

MARSTON

PLANNING CONSULTANCY

The Secretary
An Bord Pleanála
64 Marlborough Street
Dublin 1

26th June 2023

Our Ref: 21047

RE: Planning and Development Act 2000-2023 and the statutory regulations (as amended). First Party Appeal by Vantage Data Centers DUB11 Ltd. against the decision of South Dublin County Council to refuse permission for development that includes the demolition of a two storey dwelling (207.35sqm) and associated outbuildings and farm structures (348.36sqm); and the construction of 1 no. two storey data center with plant at roof level and associated ancillary development that will have a gross floor area of 12,893sqm at this site of 3.79 hectares to the south of the New Nangor Road (R134); and on land within the townlands of Ballybane and Kilbride within Profile Park, Clondalkin, Dublin 22.

South Dublin County Council Reg. Ref. SD22A/0420 (the "Proposed Development")

Date of decision: 29th May 2023

Four-week period for making appeal on or before: end of 26th June 2023

Dear Sir / Madam,

We, Marston Planning Consultancy, 23 Grange Park, Foxrock, Dublin, D18 T3Y4; are instructed by Vantage Data Centers DUB11 Limited (the "First Party"), 1-2 Victoria Buildings, Haddington Road, Dublin 4 to lodge this first party appeal against the decision made by South Dublin County Council (the "Planning Authority") to refuse permission on two grounds. In compliance with the statutory regulations, we enclose herewith a cheque payable to An Bord Pleanála for the sum of €3,000.00 as the appropriate appeal fee in this instance, as an Environmental Impact Assessment Report (EIAR) was submitted with the application and within the statutory four-week period for making the appeal.

1. Executive summary

We respectfully submit that the Proposed Development is fully in accordance with both local and national policy as they relate to data centres. The Planning Authority have taken an unduly rigid approach and have misunderstood two parts of the First Party's response to issues raised in relation to Policy EDE7, objective 2 of the South Dublin County Development Plan 2022-2028 (the "County Development Plan") as set out under the Additional Information ("AI") request. We respectfully submit that the decision of the Planning Authority is inherently flawed and we therefore request that the Board issue an Order to grant permission for the Proposed Development.

The following briefly summarises the facts which clearly demonstrate that the reasons for refusal provided by the Planning Authority should not stand, as the Proposed Development does achieve compliance with the relevant policies of the County Development Plan and an updated Chapter 15 of the EIAR is now submitted to allow the Board, as competent authority, to undertake a comprehensive Environmental Impact Assessment of the Proposed Development.

AN BORD PLEANÁLA	
LDG-	064546-23
ABP-	
26 JUN 2023	
Fee: €	3000
Type:	CHQ
Time:	1.25pm
By:	NWD

Reason no. 1

The first reason for refusal comprises five key points on the basis of which permission was refused. Each of these points has been addressed fully in the appeal. The response to the five points within the first reason is summarised below and set out in detail within section 8 of this document.

i. Existing insufficient capacity in the electricity network (grid)

We can confirm that the First Party has an existing connection agreement. The connection agreement between Vantage Data Centers DUB11 Limited (i.e., the First Party) and EirGrid plc ("**EirGrid**") (the "**VDC Grid Connection Agreement**") is in line with EirGrid / Commission for Regulation of Utilities ("**CRU**") policies. It is a matter solely for EirGrid / CRU to determine who should get a demand connection agreement in light of capacity constraints to the electricity network. In this instance the First Party has successfully "passed" EirGrid's connection requirements and EirGrid deemed it appropriate for them to connect to the grid. Furthermore, the Proposed Development does not give rise to any capacity issues and on the contrary the permitted multi fuel generation plant ("**MFGP**") will benefit the stability of the electricity grid.

The previously granted application South Dublin County Council Planning Ref. SD21A/0241 (the "**Permitted Development**") and the Proposed Development (together the "**Facility Campus**") will connect via a connection into the future ESB substation that will be known as the Kilcarbery 110kV Gas Insulated Switchgear (GIS) substation that is the subject of a concurrent Strategic Infrastructure Development ("**SID**") application to the Board and which was made in consultation and agreement with EirGrid and ESB under ABP Ref. ABP-312793-22. This SID application also includes 110kV transmission lines from the proposed substation into the national grid infrastructure via connections to ESB's Barnakyle substation and the Castlebaggot – Barnakyle circuit. These connections have been agreed and designed in accordance with, following review by, EirGrid and ESB.

The First Party is also in the process of agreeing a modification to the VDC Grid Connection Agreement, to allow export to the national grid. This application is at Stage 2 as set out in Figure 1 of the Data Centre Application process under EirGrid's Data Centre Connection Offer Process and Policy ("**DCCOPP**"). This proceeded to Stage 2 following the receipt of permission under the Permitted Development.

The VDC Grid Connection Agreement and the MFGP will provide power to the already Permitted Development and the Proposed Development, without negatively impacting on the resilience of the National Grid.

ii. Lack of a fixed connection agreement to connect to the grid

We can confirm that the First Party already has an executed 'connection agreement' with EirGrid. The Proposed Development will operate under the same connection agreement as the Permitted Development on adjoining lands within the First Party's landholding. There will be no need for a new connection into the National Grid from the Proposed Development.

This appeal is accompanied by a legal advice note (Appendix A) from Eversheds Sutherland LLP, setting out how the connection agreement process works, from a legal perspective, and why the First Party is permitted to use the VDC Grid Connection Agreement to connect the Proposed Development to the grid and is not required to obtain a separate connection agreement for the data centre, the subject of this appeal. On this basis, the aspect of the first reason for refusal provided by the Planning Authority in relation to the absence of any connection agreement to connect to the grid is unfounded.

iii. Lack of significant on-site renewable energy to power the proposed development

EDE7 Objective 2 of the County Development Plan, which this aspect of the refusal reason relates to, makes it clear that in circumstances where on site renewable generation cannot be achieved, an applicant must demonstrate engagement with PPAs. Therefore, lack of significant on-site renewable energy isn't a reason for refusal on its own. Nevertheless, the First Party has demonstrated such engagement, as set out under item 4 below.

Additionally, as set out in detail within section 8 of this appeal, while the subject site does not provide an opportunity to deliver adequate solar or wind generation to power the Proposed Development, the permitted MFGP is designed to accommodate operation on renewable fuel sources. A large-scale battery energy storage system facility is also subject to a decision to grant permission as part of the Facility Campus.

iv. Lack of evidence provided in relation to Power Purchase Agreements (PPAs) in Ireland

We wish to place on record as part of this appeal that the First Party has engaged with brokers of renewable PPAs in Ireland. As part of this appeal, we submit evidence of this engagement (see Appendix D). Appendix D comprises a letter from Open Energy Market Limited (who are the First Party's main partners in brokering PPAs), which confirms ongoing and extensive engagement between the First Party and Open Energy Market Limited with regard to entering into a PPA for the Proposed Development. This is submitted to represent unequivocal evidence of the First Party's intent and commitment to securing a renewable PPA in respect of the Proposed Development. We can also confirm that the First Party has a history of entering into renewable PPA's across its various campuses across Europe and elsewhere.

The First Party intends to engage further with renewable PPA providers and brokers in respect of the Proposed Development and would accept a condition from the Board in this regard to submit and agree details of the Proposed Development's utilisation of renewable energy to the Planning Authority prior to the operation of the Proposed Development.

v. Reliance of on a predominately gas-powered plant to provide energy to the development

As set out in more detail in section 8 of this appeal, the First Party submits that it has satisfied the Planning Authority's requirements in relation to on-site generation and this reason should not have been taken into account by the Planning Authority as a separate ground for refusal.

In accordance with EirGrid's policy requirements, the Proposed Development utilises an already permitted flexible power arrangement whereby it can be powered by the already held VDC Grid Connection Agreement and the already permitted onsite generation via the MFGP. It should be noted that the MFGP, located on adjoining lands within the overall landholding, is already permitted under the Permitted Development and its scale and capacity is unaffected by the Proposed Development. The MFGP is scaled to serve the Facility Campus and represents already permitted development, which must be considered as such by the Board. The principle, use, scale and capacity of the MFGP is established in planning terms and is not open for reconsideration as part of the current application or appeal.

The provision for direct support to the grid by the permitted MFGP is a positive aspect of the overall development of the First Party's campus, which directly aligns with the CRU Direction to system operators and can support the increased penetration of intermittent renewable energy on the grid in line with the 2021 and 2023 Climate Action Plans¹.

The MFGP is also designed to enable generation from renewable energy sources, including Hydrotreated Vegetable Oil ("HVO"), biogas and hydrogen as these fuel sources become widely available.

Therefore, each of the aspects of the first reason for refusal are considered to be fully addressed in this appeal and that it should be overturned by the Board.

Reason no. 2

This appeal is accompanied by an updated EIAR that includes an updated Chapter 15 that includes a comprehensive assessment of the potential impact of the Proposed Development on Material Assets having regard to the already permitted MFGP and the power and electricity supply. This sets out the intricacies of the flexible demand connection agreement that is in place and how that will operate having regard to and in accordance with government, CRU and EirGrid policy.

We can also confirm 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 "Government Statement"). The First Party is committed to advancing the goals behind the Six Principles set out within this document, and the Proposed Development and Permitted Developments are fully aligned with, and supportive of, government policy.

¹ Climate Action Plan 2021 outlines the target for 2,000 megawatts of additional gas generation in the short term, in order to stabilise the grid as intermittent renewables represent an increasing share of the grid mix, while concurrently allowing for the phasing out of more carbon intensive fuel sources.

Current SID Application

It is noted that a high voltage substation and associated underground transmission line connections to serve the overall campus at this location are subject to a current SID application before the Board under section 182A of the Act (ABP Ref.: ABP-312793-22).

Whilst we acknowledge that the SID application is associated with the Proposed Development, we submit that the SID case can and should, in accordance with the proper planning and sustainable development of the area, be determined separately from the current appeal, and there is no requirement for both cases to be considered and determined concurrently. Irrespective of the already delayed determination of the SID application, there is no basis for it to be linked and determined at the same time as the current appeal given that the SID application is fundamental and linked to the already Permitted Development (i.e., the first phase of the Facility Campus).

Prior to addressing the decision in totality it is important given the complexity of the application to set the appeal in context.

2. The appeal in context

The location and description of subject site

The Proposed Development is to be located on a net site area of c. 3.2ha. on a primarily greenfield site within Profile Park Business Park with additional land included outside the physical boundary of the site along part of the Nangor Road and Falcon Avenue. The site forms the expansion of the First Party's own data centre campus that has recently commenced construction having been granted permission, with conditions, under the Permitted Development. The details of this permission are fully set out under section 2 of this appeal.

The site includes a two-storey dwelling that is located to the south of, and abounding the New Nangor Road, Dublin 22. The existing property and associated outbuildings are proposed to be demolished as part of the Proposed Development. No part of the demolition of these building was considered a contentious issue by the Planning Authority given that the site, and all of the surrounding area are zoned EE (Enterprise and Employment) under the County Development Plan with the stated aim:

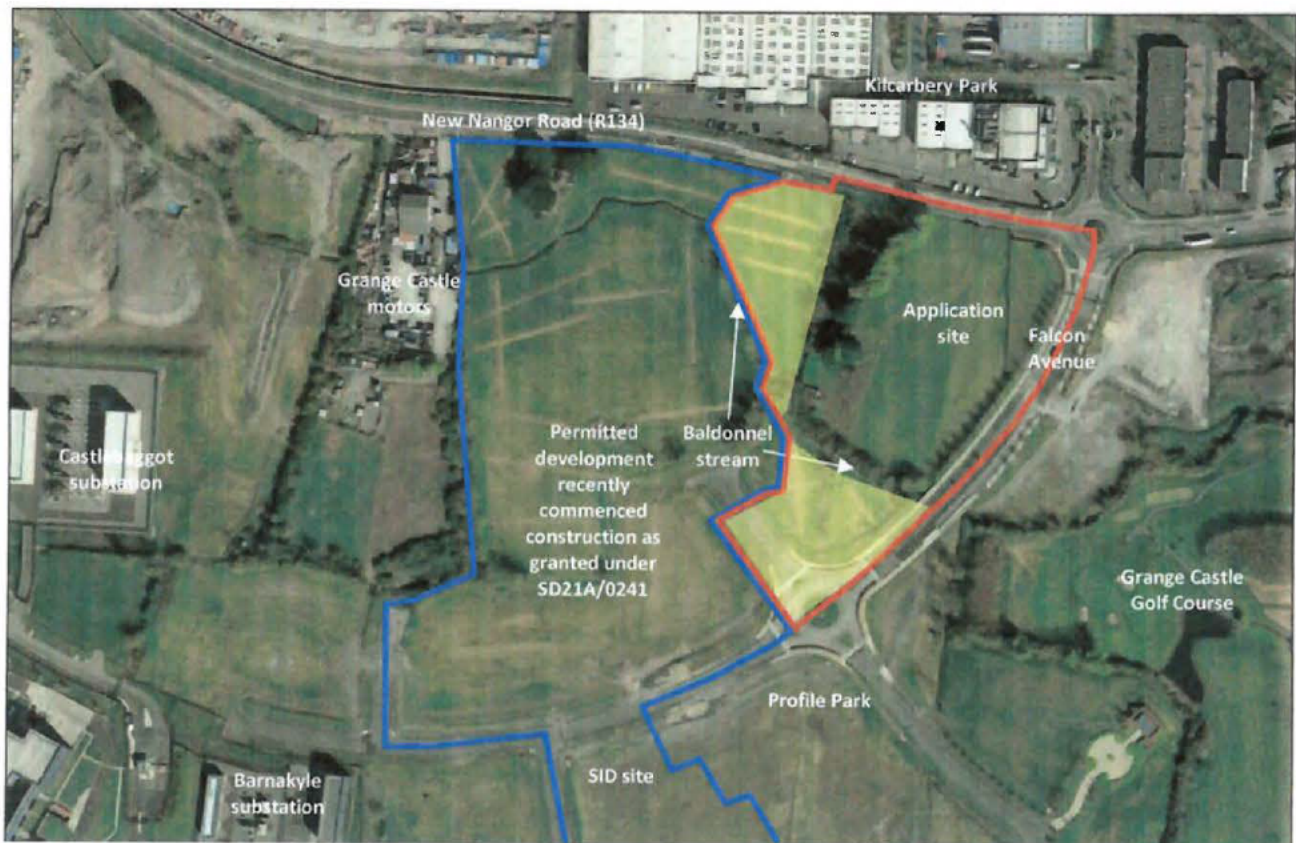
"To provide for enterprise and employment related uses."

