 of the biodiversity chapter of the EIAR deals with collision impacts and mortality. The majority of research into bats and collision impacts relates to onshore wind turbines, where key impact is barotrauma (changing wind pressure owing to rotating blades) rather than from direct impact. As bat species navigate largely by echolocation calls, static structures such as those proposed as part of the proposed development present a low risk in terms of collision.

Removal of Trees and Consideration of Alternatives - Item 44:

The response to item 1(b) of the KCC request for FI clarifies that the extent of tree removal will only affect a small proportion of the trees in the area. Consideration of options is covered under the topic of alternatives above (ref. heading 3 of this appeal response).

Noise Impacts - Item 45:

The potential effect of construction related noise impacts have been addressed in Sections 10.4.1, 10.5.1 & 10.6.1 of the EIAR as well as in the Outline Construction Environmental Management Plan. On review rock breaking activity was not specificallya ssessed in the EIAR chapter because there was no likelihood of significant effects occurring because of rock breaking. However, potential rock breaking activity in the vicinity of each existing tower to be removed or new tower being installed has been assessed here. If required rock breaking will be carried out using a tracked excavator with a breaker. Making reference to Appendix C in British Standard BS 5228-1: 2009+A1:2014: Code of practice for noise and vibration control on construction and open sites – Noise the noise emission from an excavator mounted rock breaker is 93dB(A) when measured at 10m from the breaker, BS5228 Ref. C.9-11.

Figure 10.4 details the nearest noise sensitive locations (NSL) to the works. The table below presents the calculated noise from rock breaking activity at each NSL.

Construction Phase	Item of Plant (*BS 5228-1* Ref)	L_{Aeq} at distance (m)			
		NSL1 (115m)	NSL2 (250m)	NSL3 (240m)	NSL4 (640m)
Rock Breaking	Tracked Excavator with Rock Breaker (C9.11)	65	58	59	50

The rock breaking construction noise prediction values at all representative NSLs are within the criterion of 70 dB $L_{Aeq,1hr}$ for weekdays and the criterion of 65 dB $L_{Aeq,1hr}$ for Saturdays. Due to the large distances between identified areas of construction works, the associated noise levels at the nearest noise sensitive receivers is relatively low and, in many cases, less than or of the order of the prevailing ambient noise levels.

The effect on the noise environment due to rock breaking will be transient in nature and implementation of the good practice noise reduction measures outlined in Section 10.5.1 of the EIAR will minimise the effect of rock breaking on the surroundings.

Cumulative Impact - Items 46 -48:

As is stated in section 17.4 of the EIAR, cumulative effects are addressed as relevant through the EIAR. This included both existing elements of the Intel campus, which are considered as part of the baseline environment, elements at planning consent stage and elements that are permitted but not yet built, insofar as relevant to the assessment of likely significant cumulative effects.

The proposed development's cumulative impact with the solar farm development KCC (File Ref 22/06) was considered in the OHL NIS (ref s8 and Appendix III) which found that adverse effects on the integrity of European sites would not be caused as a consequence of the proposed development acting in-combination with this or any other projects.

As stated in response to item 44 above, the extent of tree removal required for the subject development will only affect a small proportion of the trees in the area. There is no significant potential for the solar farm to cause any significant cumulative effects, including effects due to tree or hedgerow removal or land clearance, when considered in combination with effects of the subject development.

Irish *Rail Dart+ West project- Item 49:*

Hydrology and Hydrogeology

With regard to hydrogeology, the EIAR of the *Irish Rail Dart+ West* project (*Dart Project*) states that during construction and operational phases, the impacts on the Tufa Spring system in the Rye Water Valley/ Carton SAC will be imperceptible. As mentioned in the response to item 36 above, the proposed OHL development will not have any hydrogeological connectivity to the identified petrifying springs; therefore, the predicted effect on this system will also be imperceptible during construction and operational phases and therefore no potential for significant cumulative / in-combination effects with the Dart Project are foreseen.

In terms of hydrology, the Dart Project EIAR predicts that the overall residual construction phase effects on surface water quality are to be negative, slight, and temporary. In addition, operational effects are predicted to be positive, long term, and not significant to slight effects. The Chapter 8 of the EIAR for the subject development predicts a temporary, imperceptible, neutral, and negligible residual impact on hydrology during construction phase and temporary, imperceptible, neutral, and negligible during operational phase. Therefore, no potential for significant cumulative / in-combination effects with the Dart Project is foreseen.

Noise and Vibration

The potential for cumulative noise or vibration impacts due to the proposed development and the Dart Project is limited to the construction phases of both projects possibly occurring simultaneously. However, on review of the proposed construction phases of both projects, cumulative noise or vibration impacts are not expected to occur because Dart Project works will occur during night-time periods to avoid closure of the operational rail line while the proposed electricity infrastructure project will be carried out during daytime hours. Given that noise and vibration impacts do not persist and only occur when the noise source is active, cumulative impacts will not occur when the works for both projects occur at different times. Thus, there will be no residual or cumulative construction phase noise or vibration impacts.