The Baldonnel Stream passes across the southern part and extends along part of the western boundary of the site where the current application overlaps with the Permitted Development. The Baldonnel stream flows in a south-east to north-west direction, across the site. It enters the site through a culvert under Falcon Avenue at the south-east corner of the site.

The northern boundary with the New Nangor Road remains semi-rural in form. The site is bound by the recently realigned New Nangor Road (R134) to the north with further industrial development (Kilcarbery Park and other developments) to its north that includes the Microsoft data centre campus; by Falcon Avenue and further lands within Profile Park to the east and south; and by the site of the First Party's recently commenced data centre development and MFGP as granted under the Permitted Development, to the west.

The existing site has three access points that are to the existing house and a field entrance off the Nangor Road to the north, and another off Falcon Avenue to the east of the site. The site is relatively flat at generally between 72m and 74m Above Ordnance Datum ("AOD") with the lowest part of the site being towards the north-west of the application site. It is notable that the road levels along Falcon Avenue and Nangor Road are generally above the site at around 75m AOD.

There is approximately 260m of hedgerow within the application site, and they are located along the western boundary of the residential property, and to the immediate north of the Baldonnel Stream, where it cuts across the southern part of the application site. There is a linear group of trees that define the boundary between the existing house and the green field to its east. There are mature trees along the alignment of the Baldonnel Stream and the western boundary of the house. There are also a line of category A trees along the eastern boundary of the site alongside the estate road of Falcon Avenue within Profile Park. Measures have been taken as part of the design of the Proposed Development, as reinforced at Additional Information ("AI") stage, to retain and supplement tree cover on the site wherever possible. This is discussed in further detail below.



Aerial view of Proposed Development site (red boundary) in context (source: Google Earth) with overlap of site subject to permission granted under the Planning Authority's Planning Ref. SD21A/0241 shaded in cream.

Large areas of the surrounding lands to the south and north within the Grange Castle Business Park and Profile Park have been developed in the past 10-15 years and are occupied by industrial campuses including pharmaceutical, data centres and food manufacturing uses. The closest occupied residential property is located c. 160m north-east of the north-east corner of the site along the New Nangor Road adjacent to the Circle K petrol filling station. The overall site is located between the N4 and N7 national primary roads and is served by a road network that has recently undergone an upgrade as well as Falcon Avenue within Profile Park that provides access into this part of the Business Park from the New Nangor Road.

3. Planning history

The first phase of the development of the Facility Campus, prior to the First Party acquiring the lands subject to the current application, was lodged on the 31st August 2021 under Planning Ref. SD21A/0241. The originally applied for application was described in the planning notices as follows:

The development will consist of the demolition of the abandoned single storey dwelling and associated outbuilding (206sqm); and the construction of 2 no. two storey data centers with plant at roof level of each facility and associated ancillary development that will have a gross floor area of 40,589sqm that will consist of the following:

- 1 no. two storey data center (Building 11) that will be located to the south of the site and will have a gross floor area of 24,667sqm. It will include 22 no. emergency generators located at ground floor level within a compound to the western side of the data center with associated flues that will be 22.3m in height;
- 1 no. two storey data center (Building 12) that will be located to the north of the site, and to the immediate north of Building 11 and will have a gross floor area of 12,915sqm. It will include 11 no. emergency generators located at ground floor level within a compound to the western side of the data center with associated flues that will be 22.3m in height;
- Each of the two data centers will include data storage rooms, associated electrical and mechanical plant rooms, loading bays, maintenance and storage spaces, office administration areas, and plant including PV panels at roof level as well as a separate house generator for each facility that will provide emergency power to the admin and ancillary spaces. Each generator will include a diesel tank and there will be a refuelling area to serve the proposed emergency generators;

- The overall height of each data center apart from the flues and plant at roof level is c. 14.23m above the finished floor level;
- Construction of internal road network and circulation areas, with main entrance off Falcon Avenue to the south, as well as a secondary vehicular access off Legacy Drive to the south-west, both from within Profile Park; footpaths, provision of 144 no. car parking spaces, and 66 no. cycle parking spaces;
- single storey step-up substation (38sqm) as well as 2 no. single storey switch substations (121sqm);
- AGI Gas Regulator compound that include 3 no. single storey buildings (134sqm)
- construction of a gas powered generation plant in the form of a 13m high single storey building with a gross floor area of 2,714sqm that will contain 10 gas generators with associated flues that will be 25m in height, and grouped in pairs and threes. The Gas Plant will be located to the west of Building 11;
- Ancillary site development works, that will include reorientation of the Baldonnel Stream, biodiversity management initiatives, attenuation ponds and the installation and connection to the underground foul and storm water drainage network, and installation of utility ducts and cables, that will include the drilling and laying of ducts and cables under the internal road network within Profile Park. Other ancillary site development works will include hard and soft landscaping, lighting, fencing, signage, services road, entrance gates, sprinkler tanks and pump room; and
- A temporary gas powered generation plant within a fenced yard containing 21 no. generator units in containers, each with associated flues (each 25m high), 12 transformers and 10 containers of controls to be located to the west of, and associated with the first phase of Building 11, and will be required for a period of up to 2 years if connection to the national grid is delayed. This temporary plant will not be built if the connection to the national grid is in place prior to the operation of Building 11.

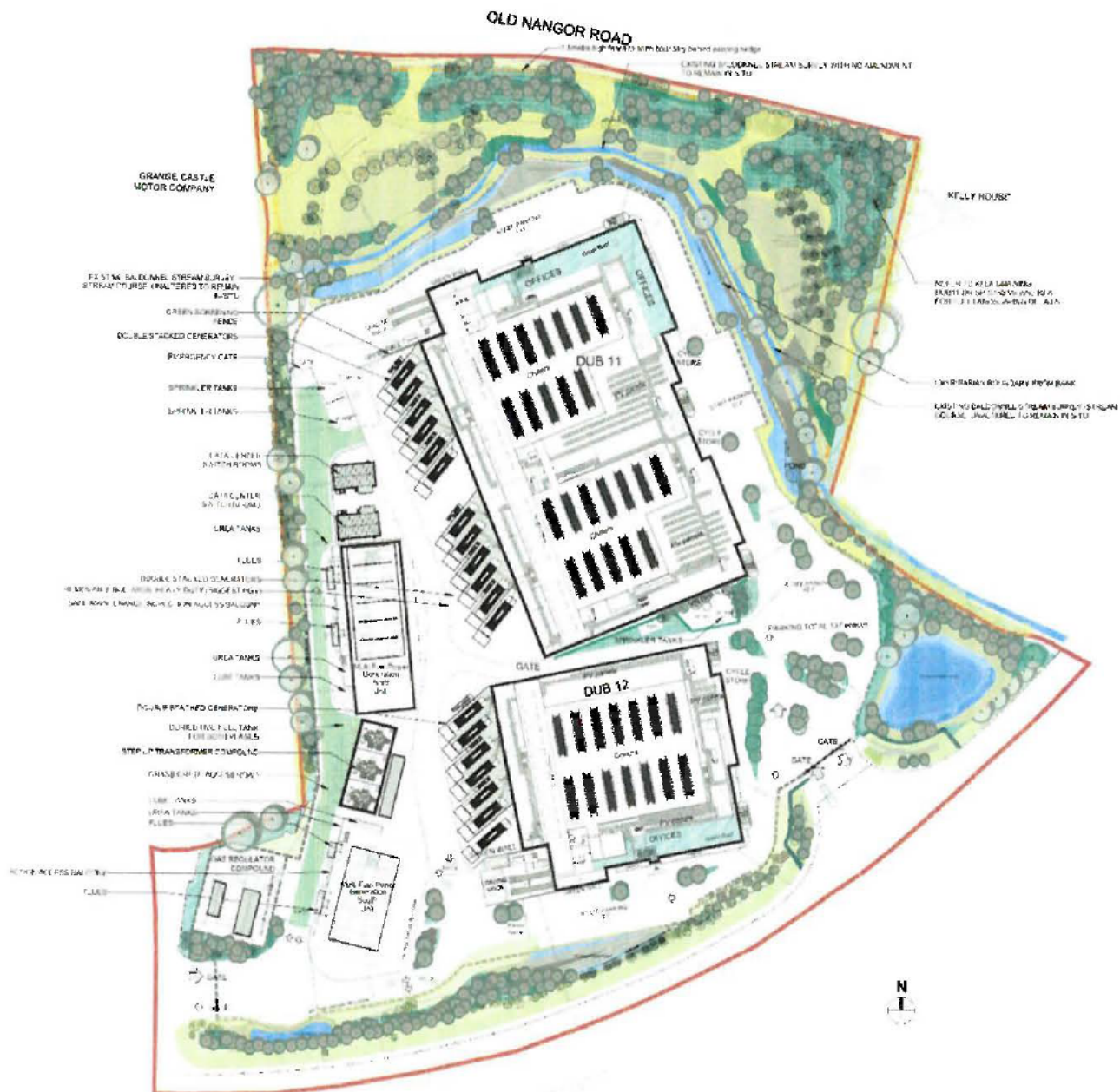
The development will be accessed from Falcon Avenue and Legacy Drive from within the Profile Park Business Park that contains an access from the New Nangor Road (R134)."

The application was subject to an extensive AI request on the 28th October 2021. The AI request raised a number of issues relating to the power demand of data centres and their impact on the national grid; as well as macro policies relating to Energy and Climate Action. A comprehensive response to the AI request was made to the Planning Authority on the 21st March 2022. The Planning Authority proceeded to grant permission, and the Chief Executives report noted that the applicant had addressed the AI request satisfactorily, and that the proposed power generation plant had been proposed in line with a clear rationale in policy terms. This is the same permitted power generation plant which will serve the current Proposed Development (no additional power generation plant is proposed as part of the current phase).

A number of changes were made to the layout as part of the AI response. The revised master plan layout for the site enabled the applicant to retain the stream in its current alignment with the data centres now being located to the south and west of the existing stream. The revised layout also repositioned the main buildings on the site.

This revised layout resulted in Building DUB11 being relocated to the north so that its further animated north and north-east elevation, that contains its office component, faces the New Nangor Road (the same approach has been adopted under the current application that is subject of this First Party Appeal); and that Building DUB12 was relocated to the south so that its southern and south-east elevation faces onto Falcon Avenue (see layout below). This change also required a slight realignment of the data centres so that Building DUB11 was aligned in a north-west to south-east alignment; which aided the focussing of the animated elevations towards the New Nangor Road to the north when viewed from all directions; it also enabled the emergency generators (which were double stacked) to be hidden; and had a double height screen to the north.

These changes to the overall proposed site layout plan were all accepted in the positive decision of the Planning Authority and included additional flood and surface water attenuation that was incorporated within the wider design with a revised landscaping design ensuring that the screening and biodiversity gains of the Permitted Development were maximised.



Permitted Site Layout Plan under Planning Ref. SD21A/0241 (the Permitted Development) as amended at AI stage (Drawing no. A105 under current application)

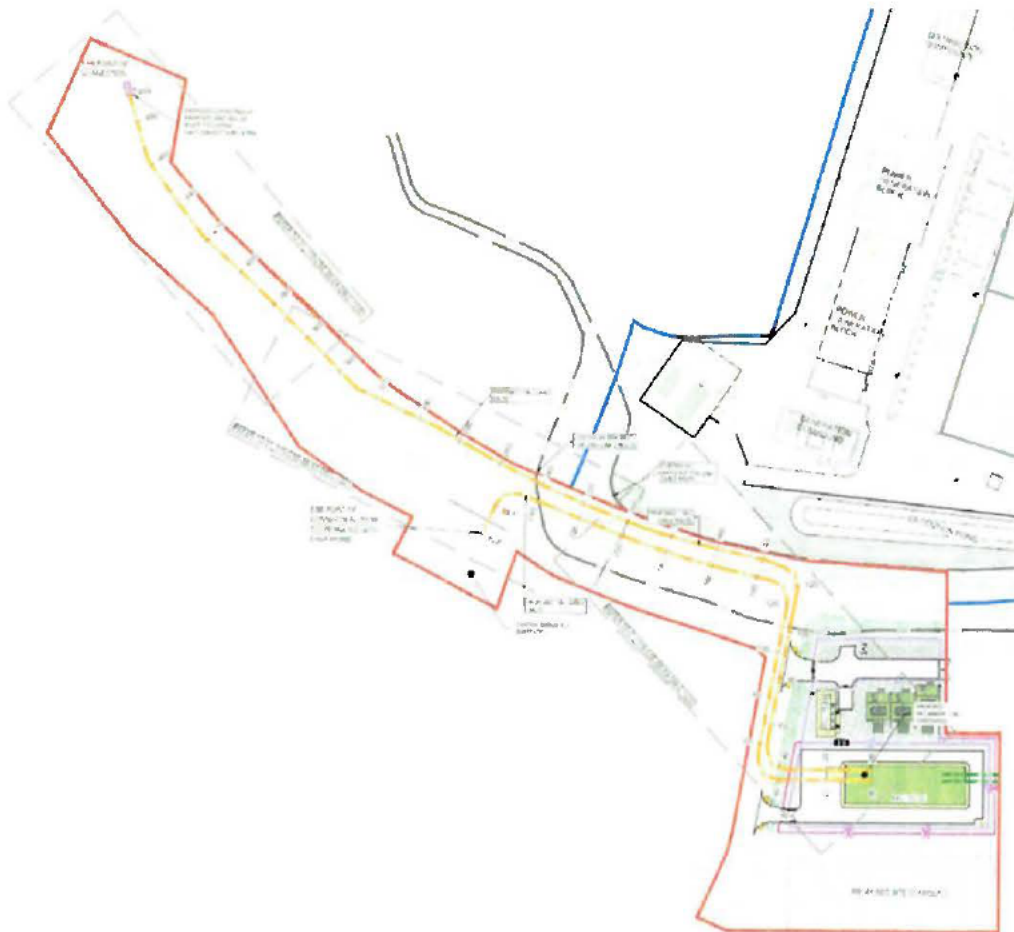
Planning Ref. SD23A/0035

This application forms an amendment of the parent permission as granted under Planning Ref. D21A/0241 for the replacement of the permitted two no. sprinkler tanks and pump room with a two-storey battery energy storage system (435.56sqm) over a single level basement that will contain a sprinkler system, water tanks and pump room that will serve the overall Permitted Development. AI was requested on this application on the 18th April 2023. The AI was submitted on the 19th May and a notification of decision to grant permission was issued by the Planning Authority on the 15th June 2023.

ABP Ref. ABP-312793-22 - SID application

A separate planning application has been lodged by the First Party with An Bord Pleanála under the SID legislation for a 110kV GIS substation and 2 no. underground transmission lines on lands to the immediate south of the above application, and also within the Profile Park Business Park.

The Facility Campus will connect via a single connection agreement (i.e., the VDC Grid Connection Agreement) which will be facilitated by physical connections into the future ESB substation that will be known as the Kilcarbery 110kV Gas Insulated Switchgear (GIS) substation that is the subject of the SID application to the Board, and which was made in consultation and agreement with EirGrid and ESB Networks under ABP Ref. ABP-312793-22.



Proposed transmission routes and substation compound as applied for under the SID application in context of the Permitted Development

This SID application also includes 110kV transmission lines from the proposed substation into the National Grid infrastructure via connections to the EirGrid's Barnakyle substation, and the Castlebaggot – Barnakyle circuit. These connections have been agreed and designed in accordance with, and following review, by EirGrid. The SID application was lodged to An Bord Pleanála on the 17th February 2022, and its determination remains with the Board (ABP Ref. ABP-312793-22).

Whilst we acknowledge that the SID application is associated with the Proposed Development, we submit that the case can and should, in accordance with the proper planning and sustainable development of the area, be determined separately. Irrespective of the already delayed determination of the SID application, there is no basis for it to be linked and determined at the same time given that the SID application is fundamental and linked to the already Permitted Development.

4. Nature and extent of the Proposed Development

The application that was made to the Planning Authority on the 8th November 2022 set out within the public notices as follows:

"We, Vantage Data Centers DUB11 Ltd. are applying for permission for development at this site that includes a two storey residential property on lands to the south of the New Nangor Road (R134), Dublin 22; and on land within the townlands of Ballybane and Kilbride within Profile Park, Clondalkin, Dublin 22 on an overall site of 3.79hectares.

The development will consist of the demolition of the two storey dwelling (207.35sqm) and associated outbuildings and farm structures (348.36sqm); and the construction of 1 no. two storey data center with plant at roof level and associated ancillary development that will have a gross floor area of 12,893sqm that will consist of the following:

- *1 no. two storey data center (Building 13) with a gross floor area of 12,893sqm. It will include 13 no. emergency back-up generators of which 12 will be double stacked and one will be single stacked within a compound to the south-western side of the data center with associated flues that each will be 22.316m in height and 7 no. hot-air exhaust cooling vents that each will be 20.016m in height;*
- *the data center will include data storage rooms, associated electrical and mechanical plant rooms, loading bays, maintenance and storage spaces, office administration areas, and plant including PV panels at roof level as well as a separate house generator that will provide emergency power to the admin and ancillary spaces. Each generator will include a diesel tank and there will be a refuelling area to serve the proposed emergency generators;*
- *The data center will have a primary parapet height of 14.246m above ground level, with plant and screen around plus a plant room above at roof level. The plant room has an overall height of 21.571m;*
- *Construction of an internal road network and circulation areas, with a staff entrance off Falcon Avenue to the east, as well as a secondary vehicular access for service and delivery vehicles only across a new bridge over the Baldonnel Stream from the permitted entrance as granted under SDCC Planning Ref. SD21A/0241 from the south-west, both from within Profile Park that contains an access from the New Nangor Road (R134);*
- *Provision of 60 no. car parking spaces (to include 12 EV spaces and 3 disabled spaces), and 34 no. cycle parking spaces;*
- *Signage (5.7sqm) at first floor level at the northern end of the eastern elevation of the data center building; and*
- *Ancillary site development works, will include footpaths, attenuation ponds that will include an amendment to the permitted attenuation pond as granted to the north of the Baldonnel Stream under SDCC Planning Ref. SD21A/0241, as well as green walls and green roof. The installation and connection to the underground foul and storm water drainage network, and installation of utility ducts and cables, that will include the drilling and laying of ducts and cables under the internal road network within Profile Park. Other ancillary site development works will include hard and soft landscaping that will include an amendment to the permitted landscaping as granted under SDCC Planning Ref. SD21A/0241, lighting, fencing, signage, services road, entrance gates, and sprinkler tanks."*

Additional Information request

A request for AI was made by the Planning Authority having originally considered the application, on the 12th January 2023. Following receipt of the AI request the applicant undertook a comprehensive review of the overall master planning of the site, although these changes did not constitute revised plans or significant further information under Article 35 of the Planning and Development Regulations 2001, as amended. The AI response included:

- Incorporation of positive elevation changes to the most prominent façade facing the entrance roundabout into the Profile Park Business Park. We note that the consideration of this issue under Item 2 of the AI response, the Chief Executive Order states that whilst improvements have been made by the introduction of additional glazing, the Order (page 46) suggests that the changes have not been significant enough. It is notable that this concern was not sufficient to warrant it forming a reason for refusal, and the Order outlined that it could be addressed by way of a condition of permission, if permission was granted.

The revised elevational treatment increased the level of fenestration to the most prominent north-east elevation that wraps around this prominent corner. This provides a high-quality entrance into Profile Park,

as well as forming a strong elevation as viewed from the New Nangor Road. The berms and mature planting that forms an integral part of the Proposed Development, around the periphery of the site provides a strong visual screen to the development that would only be partially visible in a glimpse view from the Profile Park / Nangor Road entrance. We respectfully submit that the changes made to the application, in terms of the design at this most prominent corner, was significant, as is evident in the excerpt from the photomontage provided within the EIAR submitted with the AI response.

Irrespective of the above, if the Board are mindful to grant permission for the overall development and remain concerned in relation to the visual form of this corner, then we request that they attach a suitable condition, if they deem it necessary that seeks revised elevations as a condition of the permission, as per the suggestion of the Planning Authority.

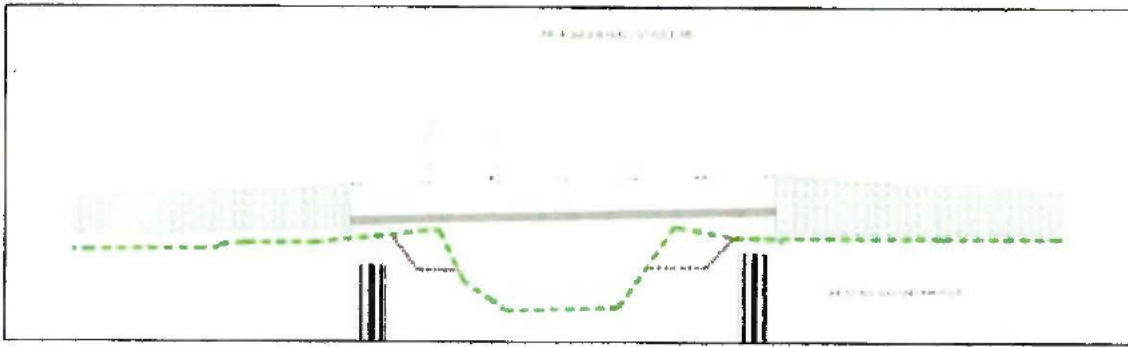


Photomontage of revised elevations of the Proposed Development in year 5 after completion as submitted under this AI submission

- A key part of the AI request (point 6) related to the original proposal to remove the entire central hedgerow and other green infrastructure issues. The AI response set out clearly that the revised scheme would retain the majority of the length of the central hedgerow (75m), with a new hedgerow to be planted to connect the retained hedgerow with the stream biodiversity corridor to mitigate the loss of a 36m length of hedgerow. This was facilitated by the redesigning of the attenuation pond so that it lies entirely to the west of this hedgerow.

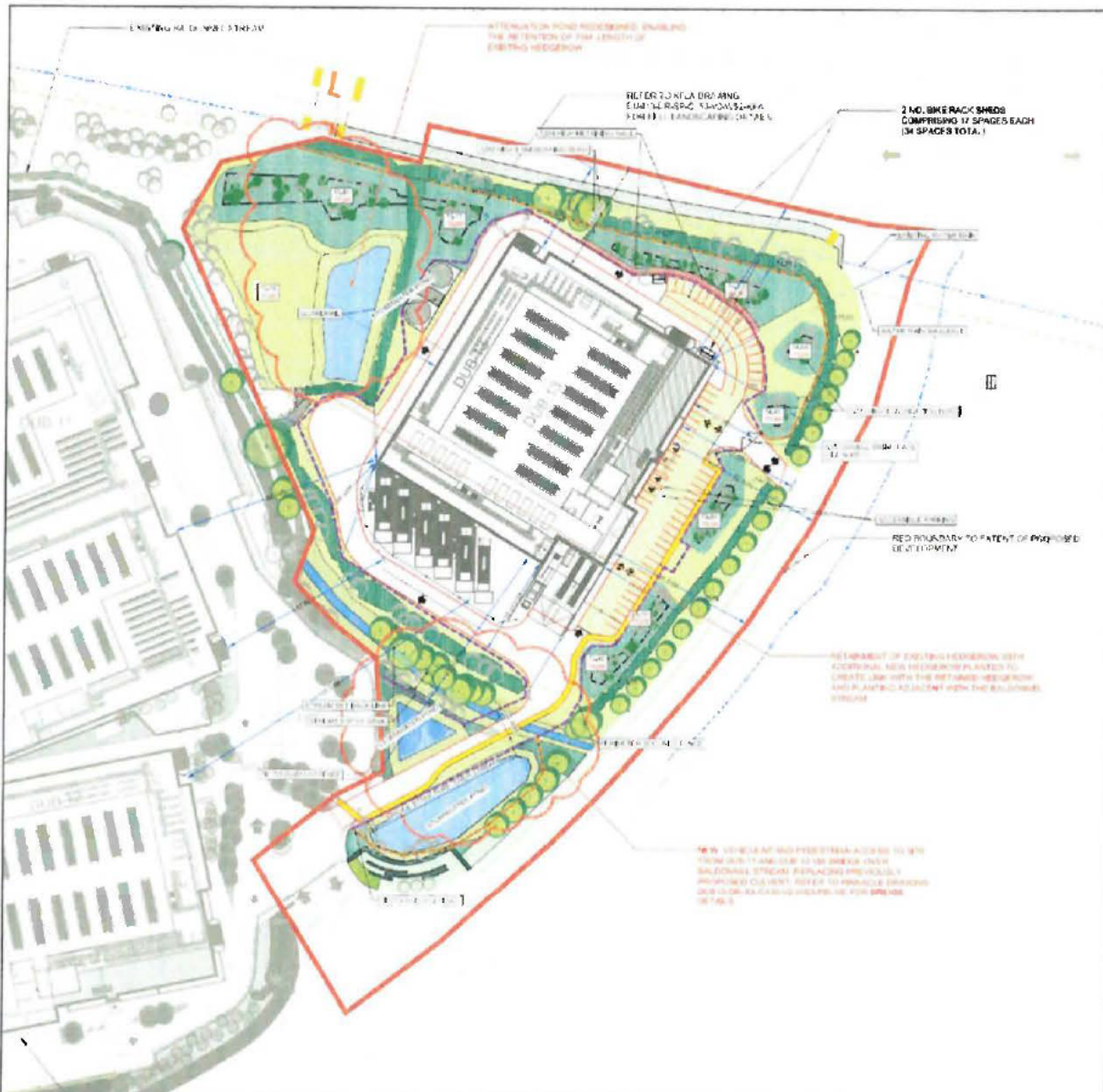
In addition, the Board are referred to the facts that the Proposed Development will include significant native tree planting (this includes 443 new mature trees and 4,903 saplings to replace the 72 trees to be removed) and creation of new hedgerows around the perimeter of the Proposed Development site. These provisions will result in a net green infrastructure gain within the site and will significantly improve and contribute to the established and permitted green infrastructure network in this part of the County. We note that this response was considered acceptable by the Parks and Public Realm Department and Planning Authority.