Dust

The Dart Project EIAR concludes that when the dust minimisation measures detailed in the mitigation section of this chapter are implemented, fugitive emissions of dust from the site are not predicted to be significant and pose no nuisance, human health or ecological risk to nearby receptors. Thus, there will be no residual or cumulative construction phase dust impacts.

Other Emissions

During the operational phase of the Dart Project, its EIAR states that the regional mass emissions of NOx, PM_{10} and $PM_{2.5}$ produced by the railway operations will be decreased. Thus, there will be no adverse cumulative impacts due to the Dart Project.

Biodiversity

In respect of Biodiversity, two separate reports: the Biodiversity Chapter of the EIAR and the NIS have been reviewed to inform this assessment. There is no direct overlap between the projects, although the proposed rail upgrade is proximally located to the Intel lands where it follows the bend in the Royal Canal near Louisa Bridge and continues westwards to Maynooth. The project description notes as part of the electrification of the railway line, the installation of OHL along its length and the construction of a number of substations to power the OHL. A new platform is also potentially proposed to the east of Louisa Bridge. In addition, there will be some bridge enhancements and the construction of a new rail deport at Maynooth.

The Biodiversity Chapter of the EIAR for the Dart Project identifies a number of key ecological receptors, similar to those assessed in the proposed development to realign and divert the OHL near Intel. Of note is that, whilst identifying the presence of the Petrifying spring associated with Rye Water Valley /Carton SAC in its baseline, there is no impact addressed identified in the biodiversity assessment, as it was ruled out as a Key Ecological Receptor (KER) in terms of habitat loss or disturbance. The assessment followed on from assessment elsewhere in the EIAR (s 11.5.2.3.2), where the hydrogeological effects during both construction and operation on the spring habitat are ranked as imperceptible (Including the construction of the new depot 3 km away at Maynooth). In respect of the hydrological assessment, Chapter 10 of the Dart Project EIAR does not reference the Rye Water, as no direct impact are identified. In respect of overall construction and operation effects on water quality, the assessment noted negative, slight, and temporary effects during the construction phase, changing to positive long-term, not significant to slight effects.

The other important similarity in terms of the two projects and KERs is in respect of migrating/commuting birds, for which Light bellied Brent Geese was the key species for the DART Project. During construction, the risk of direct mortality, including rail and road collisions, was considered to constitute a short-term imperceptible negative impact at the local level. During operation, the risk of direct mortality through is considered to constitute a permanent imperceptible negative impact at the local level. EirGrid's 2016 *Evidence based Environmental studies documents number 5 Birds* notes that slower moving birds e.g., Geese, Swans and Cormorants may be vulnerable to collision with Overhead line Equipment (including railways electrification gantries and conductors). The Dart Project EIAR, which covered a considerably greater zone of influence considered that bird collision with OHLE could lead to a permanent significant negative impact at the international level. This was by virtue of the birds' numbers and proximity of railway OHLE, and the potential collision impacts focussed on the area where Light bellied Brent Geese were recorded, which was documented as being inside the M50 roadway along the canal and adjacent *ex-situ* foraging sites. Similarly for habitat loss, fragmentation/barrier effects and disturbance to all birds during construction and operation these were typically short-term imperceptible negative or permanent imperceptible (in terms of linear woodland loss) at a local level. However, following the implementation of mitigation measures including the installation of industry standard bird deflectors at specified areas, including a number of areas along the proposed railway OHLE in the vicinity of the proposed Intel development, it was concluded that there