- The AI request also raised the need to re-examine the culverting of the stream (Point 14). This was addressed by its replacement with a bridge and a re-profiling of the ground to ensure the biodiversity connections along the stream are retained. The proposed bridge was considered in a number of design forms, and by minimising the length it avoids the need to increase the floor levels of the Proposed Development.
- The bridge is designed to be as narrow as possible. In so doing, the bridge is narrowed to being a single carriageway only with footpath on one side, with signal controls either end. The footpath will facilitate pedestrian connectivity between the buildings within the campus. The bridge is designed so that the stream embankment is lowered either side of the stream for just beyond the width of the bridge, in order to create a wildlife and biodiversity underpass below it that will encourage the green infrastructure connections through the site and beyond.



Cross-section of new bridge arrangement over the Baldonnel Stream

The slightly modified scheme submitted as part of the AI response, and the changes to it are clearly set out below.



AI proposed site layout indicating design changes

The request for AI also included a range of other issues that included the need to show 100% renewable energy from the MFGP or other source at all times, or provide evidence of PPA in Ireland as is required under Policy EDE7, Objective 2; which forms a primary ground of this appeal.

Under the First Party's response on this issue the VDC Grid Connection Agreement was set out, and further details and clarifications are set out under section 6 of this appeal. The Board are referred to the DCCOPP Document published in July 2019 by EirGrid and the appended correspondence from EirGrid, which confirms existence of the VDC Grid Connection Agreement.

We refer the Board to the table on page 27 of this appeal that sets out that all aspects of the points raised, as part of the AI request, were comprehensively and adequately addressed to the satisfaction of the Planning Authority, apart from the two reasons set out under this appeal that relate to insufficient capacity in the network, connection offer, significant on site renewables, evidence of PPA engagement and reliance on predominantly gas; and the non-inclusion of the Material Assets Chapter within the EIAR. These are all comprehensively addressed under this First Party Appeal

5. Assessment of the application having regard to the policies and objectives of the South Dublin County Development Plan 2022-2028

The County Development Plan is the statutory planning document that covers the entire South Dublin administrative area. The County Development Plan was adopted in June 2022 and came into effect on the 3rd August 2022. The data centre element of the Proposed Development is to be located within an area zoned EE (Enterprise and Employment) under the County Development Plan. The zoning Objective EE seeks: "To provide for enterprise and employment related uses".

The status of data centres within the EE zoned lands has been subject to significant debate and consideration by both the Planning Authority, and recently the Office of the Planning Regulator and the Minister for Local Government and Planning.

The Office of the Planning Regulator recommended to the Minister in a letter dated the 19th July 2022, to issue a Direction under section 31 AM (8) of the Planning and Development Act 2000 (as amended) to reinstate the data centre use class as an 'open for consideration' use within the EE zoning. The Draft Direction from the Minister to the Planning Authority was issued on the 29th July 2022. This Direction highlights that the designation of data centres as not permissible would be contrary to Regional Policy 8.25 in the RSES for the East Midland Regional Authority, which includes clear policy support for the location of development of this nature within the area of the Regional Authority, including South Dublin.

This Draft section 31 Direction issued in late July is deemed to be included within the adopted County Development Plan as per section 31AN (11) of the Planning and Development Act 2000 (as amended). This First Party Appeal is therefore made on the basis that a data centre is an open for consideration use under the EE zoning.

Open for consideration uses are defined under the County Development Plan as:

"Land uses that are listed as 'open for consideration' in the land use zoning tables may be acceptable to the Planning Authority subject to detailed assessment against the principles of proper planning and sustainable development, and the relevant policies, objectives and standards set out in this Plan. Proposed uses in this category will be subject to full assessment on their own merits and particularly in relation to their impact on the development of the County at a strategic and a local level. Such uses may only be permitted where they do not materially conflict with other aspects of the County Development Plan."

It is pertinent as the use is now considered as being open for consideration under the EE zoning, to also consider it in relation to the other policies and objectives of the County Development that are relevant in this instance. These relate to compliance with Policy EDE7 (other objectives that do not form a reason for refusal), and particularly Objective 2 under that Policy; employment policy; and green infrastructure policies as follows:

I. Compliance with Policy EDE7, Objective 2

The new County Development Plan recognises the need for Space Extensive Land Uses, such as data centres, to be located at appropriate locations having regard to infrastructural, transport and environmental considerations as well as the need for orderly growth (Policy EDE7). These same principles are replicated as a requirement under section 12.9.4 of the County Development Plan. The Proposed Development, which forms part of a wider data centre campus (the Facility Campus), fully complies with Objective 1 of this Policy as it is located outside of the M50. Whilst the site is accessible by public transport the capacity of such services are not such that would warrant a higher density employment use on the site, which are already achieved due to the fact that the Proposed Development site forms the second phase of the development of the First Party's Facility Campus. We respectfully submit that the Proposed Development is therefore fully in accordance with Objective 1 of this Policy, as was accepted by the Planning Authority.

Objective 2 of this policy sets out a list of requirements that space extensive enterprises need to demonstrate, and two aspects (in bold) of these form a reason for refusal that are subject of this appeal, as follows:

"To require that space extensive enterprises demonstrate the following:

- *The appropriateness of the site for the proposed use having regard to EDE7 Objective 1;*
- *Strong energy efficiency measures to reduce their carbon footprint in support of national targets towards a net zero carbon economy, including renewable energy generation;*
- *Maximise onsite renewable energy generation to ensure as far as possible 100% powered by renewable energy, where on site demand cannot be met in this way **provide evidence of engagement with power purchase agreements (PPA) in Ireland;***
- ***Sufficient capacity within the relevant water and wastewater and electricity network to accommodate the use proposed;***
- *Measures to support the just transition to a circular economy;*
- *Measures to facilitate district heating or heat networks where excess heat is produced;*
- *A high-quality design approach to buildings which reduces the massing and visual impact;*
- *A comprehensive understanding of employment once operational;*
- *A comprehensive understanding of levels of traffic to and from the site at construction and operation stage;*
- *Provide evidence of sign up to the Climate Neutral Data Centre Pact."*

We have already set out the reasons behind why and how the application is fully in accordance with the first objective. The following sets out how the First Party is meeting the requirements of Objective 2 of this Policy EDE7. We refer the Board to the fact that the Planning Authority has accepted that the Proposed Development is fully in accordance with all other aspects of this Policy.

Strong energy efficiency measures to reduce carbon footprint

Energy efficient measures starts at site selection, where the First Party focuses on building orientation to maximise opportunities from the prevailing wind direction and reducing solar gain. This is followed by the design and construction of highly efficient data centre campuses yielding industry leading Power Usage Effectiveness ("PUE") and low water use - measured as Water Usage Effectiveness ("WUE"). We can confirm that the First Party has committed to achieving net zero carbon emissions by 2030 and are creating interim reduction targets that are in alignment with the Science Based Target Initiative ("SBTi") methodology.

The overall design has introduced energy efficiency measures that are detailed within the Energy Statement prepared by Burns and McDonnell Engineering Company Inc. that accompanied the application and AI submission.

We can confirm that the First Party is committed to driving emission reductions across all of its activities through investment in technology; sourcing renewable energy, wherever possible; and in funding carbon removal projects. At the Facility Campus, energy efficiency measures have been integrated into the design as outlined in the AI response energy statement.

The permitted MFGP is designed to be able to run on up to 20% hydrogen mix from the gas grid once it becomes available. This is so the First Party can future proof the site and take advantage of cleaner fuels as they become available. Sourcing renewable energy is a key enabling strategy to meeting Vantage Data Centres (of which the First Party is a group company) global net zero goals.

Maximise onsite renewable energy generation

In order to maximise onsite renewable energy generation, the already permitted MFGP, which is scaled to serve the Proposed Development, has capacity to be fuelled by either HVO, which is a renewable fuel, or natural gas. The MFGP is already permitted as part of the adjacent development and is designed with capacity to support the current second phase of development (i.e., the Proposed Development does not result in any change to this already permitted infrastructure, which was subject to a previous grant of permission by the Planning Authority).

The permitted MFGP is scaled in accordance with the new policy of the CRU and DCCOPP, to provide onsite energy production that will supply and reinforce the national grid. This will ensure the security of supply of electricity to the wider national grid if and when required, irrespective of the demand on power of the permitted and proposed data centres as part of the Facility Campus.

The permitted MFGP is scaled to ensure that it has capacity to dispatch energy equivalent to, or greater than the entire Facility Campus which will alleviate constraints on the national grid. Furthermore, the First Party is in the process of applying for amendment to the VDC Grid Connection Agreement that will allow it to export excess electricity from the MFGP to the national grid. In this regard, the Facility Campus (via the MFGP) will add electricity generation to the Irish grid network.

The permitted MFGP is designed to enable it to utilise a wholly renewable fuel source in operating continuously and solely on HVO, a second-generation biofuel, in the short-term; and also enables HVO to provide a back up to the MFGP to be fuelled by a wholly renewable fuel source in the longer term.

By providing the already permitted MFGP at the immediate point of demand, this actually reduces the requirement for future grid reinforcements and relieves constraints in the locality. This is fully in accordance with the Climate Action Plan 2021 that recognises the need for a diversified portfolio of generation up to 2030 and beyond in order to deliver grid stability and system services arising from increasing renewable energy penetration.

High efficiency multi-fuel generation plants (such as has been permitted in this instance), along with storage and interconnection are recognised by EirGrid and CRU as contributing to this solution and facilitating greater levels of renewables as a manner in which to supplement the transition to renewables as the mainstay of Ireland's energy supply.

By bringing new flexible generation to the point of demand, not only does this ease grid constraints, it will also provide much needed flexible capacity on the grid to facilitate the increased level of renewables aspired to in the Climate Action Plan 2023 (the "Climate Action Plan").

Due to the unreliability and intermittency of solar and wind as a permanent source of power, it is not currently possible for the Proposed Development to be permanently powered by these traditional renewable energy generation sources alone. There is also insufficient land on the site to accommodate sufficient onsite solar and/or wind generation to serve the entire development.

Nonetheless, we also refer the Board to the fact that the Proposed Development contains a number of PV panels at roof level to generate on site renewable electricity to be compliant with nZEB "Nearly Zero – Energy Buildings" requirements and Part L of the Building Regulation in accordance with the requirements of section 12.10.1 of the County Development Plan.

The First Party will be the final operator of the data centre, and therefore can confirm that it will procure energy through the grid that is generated from renewable sources.

While the location of significant quantities of solar or wind energy generation is not feasible on the subject site, the already permitted MFGP will support the short-term increased penetration of more intermittent renewable generation on the grid by providing for stable energy supply as and when required. In addition, the generation of energy on site via renewable sources has been maximised via the utilisation of HVO, and the design of the MFGP to utilise biogas and hydrogen gas as these fuel sources become widely available.

In addition, the First Party is committed to engaging in renewable PPAs to offset energy use associated with the Proposed Development as explained in detail in later sections of this appeal response. This will further support the increased resilience and sustainability of the national grid, and directly encourage net additional

renewable energy generation in line with the Government Statement on the Role of Data Centres in Ireland's Enterprise Strategy.

Sufficient capacity

We can confirm that the First Party has received and executed a grid connection agreement with EirGrid (i.e. the VDC Grid Connection Agreement). The long-term primary supply of electricity will come from the national grid infrastructure with the permitted on-site MFGP (which is unchanged by the current phase of development) feeding the national grid. EirGrid have stipulated under the Data Centre Connection Offer Process and Policy 2019 that in order for the data centre to receive a firm grid connection, it must install on-site generation to the requested firm capacity, which the permitted MFGP achieves. The Proposed Development therefore obtains sufficient capacity by means of its grid connection and the already permitted MFGP, which is already scaled to serve the Proposed Development.

The First Party also has a gas connection agreement from Gas Networks Ireland (GNI) to supply the permitted MFGP. Further details on this issue are provided under the Grounds of Appeal section of this appeal document.

As referred to above, the First Party currently has an application to modify the VDC Grid Connection Agreement which is currently under consideration (Stage 2 of EirGrid application process). This modification will enable the First Party to become an auto producer and to export excess power to the grid. Once the modification is granted, the grid will benefit from the previously permitted MFGP. As the primary fuel of the MFGP is gas (albeit the installation can also run on HVO, and can also accommodate biogas and Hydrogen as other renewable fuel sources), this plays a part in decarbonising the grid – as acknowledged in the Climate Action Plan adopted by government, which targeted the delivery of 2GW of new gas generation to provide stability on the grid as significantly increased intermittent renewables are introduced, while concurrently allowing for the urgent phasing out of more carbon intensive fuel sources. Therefore, the permitted MFGP, which is scaled as permitted to support the Proposed Development by providing for stable energy supply in support of increasing renewable penetration represents a timely support for the grid in the area in the context of this and other developments in the wider vicinity.

Measures to support the just transition to a circular economy

A technical note undertaken by Ramboll, on how the Proposed Development seeks to support the transition to a Circular Economy, accompanied the Proposed Development application. It sets out the key aims and objectives for both the First Party and other stakeholders of lowering embodied carbon; conserving resources; sustainable material sourcing; designing to eliminate waste; and the design for disassembly. This was considered by the Planning Authority as adequately addressing this part of the objective.

Measures to facilitate district heating

In accordance with section 12.10.3 of the County Development Plan, the design re-uses the heat produced by the systems in the building. The waste heat from the data modules will be used to heat the administration office areas, assisted by heat pump technology. The return water from the data modules cooling process will be used to maximize the efficiency of the water sourced heat pump used for the admin block heating system.

Additionally, the chilled water system can also offer the potential to reject heat into a local heat network should there be a local demand in the future. To ensure that the system has the flexibility to connect into such a system whilst also maintaining a live data centre, valved and capped off connections will be provided on return water risers, ready for future connection to a district heating network.

Space has been allocated for a dedicated plantroom for the provision of plate heat exchangers. This would facilitate the future connection of flow and return district heating pipework from outside the site. The source side would be connected to the return line of the chilled water circuit serving data hall spaces. The user side would connect into the district heating network.

There is adequate space below ground to route the future pipework from outside the site to the site boundary, from where it will be routed to the district heating plantroom. It is intended to install pipework in the ground from the site boundary to the site plantroom to facilitate the connection to the critical chilled water loop on the

roof and eliminate the risk of intrusive works in the future to allow the heat recovery connection.

The above provisions would allow the supply of heat energy to a future district heating scheme developed by others, external to the site boundary. This ensures that the Proposed Development is fully in accordance with section 12.10.2 Low Carbon District Heating Networks and section 12.10.3, Energy from Waste of the County Development Plan. This was considered by the Planning Authority as adequately addressing this part of the objective.

The provision within the Proposed Development design for district heating also ensures compliance with the relevant part of the Government Statement, which is dealt with in further detail below.

High quality design

The design of the Proposed Development is predicated on the experience and precedent that was accepted under the Permitted Development. The administrative element, and an increased level of fenestration is located at the northern end of the eastern elevation and along the eastern end of the northern elevation to reflect its visibility from the roundabout along the Nangor Road at the entrance into Profile Park.

The highest element of the Proposed Development are the flues associated with the back-up generators that are located to the south-west of the data centre and will therefore only be visible from distant views. The plant at roof level is also significantly set-back; by 12m from the western elevation; by over 10m from the northern elevation; and 17m from the eastern elevation (to the rear of a green roof). These significant set-backs help to reduce the visual scale and massing of the building. In addition, vertical shaded cladding elements are provided to the north and east elevation (that face Nangor Road and Falcon Avenue that help to create a higher end finish to the data centre.

In addition, it is proposed to provide vertical planting to each of the mesh rain screens around the external staircases at the north-west corner, and eastern end of the northern elevation; as well as in front of the delivery bay to the east of the generator yard. In addition, a green wall is proposed in front of part of the eastern elevation.

The high-quality design is similar to that already granted permission under the Permitted Development, as well as including detail on materials, colours and textures that were accepted by the Planning Authority under the 2021 application fully in accordance with section 12.5.2 of the County Development Plan.

We respectfully submit that the changes made to the application as part of the AI response, in terms of the design of this most prominent corner, were significant. We note, however, that the Planning Authority remained concerned, but accepted that this could be addressed by way of a condition.

Irrespective of the above, if the Board are mindful to grant permission for the overall development and remain concerned in relation to the visual form of this corner, then we request that they attach a suitable condition, if they deem it necessary that seeks revised elevations as a condition of the permission, as per the suggestion of the Planning Authority.

The application through its massing and design, and use of materials has provided a scheme that complies with the objectives of the County Development Plan under its various QDP policies and objectives.

Employment once operational

The data centre, once operational will generate the equivalent of 45 full time jobs as well as support services, with the Facility Campus providing employment for c. 180 employees across a range of employment activities, as well as sustaining a range of support services in the data centre industry. The colocation nature of the First Party means that it provides further incentive to IT companies to establish in Ireland in accordance with national government policy. ***This was considered by the Planning Authority as adequately addressing this part of the objective.***

Levels of traffic during construction and operational phases of the development

The details in relation to the level of traffic that the construction and operational phase of the Proposed Development are fully set out within Chapter 7 of the EIAR undertaken by Ramboll that accompanied the

application and have not been amended under this appeal. This concludes that the peak demolition and construction period would be in 2024 with a maximum of 156 demolition and construction vehicle movements per day. The effects of the demolition and construction traffic would be temporary, medium, negative and not significant. The Proposed Development would be fully operational in 2025 and is anticipated to generate a maximum of 59 vehicle trips per day, and its impact is not considered to be significant on the surrounding road network. ***This was considered by the Planning Authority as adequately addressing this part of the objective.***

Climate Neutral Data Centre Pact

We can confirm that Vantage Data Centres (of which the First Party is a group company) is a signatory of the Climate Neutral Data Centre Pact. We refer the Planning Authority to <https://www.climateutraldatacentre.net/> that identifies that Vantage Data Centres (of which the First Party is a group company) is a signatory fully in accordance with this element of this objective. ***This was considered by the Planning Authority as adequately addressing this part of the objective.***

ii. Compliance with Policy EDE7 Objective 3

We respectfully submit that the landscaping and site layout of the Proposed Development, as amended as part of the AI response, has fully ensured, as far as is practical that the overall landscape and biodiversity strategy enables the Proposed Development to be integrated into the existing and permitted Green Infrastructure (GI) network. The proposed Landscape Master Plan by Kevin Fitzpatrick Landscape Architecture (Drawing no. 201) submitted as part of the AI response indicates the native woodland planting, medium or large native deciduous and coniferous tree planting; wildflower and wetland meadows; native hedgerow planting; existing native hedgerow being retained as well as existing trees to be retained.

We respectfully submit that the biodiversity quality of the existing site is poor, apart from the western hedgerow, sought as part of the AI response to be substantially retained as part of the Proposed Development, and the stream corridor that passes through the adjacent site to the west and across the southern extent of this site. It is notable that either side of the site, and on land outside of the First Party's control are two culverts through which the Baldonnell Stream passes from east to west. Despite this, the First Party's approach has been to maximise biodiversity enhancements within the site, and particularly along the stream corridor, which will be materially improved from a biodiversity perspective as a result of the already Permitted Development and the Proposed Development.

The overall scheme, as amended as part of the AI response, incorporates biodiversity measures within the scheme that include bird boxes, bat boxes and hedgehog passes within the fence lines to create improved green infrastructure connectivity within and through the site. In addition, the planting and ponds being proposed will help to support both the local bat population and the wider local ecology. This will ensure that the overall scheme is fully in accordance with the Green Infrastructure Strategy set out in Chapter 4 of the County Development Plan.

iii. Compliance with Green Infrastructure and Development Management policies and objectives

The Proposed Development as amended as part of the AI response, provided a comprehensive response to all green infrastructure issues. We note that these were all considered adequate by the Planning Authority.

iv. Protection and enhancement of green infrastructure

In accordance with this part of the AI request, Kevin Fitzpatrick Landscape Architecture (KFLA) submitted a fully detailed planting plan (See Drawing no. 203 from KFLA under the AI response) that is based on the exclusive use of native species and planting that will encourage biodiversity and support pollinators within the landscape.

The landscape and drainage proposals submitted as part of the AI response indicated the extensive use of SUDS measures throughout. These include permeable paving, bio-retention tree pits, bioswales and others. The AI response also includes detailed sections and levels that provides sections through the proposed bioswale, and a typical wetland edge detail that provides a gently sloping bank and shelf to aid aquatic habitat planting and to encourage wildlife. In order to significantly reduce the impacts on existing green infrastructure

as part of the AI response, the existing centrally located hedgerow was partially retained. It was proposed to retain the northern 75m length and to remove a length of 36m hedgerow.

To mitigate this the AI response set out that a similar length of new hedgerow would be planted around the turning circle that will connect the existing hedgerow to be retained and the stream corridor and planting. The scale of new planting is significant with 443 new mature trees and 4,903 saplings to replace the 72 trees to be removed. In addition, the AI scheme proposes new hedgerows around the perimeter of the site, where there are currently none.



Local GI Plan showing how the Proposed Development connects with existing or permitted green infrastructure

The revised Green Infrastructure (GI) Plan (see above excerpt) was submitted as part of the AI response by KFLA that indicated the retaining of the majority of the central north – south biodiversity corridor hedgerow through the centre of the site, and how the landscape strategy had been informed by both the existing green infrastructure on the site, and how it will connect, and continue to connect, and in many ways, due to the significant additional planting proposed for the site, in creating stronger GI links both within and through the site, but to adjacent green infrastructure and wider GI corridors.

v. Compliance with Policy NCBH11, Objective 3, Policy GI Objective 4 and policy GI2, Objective 2

We refer the Board to the fact that Policies NCBH11, Objective 3; GI1, Objective 4; and GI2, Objective 2 informed the overall approach to the Proposed Development, and as amended as part of the AI response.

We refer the Board to the fact that the retention of the majority of the western hedgerow, and the creation of a new biodiversity link to the stream corridor will, with overall approach to enhancing the green infrastructure of the site, undoubtedly not only protect but improve the wildlife amenity of the site fully in accordance with Policy NCBH11, Objective 3 of the County Development Plan.

Fully in accordance with Policy GI1, Objective 4, the layout of the Proposed Development as originally applied for, and further enhanced under the AI response, has fully incorporated Green Infrastructure and environmental assets into the overall design. The Landscape Plan submitted as part of the AI response (Drawing no. 201 submitted by KFLA) indicates all of the environmental assets being retained, and the new hedgerow and tree planting being proposed. This has been informed by ensuring that the design links into adjacent and wider GI networks as set out under the GI Plan fully in accordance with Policy GI1, Objective 4 of the County Development Plan.

The site is therefore considered to be an appropriate location for the development of data centres under this Strategy. This is highlighted in the OPR outlining to the Planning Authority, during its review of its own County Development Plan in 2022, that this should be reflected by data centres being open for consideration under the EE zoning which applies to the subject site under the County Development Plan, in order to ensure compliance and alignment with the foregoing provisions of the RSES.

ii. National Planning Framework

The National Planning Framework (NPF) was published in February 2018 setting out a vision for Ireland in land use and planning terms to 2040. The NPF replaced the National Spatial Strategy once it was adopted as the long-term land use and planning vision for Ireland.

National Strategic Outcome 5 of the NPF relates to the creation of *"A Strong Economy Supported by Enterprise, Innovation and Skills"*. This strategic outcome is underpinned by a range of objectives relating to job creation and the fostering of enterprise and innovation, and is reflected in the recent new Government Statement, as outlined below.

The following objective, relating to Information and Communications Technology (ICT) infrastructure (including data centres) is included under National Strategic Outcome 5:

"Promotion of Ireland as a sustainable international destination for ICT infrastructures such as data centres and associated economic activities."

The NPF also states under National Strategic Outcome 5:

"Ireland is very attractive in terms of international digital connectivity, climatic factors and current and future renewable energy sources for the development of international digital infrastructures, such as data storage facilities. This sector underpins Ireland's international position as a location for ICT and creates added benefits in relation to establishing a threshold of demand for sustained development of renewable energy sources."

The NPF is favourably disposed to the location of ICT infrastructure in Ireland, and the Proposed Development, which comprises of such ICT infrastructure, is therefore considered to be wholly in accordance with this key body of national planning policy.

iii. Government policy

We note that the government issued a revised "Statement on the Role of Data Centres in Ireland's Enterprise Strategy" on the 27th July 2022 (the **"Government Statement"**). This document sets out "Principles for Sustainable Data Centre Development" which will inform applications for future data centre development over the coming years.

The Government Statement acknowledged that all demand for such development will not be capable of being accommodated, however, it also stated that:

"Data centres are core digital infrastructure and play an indispensable role in our economy and society. Data centres provide the foundation for almost all online aspects of our social and work lives, including video calling, messaging and apps, retail, banking, travel, media, and public service delivery such as healthcare and welfare."

The Government Statement provides a pathway towards new data centre development subject to the following considerations:

"Within the constraints of sectoral emissions obligations, these principles set out the positive role that data centres can play, subject to meeting the requirements set out under the applicable planning and grid connection processes."