		would be no significant residual negative effects on birds at any geographic scale. With the application of the proposed mitigation strategy for the proposed Dart Project, it is concluded that there was no potential for significant in-combination effects to arise. The NIS for the DART Project identified a number of European sites likely to be affected by the proposed development. These are consistent with those identified in the NIS for the proposed OHL realignment and diversion, although the Drat Project also considered additional European sites including other SPAs in Dublin Bay, from which SCI birds might commute from. Comprehensive design and construction mitigation was prescribed in respect of water quality and ensuring no adverse impacts on the Rye Water Valley/Carton SAC, while collision risk for commuting birds – Light bellied Brent Goose – recorded further east towards Dublin and documented *ex-situ* sites, a bird species that was not recorded in close proximity to the proposed Intel development, included the inclusion of bird deflectors on sections of the OHLE for the Dart Project. A further mitigation measure in respect of disturbance impacts at known feeding sites adjacent to the Dart Project, prescribed no daytime construction – this last mitigation measure is not required for the proposed OHL realignment and diversion in the vicinity of Intel lands, owing to the survey evidence and the absence of known feeding sites nor realistic potential for same in the vicinity of the proposed OHL realignment and diversion. The NIS concluded that, following the full and proper implementation of the mitigation prescribed that there was no potential for significant in-combination effects to arise on not Qualifying Interest habitats, or species and that the construction and operation of the proposed railway electrification project not adversely affect the integrity of the QIs. In respect of Special Conservation Interests birds – specifically Light bellied Brent Geese, it was noted that mitigation measures proposed in Section 5.2 of the NIS and their full implementation as prescribed in Section 5.3 would reduce *"all negative impacts on Light-bellied Brent Goose to imperceptible levels"*. Furthermore *"Any residual impacts will not adversely affect Population Trend or Distribution of Light-bellied Brent Geese within the South Dublin Bay and River Tolka Estuary SPA or the North Bull Island SPA"*. Therefore, considering the mitigation measures proposed for each project and the absence of any residual effects that would affect the SCI populations of any SPA sites, there is no potential for adverse effects on the integrity of any European sites, to arise as a consequence of the proposed OHL realignment and diversion acting in combination with the Dart Project.
7.	Contrary to Section 28 Guidelines for Planning Authorities: *The Planning System and Flood Risk Management (November 2009)* [*Items 50-51*]	For this option, there is no alternative but to have an intermediate tower in this location, on account of span design guidelines [*110/220/400 kV Overhead Line Functional Specification*, EirGrid document reference: LDS-EFS-00-001-R0 (s6.5.7 110 kV Tower Types)]. A Stage 2 Assessment / Justification Test was carried out as documented in Flood Risk Assessment (FRA) which was included in the planning application document set. This evaluated the flood risks and found no obstacle to prevent permission, having regard to the lack of likely effects on flood risk to the structure, nor to the passage of flood waters*, as required by the Assessment/ Justification Test.

		* The proposed towers are steel lattice structures. These structures are porous in nature to flood risk and do not provide a barrier or obstruction to flooding.
8.	Accident Risk [*Item 52*]	***Accident Risk- Item 52*** Accidents have been addressed in Chapter 16 of the EIAR submitted with the planning application. This was confirmed in the Further Information response submitted to KCC.
9.	Request for an Oral Hearing [*Item 54*]	This is not a matter for the applicant to address.

Notwithstanding having provided the above, and in respect of providing a brief, yet more comprehensive response to the planning issues raised, the following is highlighted:

1.1. ***Proposal is contrary to the proper planning and development of the area***

The proposed development fully conforms with the zoning of the lands wherein it is proposed to be located. The site of the proposed development is zoned for 'Industrial & Warehousing,' which has a land use zoning objective "to provide for industry, manufacturing, distribution and warehousing". The proposal is of an industrial nature. Furthermore, Chapter 5 of the planning report accompanying the planning application for the proposed development submitted to KCC demonstrates that the proposed development fully complies with National, Region, County and Local policy and objectives.

1.2. ***Impacts on NHA's and SAC's (specifically refers to the Rye Water Valley/Carton SAC)***

Impact on protected sites is addressed within the biodiversity section of the EIAR (Section 6), and also the Natura Impact Statement (Chapters 6 and 7) prepared for the proposed development.

2. Conclusion

The Appellant has highlighted a number of concerns in their appeal submission that we submit are unfounded, and which have been addressed in considerable detail in the supporting documents which accompanied the Planning Application, including a full EIAR, a Natura Impact Statement (NIS), the Planning Report.

There is considerable evidence within the Planning File that the grounds of the appeal have been considered in the report documentation submitted with the application.

In conclusion, it can be seen that the assessments comprising part of the planning application documentation have given full and proper consideration to the planning and environmental matters relevant to the area and the subject of the development proposal. There is considerable evidence on the file that the likely impacts and effects that may arise as a result of implementation of the proposed development, were given considerable scrutiny in the EIAR and the RFI, and that appropriate mitigation measures have been proposed, where required. To summarise:

- The Intel facility has co-existed with its neighbours for more than 25 years and have successfully implemented projects such as the subject proposed development.
- It is located on lands that are *zoned* for 'Industrial and Warehousing' within the various statutory land use plans for the area and has been used for large-scale inward investment and manufacturing, in accordance with planning and policy provisions at every level, from local to national and sectoral.
- The proposed development is consistent with the zoning of the land for Industrial development and is an extension of long established and fully permitted large-scale manufacturing activities that have been operating in excess of 25 years on the site.

- The accompanying EIAR and other documents clearly identify and assess the likely significant effects of the proposal on the environment and the relevant European sites.

As the proposed development has been demonstrated to be in compliance with planning policies and objectives and will not have a negative impact on the environment, character or amenity of the area, it is therefore considered to be in accordance with the proper planning and sustainable development of the area.

We thus respectfully request that An Bord Pleanála would uphold the decision to grant permission issued by Kildare County Council.