At the outset, it should be noted that the Government Statement, which was published in July 2022, predates the final grant of permission for the Permitted Development, which established the First Party's data centre campus at this location, which the current application represents the next phase of. The current development also falls under the extant connection agreement with EirGrid in respect of the overall campus. Additionally,

the Permitted Development establishes the MFGP, which is scaled as permitted to cover the Proposed Development, and which does not fall to be reconsidered under the current application.

Notwithstanding that the power strategy for the campus is already established, as set out below, the Proposed Development is considered to align fully with the Government Statement, and Vantage Data Centres (of which the First Party is a group company) continues to pursue its commitment to reaching net zero provision of data services, including as a signatory of the Climate Neutral Data Centre Pact.

The Government Statement sets out six principles that should inform and guide future data centre development. The First Party and the Proposed Development meets these on the following basis:

Economic impact

"The Government has a preference for data centre developments associated with strong economic activity and employment."

Vantage Data Centres (of which the First Party is a group company) is a leading, highly experienced developer and provider of data centres worldwide. As well as having already commenced development on the Permitted Development creating c. 1,000 construction jobs over a prolonged construction period, the Proposed Development in combination with the Permitted Development will create c. 180 full time positions in the areas of IT, finance, project management and security. Both the Permitted Development and the Proposed Development will support future Irish investment by the First Party in Ireland creating resilient IT infrastructure and will further support the attractiveness of Ireland as a location for ongoing foreign direct investment.

The Government Statement itself specifically recognises the major economic impact of data centres and cloud infrastructure in Ireland, stating the following:

"Data centres represent a core digital infrastructure for both Ireland's and Europe's digital economies and for strengthening Ireland's position as a strategic international location for IT services. This is the infrastructure that lies behind all digital aspects of our social and work lives, including video calling, messaging and apps, retail, banking, travel, media, and public service delivery in areas such as healthcare and welfare."

Data centres enable digital economies through hosting critical software and data that allows the world's leading companies to run their businesses, organise their supply chains, pay their staff, and host video conferencing applications. These are the suite of technologies and services that have facilitated the digitalisation of our economy, our work lives and many of the online applications, services and platforms widely used across society. During the pandemic, they enabled business and communities to quickly move to a remote model. Data centres also host and deliver entertainment and content services into homes."

More broadly however, data centres are also the means by which Ireland's major technology companies process and store companies' most sensitive and strategic assets. They are also the means by which they are transitioning their businesses to the cloud, making Ireland critical to their global presence. Investments by technology multinationals in large, long-life assets such as data centres further secures the presence of the global technology sector in Ireland."

Ireland is home to a significant cluster of digital infrastructure and service providers. To maximise the benefits of technology advancements including from 5G, AI [Artificial Intelligence] and virtual reality, Ireland will need to continue to facilitate sustainable data centre development and the associated technological and economic spillovers."

The Government Statement, under this principle, also notes that any data centre development should accord with the provisions of the relevant Regional Spatial and Economic Strategy and the NPF.

The Proposed Development is aligned with the policies of the Regional Spatial and Economic Strategy for the EMRA and the National Planning Framework.

National Strategic Outcome 6 of the NPF relates to the creation of "A Strong Economy Supported by Enterprise, Innovation and Skills". This strategic outcome is underpinned by a range of objectives relating to job creation and the fostering of enterprise and innovation.

The following objective, relating to ICT infrastructure (including datacentres) is included under National Strategic Outcome 6:

"Promotion of Ireland as a sustainable international destination for ICT infrastructures such as data centres and associated economic activities."

The current application proposes the provision of a new data centre building, in a location which is well suited and serviced to accommodate such a use.

The NPF further states under National Strategic Outcome 6:

"Ireland is very attractive in terms of international digital connectivity, climatic factors and current and future renewable energy sources for the development of international digital infrastructures, such as data centres. This sector underpins Ireland's international position as a location for ICT and creates added benefits in relation to establishing a threshold of demand for sustained development of renewable energy sources."

Having regard to the above, the National Planning Framework is clearly favourably disposed to the location of ICT infrastructure in Ireland, and the Proposed Development, which comprises of such ICT infrastructure, is therefore considered to be wholly in accordance with this key body of national planning policy. Within the Regional Spatial and Economic Strategy for the EMRA, Regional Policy Objective (RPO) 8.25 states the following:

"Local Authorities shall:

- Support and facilitate delivery of the National Broadband Plan.*
- Facilitate enhanced international fibre communications links, including full interconnection between the fibre networks in Northern Ireland and the Republic of Ireland.*
- Promote and facilitate the sustainable development of a high-quality ICT network throughout the Region in order to achieve balanced social and economic development, whilst protecting the amenities of urban and rural areas.*
- Support the national objective to promote Ireland as a sustainable international destination for ICT infrastructures such as data centres and associated economic activities at appropriate locations.*
- Promote Dublin as a demonstrator of 5G information and communication technology."*

It is submitted that the subject site is an appropriate location for the development of a new ICT infrastructure development having regard to the site's zoning, its strategic and accessible location in close proximity to the national road / motorway network.

In the context of this first criteria, it is important to first note that the Government Statement itself highlights the positive national economic impact that data centre development has had (and consequently can continue to have) in Ireland. It states the following:

"Digital Infrastructure such as data centres underpins our technology sector, which is increasingly cloud based. Ireland's technology sector accounts for €52 billion (16%) of gross value added and employs 140,000 people – equivalent to 6 per cent of total national employment with 40 per cent growth over the last five years.

A CSO publication, Information and Communications Technology: A Value Chain Analysis 2019, highlights the economic contribution of the ICT sector. In 2019, output for the ICT sector amounted to €128bn. Total exports of services from the sector were some €121.4bn from both foreign and domestic firms, with domestic ICT companies exporting 37 per cent of their output. Technology companies invested €46bn in fixed capital assets in 2019, with R&D investment of €1.392 bn."

The Government Statement also sets out that data centres do not represent 'optional economic infrastructure', and states the following:

"Data centres are not a separate or optional economic infrastructure – they are integrated into our data-driven knowledge economy and information society. Digital infrastructure should be assessed in the context of the total economic value it gives rise to, including employment across the value chain, as well as its role in underpinning the evolving data economy. Our data-driven technology sector drives innovation,



productivity, and overall economic activity. The data stored in Irish data centres underpins an increasing base of employment intensive businesses."

In addition, the Proposed Development will support an extensive ecosystem of equipment suppliers, operations, maintenance and service providers, a significant proportion of which will be based in Ireland.

Global cloud service providers employ thousands of highly qualified professional staff in Ireland, in well paid employment. The Proposed Development would therefore contribute towards maintaining Ireland's position as a leading exporter of cloud-based IT services, as recognised within the Government Statement.

Therefore, the current proposals fully aligns with this principle of the Government Strategy.

Grid capacity & efficiency

"The Government has a preference for data centre developments that make efficient use of our electricity grid, using available capacity and alleviating constraints."

This matter is comprehensively addressed under Section 8 of this appeal.

Vantage Data Centres (of which the First Party is a group company) is an industry leader in data centre energy efficiency. They have enabled waste heat reusage and are in discussions with various Irish and international energy providers specializing in providing solutions in Ireland to maximise opportunities for renewable energy use onsite.

The development is subject to an existing connection agreement with EirGrid as detailed within this appeal, while there is also a current modification to enable export of electricity from the subject site, to directly support the grid in the vicinity of the Proposed Development, thereby alleviating constraints on the grid via the previously permitted MFGP for the campus.

The already permitted MFGP is designed and scaled to alleviate constraints on the grid, and provides for reliable, dispatchable energy supply in line with the provisions of the Government Statement and the CRU direction to system operators requiring generation capacity of this nature for new data centre developments. The MFGP provides capacity to generate energy to directly support the grid, thereby enhancing security of electricity supply. The campus (of which the current Proposed Development will form part) is also intended to entail a large-scale battery energy storage system ("BESS") facility, which has been subject to a recent decision to grant permission by the Planning Authority under Reg. Ref.: SD23A/0035. The BESS will further assist in alleviating constraints.

As noted, the MFGP and VDC Grid Connection Agreement will serve the Proposed Development are established and extant, and do not fall to be reconsidered as part of the current application or appeal. The Proposed Development, representing the logical next phase of an overall data centre campus, will make use of the available capacity in the existing VDC Grid Connection Agreement and the already permitted MFGP, which is wholly in accordance with the foregoing principle of the Government Statement.

As part of their wider development, the First Party has also submitted a SID application for and committed to the delivery of a new high voltage substation and grid connection, representing a direct contribution to and development of the national high voltage electricity grid in the area.

Based on the foregoing, full compliance with this principle of the Government Statement is achieved.

Renewables additionality

"The Government has a preference for data centre developments that can demonstrate the additionality of their renewable energy use in Ireland."

Vantage Data Centres (of which the First Party is a group company) goal is to achieve a goal of being net zero carbon by 2030. In order to do so, they are making technology investments that reduce emissions. For example, Vantage Data Centres (of which the First Party is a group company) has a 20-year PPA with SolarAfrica, a pioneer in South Africa's solar energy financing. This enables the production of 87MWp (Megawatt Peak) of renewable energy bringing additionality to supplement the local grid and that powers one

of their two Johannesburg campuses. Over the lifetime of the agreement, it is forecasted to reduce the emission of CO2 in the region by an additional 3.8 million tons.

The First Party is committed to engaging in similar positive developments for the Irish energy market through their engagement with PPAs. The First Party demonstrates this commitment in the current appeal by noting their willingness to accept a condition attached to any grant of permission for the Proposed Development, requiring that details be submitted and agreed with the Planning Authority prior to the operation of the Proposed Development, to demonstrate engagement in a PPA for renewable energy in respect of the Proposed Development's energy use.

Customers at all their campuses globally can take advantage of renewable energy to reduce their carbon emissions. For example, four of their campuses are powered by more than 99% renewable energy (hydro, tidal and wind) for critical IT load through their utility partners, while other campuses provide access to green PPAs and renewable energy credits through local utilities.

In Ireland, Vantage Data Centres (of which the First Party is a group company) is in discussions with potential renewable project providers that will provide additionality to the Irish electric grid. They are also exploring another new, exciting microgrid opportunity bringing renewable generation together with energy storage and green hydrogen production.

In addition to the foregoing, it should be noted that the previously permitted MFGP for the campus, which will also serve the Proposed Development, has been designed to allow generation from HVO, and to also accommodate biogas and hydrogen as fuel sources. The permitted MFGP thereby directly supports and aligns with this pillar of the Government Statement.

Further details in this respect are provided in the latter sections of this appeal document, and it is confirmed that the Proposed Development complies with the foregoing principle of the Government Statement.

Co-location or proximity with future proofing energy supply.

"The Government has a preference for data centre developments in locations where there is the potential to co-locate a renewable generation facility or advanced storage with the Data Centre, supported by a Corporate Power Purchase Agreements, private wire, or other arrangement."

In relation to this principle, it is noted that the campus (which the current development will form part of) entails the permitted MFGP which is designed to accommodate operation on renewable fuel sources. In addition, as set out above, the First Party is in receipt of a decision to grant permission for a large-scale BESS facility within the campus (under Reg. Ref.: SD23A/0035), which represents an advanced storage facility.

BESS facilities mitigate the risk of electricity shortage and therefore encourage the provision of renewable generation facilities that are connected to the grid, by providing potential for an injection of stored energy during periods of low renewable generation. Thus, the BESS will support Ireland's transition to a low carbon energy system. Moreover, the BESS will provide for voltage and frequency controls.

On this basis, the development fully complies with the foregoing principle.

The Government Statement sets out the following in relation to this principle:

"Where the combination of technologies at a generation facility is built to match the demand capacity factor (e.g., endeavouring to match the maximum import capacity with export capacity), the same infrastructure may be able to assist both demand customers and generation facilities (wind/solar/battery farm). This would make efficient use of grid investments, reduce curtailment and potentially enable significant decarbonisation of the data centre. The Government also encourages the co-location of downstream value-adding activities that can make use of carbon, excess heat and other outputs from the data centre activity, such as for horticultural activities or district heating schemes."

As set out in detail later in this appeal document, the First Party is committed to, and would accept a condition requiring, their engagement in CPPAs for renewable energy to support the proposed data centre development in direct compliance with this principle of the Government Statement.

Additionally, the development makes provision for district heating in addition to reusing waste heat on site, which further demonstrates compliance with this principle.

We refer the Board to the section of this document which sets out the grounds of appeal for further details in relation to the First Party's commitment to securing PPAs, as further evidenced by the correspondence with PPA providers included as an appendix to this appeal document. The Proposed Development aligns with this principle of the Government Statement on this basis.

Decarbonize data centres by design

"The Irish Government has a preference for data centres developments that can demonstrate a clear pathway to decarbonize and ultimately provide net zero data services."

Vantage Data Centres (of which the First Party is a group company) is committed to a clear pathway to achieving net zero carbon emissions for operations by 2030 and to drive emission reductions across the entire value chain. In energy, Vantage Data Centres (of which the First Party is a group company) guiding principles are to minimize energy use through efficient design and operations, and to decarbonize energy supply. The First Party, as recognised under the Permitted Development seeks to utilise cleaner fuels for on-site backup power generation.

As set out in further detail below, the First Party is also committed to pursuing PPAs to offset the energy usage of the Proposed Development with new renewable energy generation. It is the intention of the First Party to ensure that long term PPAs for renewable areas and Guarantees of Origin (GOs) as described in Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 will be put in place to promote the decarbonization of the Facility Campus.

Additionally, the permitted MFGP for the overall data centre campus is designed to use HVO, biogas and hydrogen as these fuel sources become widely available.

Furthermore, as set out in this appeal document, the Vantage Data Centres (of which the First Party is a group company) is a signatory of the climate neutral data centre pact, which entails binding commitments to achieving decarbonisation and net zero data services.

The proposals are in line with this principle of the Government Statement and the First Party has demonstrated concrete commitment and steps to proactively decarbonise their operations.

SME access and community benefits

"The Government has a preference for data centre developments that provide opportunities for community engagement and assist SMEs, both at the construction phase and throughout the data centre lifecycle."

Vantage Data Centres (of which the First Party is a group company) is committed to prioritise engagement with local communities to develop innovative solutions to proactively address opportunities and mitigate negative impacts. These include investment in schools, training, and education; sponsorship; support programmes to develop the technology workforce and skills required by its workforce; support local business both directly and indirectly; and supporting creativity and the arts.

In response to this principle, it should be noted that the delivery of the proposed data centre development on the subject site will give rise to significant direct and indirect benefits for SMEs in the area during the construction process. Additionally, the operation of the development will give rise to the need for a range of support services and secondary employment, including benefits to SMEs in South Dublin and the wider area.

The Proposed Development will support an extensive ecosystem of equipment suppliers, operations, maintenance and service providers, a significant proportion of which will be SMEs based in Ireland. These SMEs will benefit from the Proposed Development both during the construction and operational phases of the Proposed Development.

The impact of the Proposed Development in terms of the geography of the area, and on the local population in terms of amenity and environmental quality (as referenced within the Government Statement in the context

of this principle) will be mitigated in line with the contents of the EIAR. We refer to the EIAR for further details in this regard.

The Proposed Development will give rise to significant benefits for SMEs and the First Party is committed to actively benefiting the local community, in line with this principle.

The First Party is already engaged with local community groups including an active engagement with Newcastle Tidy Towns Initiative, the first of many community engagements planned including locally initiatives centred around mobility, mental health and additional green initiatives. The First Party is also engaging with Round Towers GAA Club, Clondalkin and St. Francis FC located in Baldonnell adjacent to the site at Profile Park.

The First Party is engaging extensively with the local community and is committed to continuing this engagement and involvement going forward.

The First Party is committed to advancing the goals behind the Six Principles, as the examples above demonstrate. The First Party's strategy, developments, and operations are aligned with, and supportive of, government policy.

As a responsible company, committed to sustainability and decarbonisation, the First Party wishes to continue to work with the Irish government, all stakeholders and our neighbouring communities, to continue growing Ireland's position as a leader in the digital age for cloud computing, and to maximise the benefits of this investment for society and the economy. Their investment in Ireland will aid revitalisation and progress in the digital age that will support current businesses and attracting new ones, preparing the current and future workforce for high-tech careers at home in Ireland.

The Proposed Development therefore fully conforms to this current and will adhere to any future government policy.

iv. Climate Action Plan 2023

The First Party recognises the need to balance the demand for development with climate action and resilience that is reflected in both the Council's own Climate Action Plan 2019; as well as the recently published national Climate Action Plan 2023. This more recent Climate Action Plan has replaced the Climate Action Plan 2021, that contained policies and long term aims that were based on continuing to facilitate data centre development, subject to certain criteria, and future reviews, up to 2030. The Climate Action Plan 2023 recognised and took account of the changes in demand for electricity over the next 10 years; and that this will alter the profile for demand and recognises that the forecast growth in data centres will represent a challenge to Ireland's emissions targets.

Government policy set out under the Climate Action Plan 2023, states that the strategy in the short and medium term on large energy users, such as data centres, will have to be moderated to protect security of supply and ensure consistency with the carbon budget programme.

We respectfully submit that the County Development Plan, following the Ministerial Direction reflects this and requires data centre applications, such as the Proposed Development, to be considered on their individual merits having regard to EirGrid and CRU policy but also the criteria set out under Policy EDE7 Objective 2 of the County Development Plan.

7. Decision of the Planning Authority

The decision of the Planning Authority to refuse permission was made on the 29th May 2023, following the above AI request and our comprehensive response. It is notable that all other aspects of this complex application were considered as acceptable or able to be addressed via a condition of planning. The two reasons for refusal cited by the Planning Authority were:

- 1. Having regard to the existing insufficient capacity in the electricity network (grid), the lack of a fixed connection agreement to connect to the grid, the lack of significant on site renewable energy to power the proposed development, the lack of evidence provided in relation to the applicant's engagement with Power Purchase Agreements (PPAs) in Ireland, and the reliance on a predominantly gas powered plant*

to provide energy to the development, it is considered that the applicant has failed to demonstrate that the proposed use is acceptable on EE zoned lands, in accordance with EDE7 objective 2 and section 12.9.4 of the South Dublin County Development Plan 2022-2028. In this regard the proposed development, would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The applicant has failed to submit an updated Chapter 15 of the Main EIAR. In the absence of this information, the Planning Authority is unable to determine whether the information contained within the EIAR allows for adequate assessment of the potential impacts of the proposed development on the receiving environment and complies with the requirements of Article 94 of the Planning and Development Regulations 2001 (as amended)

Prior to addressing the above two reasons for refusal within section 8 of this appeal, it is noteworthy to provide a summary of the consideration of all other aspects of the decision by the Planning Authority.

Point of AI response	Planning Authority response
1a	Level of office space was deemed as acceptable
1b	Adequate compliance with Objective 6 of Policy EDE1
1c	Reason no. 1 of refusal
2a	Requested condition to address in terms of revised elevations
2b	Fence plan deemed to be adequate
3	Environmental Health Office confirmed and noted in CEO report that they had no objections to the acoustic request
4	A revised layout was provided to the north of the site to facilitate a shared cycle footpath along the southern end of the Nangor Road. The response was considered satisfactory and a recommendation to grant permission was issued by the Roads Department on this issue.
5	The Parks and Public Realm Department were satisfied with all the submitted information to this part of the AI response
6	The Parks and Public Realm Department were satisfied with all the submitted information to this part of the AI response, and Water Services raised no objections subject to a condition to be attached to any grant of permission.
7	The Parks and Public Realm Department were satisfied with all the submitted information to this part of the AI response
8	The Parks and Public Realm Department were satisfied with all the submitted information to this part of the AI response
9	The Parks and Public Realm Department were satisfied with all the submitted information to this part of the AI response
10	The Parks and Public Realm Department were satisfied with all the submitted information to this part of the AI response, and Water Services raised no objections subject to a condition to be attached to any grant of permission.
11	The Parks and Public Realm Department were satisfied with all the submitted information to this part of the AI response
12	The Parks and Public Realm Department were satisfied with all the submitted information to this part of the AI response
13	Water Services raised no objections subject to a condition to be attached to any grant of permission in relation to this issue.
14	Water Services raised no objections subject to a condition to be attached to any grant of permission in relation to this issue.
15	Due to an administrative error an updated Chapter 15 – Material Assets was not submitted as part of the AI response. In the absence of this information the Planning Authority concluded that permission should be refused. The Chief Executive Report notes that if the information had been provided then they may have been in a position to make the necessary assessment of the EIAR

We respectfully submit that the sole reasons for the refusal of permission relate to Policy EDE7, Objective 2, and the error in the EIAR, both of which we will comprehensively address under the following section of this appeal.

8. Grounds of appeal

The full grounds of appeal together with the arguments, reasons and considerations upon which these are based are set out below. For clarity and ease of reference we propose to deal with each individual element of the decision to refuse permission as stated in the Notification of Decision to Refuse Permission of South Dublin County Council and outline our response to each element in turn.

REASON FOR REFUSAL NO. 1

The first reason for refusal was as follows:

1. *Having regard to the existing insufficient capacity in the electricity network (grid), the lack of a fixed connection agreement to connect to the grid, the lack of significant on site renewable energy to power the proposed development, the lack of evidence provided in relation to the applicant's engagement with Power Purchase Agreements (PPAs) in Ireland, and the reliance on a predominantly gas powered plant to provide energy to the development, it is considered that the applicant has failed to demonstrate that the proposed use is acceptable on EE zoned lands, in accordance with EDE7 objective 2 and section 12.9.4 of the South Dublin County Development Plan 2022-2028. In this regard the proposed development, would, therefore, be contrary to the proper planning and sustainable development of the area.*

This reason for refusal stems from Policy EDE7, Objective 2 and section 12.9.4 of the County Development Plan. We note that this policy objective contains ten objectives that are required to be demonstrated. In their assessment of the AI submitted in relation to the application, the Planning Authority concluded that all other elements were acceptable but that the application should be refused based on elements that related to:

- i. having regard to the existing insufficient capacity in the electricity network (grid);
- ii. the lack of a fixed connection agreement to connect to the grid;
- iii. the lack of significant on-site renewable energy to power the proposed development;
- iv. lack of evidence provided in relation to Power Purchase Agreements (PPAs) in Ireland; and
- v. the reliance of on a predominately gas-powered plant to provide energy to the development

We respectfully submit that their conclusions relating to the above matters were both incorrect and indicate a misunderstanding of how connection agreements and PPA's work and operate. In addition to this planning response to this aspect of the decision, we include a legal advice note from Eversheds Sutherland LLP.

i. Existing insufficient capacity in the electricity network (grid)

As a preliminary point, the Planning Authority has stated that it has had regard to the "*existing insufficient capacity in the electricity network (grid)*" in relation to making its decision. The First Party submits that it has obtained a connection agreement from EirGrid in respect of the Facility Campus (which includes the Permitted Development and Proposed Development) - i.e. the VDC Grid Connection Agreement. EirGrid, in accordance with policy directions from the CRU, develop policy criteria that grid connection applicants are required to satisfy in order to obtain a grid connection agreement. These policy criteria are largely designed to take into account capacity issues on the Irish grid. In this regard, the First Party satisfied these policy criteria when it obtained the VDC Grid Connection Agreement and the First Party respectively submits that the Planning Authority should be satisfied that EirGrid (as transmission system operator for the Irish electricity grid and therefore the appropriate authority on this matter) has determined that the Facility Campus can connect to the grid and the Planning Authority should not have its own regard to this matter in its assessment of the First Party's Planning Application.

We have set out EirGrid's policy criteria in more detail below.

In addition, we refer the Board to the export modification to the VDC Grid Connection Agreement of the First Party that is at Stage 2 of the connection process, that once granted in full, will enhance and create a more reliable electricity supply to all. The permitted MFGP is scaled to ensure that the Permitted Development and the Proposed Development being progressed by the First Party will not result in further capacity issues on the electricity network, the overall development will in fact add to the resilience and stability of the grid.

Are there constraints that warrant a refusal of permission?

It is not in question that there are restrictions and constraints, outside of the planning process, that govern the ability of a data centre to operate, with the main one relating to connections to the national grid. Currently all Data Centre connections being offered by EirGrid in the Dublin region are being offered on a flexible demand basis. Flexible demand is where the electrical load for a data centre must be reduced on instruction from EirGrid under DCCOPP, via the National Control Centre (NCC).

EirGrid have also noted the following in relation to Data Centre Connections under DCCOPP:

1. Flexible demand will be available to customers seeking to connect in constrained areas.
2. Capacity review to be performed following the annual T-4 capacity auction to determine if additional firm access can be made available.
3. Firm capacity will be provided for data centres where on-site dispatchable generation is made available to EirGrid.
4. Connection offers are based on planning permission for a site and must line up with the capacity sought.
5. Flexibility will be allowed for MFC ramping in constrained areas.

These policies of EirGrid are driving the need for on-site dispatchable generation on all data centre sites to ensure security of supply for the grid as a whole (see point 3), until such time as transmission and generation capacity short-falls are addressed. On-site dispatchable energy generation capacity is already provided to the Proposed Development by the permitted MFCP granted under the Permitted Development, which is unaffected by the current proposals representing the second logical phase of the overall development of our client's landholding. Therefore, the overall dispatchable generation element of the overall campus is established under the extant permission and does not fall to be reconsidered as part of this application or appeal process.

This is a critical point to consider when assessing any new application for a data centre, and even more critical when considering the Proposed Development, given that the Facility Campus is already permitted for an on-site dispatchable generation plant (the MFCP) with capacity to export into the grid at a capacity that would be equal or greater than the capacity required to power the Permitted Development and the Proposed Development.

EirGrid have stipulated that this generation must be capable of running continuously for an extended period of time and not limited by fuel reserves. Currently, this rules out the ability for renewables to fully power any data centre development in Ireland and is reflective of the EirGrid policy for allowing connection agreements where on-site dispatchable power is provided. The First Party has sought to maximise use of renewables through the use of HVO, and via the design of the previously permitted MFCP to accept biogas and hydrogen, with the MFCP thereby providing for net additional renewable generation on site in the future. This policy ensures that the grid will not be negatively impacted by any proposed data centre development.

This policy was further confirmed by the CRU and their Direction CRU21/124 that was issued on the 23rd November 2021 (and post-dates the DCCOPP document) that set out the future regulation of the electrical connection of data centres in Ireland.

The Direction by the CRU acknowledged the value of allowing the data centre market to continue to develop and grow in Ireland, while also recognising the role that they need to play in the stabilisation of Ireland's electrical grid. The CRU Direction requires EirGrid to apply the following assessment criteria on a case-by-case basis, in determining whether a connection offer should be made to an applicant data centre in this location:

- *The ability of the data centre applicant to provide flexibility in their demand by reducing consumption when requested to do so by EirGrid in times of system constraint. This includes both with, and without, the use of dispatchable on-site generation and/or storage, which meets appropriate availability and other technical requirements as may be specified by EirGrid.*

The more recent Government Statement recognised that data centre operators, such as the First Party, in accordance with the above cited policies, have an opportunity to play a pivotal, and positive role in the development and stabilisation of Ireland's electrical grid infrastructure while also allowing the development of the Irish data centre hosting market, and its role within Ireland's Enterprise Strategy to continue.

The Government Statement recognises this in conjunction with the CRU Direction and states:

"...allows the data centre industry to continue to connect to the electricity grid, subject to certain conditions. New data centre connections are required to have on-site generation (and/or battery storage) that is sufficient to meet their own demand and, to assist in full decarbonisation of the power system, this generation should also be capable of running on renewably sourced fuels (such as renewable gas or hydrogen) when supplies become more readily available."

We respectfully submit that the processing of the VDC Grid Connection Agreement, reflects EirGrid's assessment that a connection offer can be made to the applicant who are the First Party in this instance, as their proposed connection will be consistent with the needs and constraints of the electricity system and National Grid, as set down by their own policy and that of the CRU. The connection is currently due to be operational in Q2 2025 and will be phased.

ii. Lack of a fixed connection agreement to connect to the grid

We respectfully refer the Board to the advice note on the legal interpretations by Eversheds Sutherland LLP of what is covered in the VDC Grid Connection Agreement that accompanies this appeal. We refer the Board to the fact that the reason for refusal cited by the Planning Authority raised the question of whether the First Party had a grid connection agreement in place to serve the Proposed Development. The First Party sought, under the DUB13 planning application, to rely on the VDC Grid Connection Agreement.

This aspect of the refusal cited *"the lack of a fixed connection agreement to connect to the grid"* as a ground for rejecting the DUB13 Planning Application. In considering this matter, rather than seeking a Clarification of the Additional Information, the Planning Authority reached a conclusion that the VDC Grid Connection Agreement that was used for VDC's DUB11 and DUB12 planning application, was not sufficient to demonstrate connection to the electricity grid for the purposes of the DUB13 Planning Application.

The accompanying legal advice note prepared by Eversheds Sutherland LLP clearly demonstrates that, based on the provisions of EirGrid's General Conditions of Connection and Transmission Use of System, the Proposed Development falls within an overall "Customer Premises" which is already subject of the executed VDC Grid Connection Agreement.

We respectfully submit that therefore that the General Conditions of the VDC Grid Connection Agreement allows the First Party to use the VDC Grid Connection Agreement to connect the lands comprising the DUB11, DUB12 and the DUB13 data centres to the electricity network. We refer the Board to the accompanying legal advice note for further details.

Therefore, a fixed agreement is, in fact, in place, and this aspect of the refusal is therefore also unfounded and should be overturned by An Bord Pleanála.

Explanation of the wider connection offer process

We respectfully submit that the decision of the Planning Authority indicates a complete misunderstanding of EirGrid's current data centre policy as set out in the DCCOPP and the First Party's own connection agreement. It also, in our considered opinion, outstretches the role of the Planning Authority above and beyond its remit.

The simple fact in this case is that the First Party's Facility Campus already has a connection agreement that will be facilitated by a connection from the transmission lines and substation that are subject of the concurrent SID application. This was the situation previously when the Permitted Development was granted on the site, and remains so, and no substantive policy changes relating to data centre connections has occurred in the interim. We respectfully submit that it is unequivocal that the Proposed Development will not require a new connection and therefore by default a new connection agreement, as it is not a stand-alone development but forms part of the campus of the already Permitted Development.

Who provides connection agreements?

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. In this regard, the Permitted Development and

Proposed Development are considered to be the same premises for the purposes of the VDC Grid Connection Agreement.

The First Party's import connection agreement is fully complete and contains a small fixed element that indicates some capacity in the local network; and a flexible offer. Under current EirGrid policy Flexible Demand Offers are the only offers being provided to data centre operators in constrained network areas such as the subject site.

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."

The First Party is also seeking an amendment to the VDC Grid Connection Agreement to add the ability to export and this is currently at Stage 2 of the connection agreement process. Progress to this stage of the connection agreement has been facilitated by the granting of a valid planning permission on the First Party's adjacent site that forms Phase 1 of the development of their Facility Campus. There is a need for this export amendment to be fully ratified before the current flexible demand offer can become a firm capacity offer.

This current connection agreement provides an initial import of power which is then ramped up to the final Maximum Import Capacity (MIC) over a number of years. The First Party currently has a modification application in place with EirGrid - to add Maximum Export Capacity (MEC) in order to become an auto producer and enable the export of power - that is currently under consideration (Stage 2 of EirGrid application process).

Once the MEC modification is granted, the grid will benefit from the MFGP. As the primary fuel of the MFGP is gas, this plays a part in decarbonising the grid – as acknowledged in the Climate Action Plan adopted by government. The MFGP will provide stable power to the grid in order to facilitate the greater resilience of the grid and to enable the penetration of additional intermittent renewables in the short term. This in turn will contribute to helping Ireland meet its required 2GW of flexible gas fired generation as identified in the 2021 Climate Action Plan, which is a key enabler for the continued increase in renewable penetration on the grid.

We respectfully submit that this fourth objective of Policy EDE7, Objective 7 is both poorly constructed, and misleading in terms of how capacity within the electricity network is managed. Current national policy is to facilitate data centre development by ensuring that on-site dispatchable energy of the same or equivalent is available on the same site, as well as other considerations as set out within this appeal that influence the acceptability of new data centre development, that the First Party meets in full, including the Government Statement.

This is the case in this instance due to the permitted MFGP granted under the Permitted Development that is scaled to facilitate the export of power equivalent or greater than the power requirements of the entire campus, and which is therefore unaffected by the Proposed Development.

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 (subject to multiple different planning applications) and a single connection agreement. The adjacent UBC Properties and nearby Edgeconnex campuses within Grange Castle, have similar arrangements. The Planning Authority were therefore incorrect to cite the lack of a fixed connection as a reasonable reason for refusal in this instance. We therefore request the Board to overturn this aspect of the decision and grant permission in this instance.

iii. Lack of significant on-site renewable energy to power the proposed development

We understand that this refusal ground relates to the following requirement under Policy EDE7 Objective 2:

"Maximise onsite renewable energy generation to ensure as far as possible 100% powered by renewable energy, where on site demand cannot be met in this way provide evidence of engagement with power purchase agreements (PPA) in Ireland;"

There are two elements to the above requirement, first the applicant must maximise onsite renewable energy generation to ensure as far as possible it is 100% powered by renewable energy. Where an applicant cannot do this, it can satisfy the requirement by providing evidence of engagement with power purchase agreements (PPA) in Ireland. The First Party submits that it can meet the second element of this requirement (in relation to providing evidence of engagement with PPAs in Ireland) and in this regard refers the Board to point 4 below where the First Party shows that it has satisfied this requirement.

On review of the specific wording of EDE7 Objective 2, it is clear that the objective seems to promote on site renewable generation as far as possible, however in circumstances where this is not possible, evidence of engagement in PPAs will be sought as an alternative. The Planning Authority's Chief Executive's Report also made it clear that evidence of engagement with PPAs was relevant on the basis that the primary energy source would not be on site renewable energy.

As set out previously in this appeal document, in the context of the Government Statement, while the subject site does not provide for an opportunity to power the Proposed Development via on site solar or wind generation, it is noted that the campus (which the current development will form part of) entails the permitted MFGP which is designed to accommodate operation on renewable fuel sources.

As noted, the MFGP and VDC Grid Connection Agreement will serve the Proposed Development are established and extant, and do not fall to be reconsidered as part of the current application or appeal. The Proposed Development, representing the logical next phase of an overall data centre campus, will make use of the available capacity in the existing VDC Grid Connection Agreement and the already permitted MFGP, which is wholly in accordance with the foregoing principle of the Government Statement.

Additionally, the First Party is in receipt of a decision to grant permission for a large-scale BESS facility within the campus (under Reg. Ref.: SD23A/0035), which represents an advanced storage facility. BESS facilities mitigate the risk of electricity shortage and therefore encourage the provision of renewable generation facilities that are connected to the grid, by providing potential for an injection of stored energy during periods of low renewable generation.

The Proposed Development and the wider Facility Campus do provide for on-site generation which is designed to accommodate renewable fuel sources, however notwithstanding this, this appeal document also sets out robust evidence of engagement with renewable PPAs in Ireland in respect of the Proposed Development.

The requirements of EDE7 Objective 2 are clearly satisfied by the Proposed Development, on the basis of which the decision to refuse permission ought to be overturned.

iv. Lack of evidence provided in relation to the applicant's engagement with Power Purchase Agreements (PPAs) in Ireland

We refer the Board to the consideration of the third objective of Policy EDE7, objective 2 of the County Development Plan in the Chief Executive's Order (page 44). In this, the Planning Authority outline that, as in their considered opinion, the use of natural gas to power the already permitted MFGP, which will aid the security of the National Grid, is not renewable and therefore that the applicant should provide evidence of engagement with PPA providers to be fully in accordance with this part of this Policy under the County Development Plan.

It is worth noting the purpose of a PPA in practical context. A PPA is an agreement between two parties, typically a power producer and a buyer, regarding the purchase and sale of electricity. The power producer, often a renewable energy company or a generator, agrees to produce a certain amount of electricity over a specified period. The buyer, who could be a corporation, a government entity, or even an individual, agrees to purchase that electricity at a predetermined price.

As PPAs are commercial agreements, they must work for both parties and may be renegotiated from time to time. For example, the power producer is generally looking to ensure a steady or secure income. While the buyer is looking to secure best value of the power they are purchasing. As a result, PPAs are generally utilised to cover a baseline energy requirement.

As a relatable example, a homeowner would look at their baseline electricity usage – i.e., items that are run in a predictable pattern such as the refrigerator, heating system, internet router, etc. – and would then look to cover that usage via a PPA. Unpredictable usage – such as boiling the kettle, charging phone, watching TV, etc. – would then be considered using “spot” price purchasing. To ensure the spot purchase is also from a renewable source, Guarantee of Origin certificates could be sought.

We refer the Board to the fact that as part of this appeal correspondence from Open Energy Market Limited (a broker for PPAs and the First Party's main partner in the sourcing of PPAs) is submitted, which confirms that the First Party has been engaging actively in the pursuit of a PPA in respect of the Proposed Development.

It is standard and common practice in Ireland for large energy users, such as data centre operators, such as the First Party, to utilise brokers in engaging with renewable energy providers in sourcing PPAs. The brokers have the expertise and contacts in the Irish PPA market; is a faster process for the First Party rather than having to deal with several renewable PPA providers and it enables them to get access to a number of net additional renewable projects rather than having to negotiate with each one.

This represents clear and unequivocal evidence of the First Party's engagement with Power Purchase Agreements in Ireland. We can also confirm that the First Party has directly engaged with owner operators of renewable energy infrastructure assets in Ireland on terms of PPAs and is also engaged in promoting the expansion of HVO capacity in Ireland (noting that the already permitted MFGP can utilise HVO as a renewable energy source). However, due to the commercial sensitivity of such discussions, the First Party has been requested not to name them under this appeal.

Due to the fact that the design of the permitted MFGP allows for the use of HVO, biogas and hydrogen into the future, the overall campus being progressed by the First Party will also provide a direct opportunity for additional renewable energy generation on site.

This therefore confirms that the Proposed Development is fully in accordance with this third objective of Policy EDE7, objective 2 of the County Development Plan.

As outlined above the wording of this objective of the County Development Plan can only reasonably be interpreted as requiring a confirmation that discussions have taken place between the First Party and PPA providers. In our view, there is no requirement under this objective beyond this. Indeed, it is an issue that could easily have been addressed by a condition of permission that would have been reasonable in terms of ensuring both compliance with this objective, and a greater certainty of the Proposed Development entering into PPA's with renewable energy providers. We can confirm that the First Party would welcome such a condition from the Board. We would suggest the following as suitable wording:

“Prior to the first operation of the development hereby permitted, the developer shall submit to the Planning Authority details of a Corporate Power Purchase Agreement that the developer has entered into which demonstrates that the energy consumed by the development on site is offset with renewable energy generation.”

The Government Statement identified the preference for data centre developments to be supported by renewable generation facility or advanced storage (such as recently permitted on the adjacent site of the First Party under Planning Ref. SD23A/0035) and Power Purchase Agreements, private wire or other arrangements.

As noted previously, the wider campus at this location includes the permitted MFGP which is designed to accommodate generation via renewable fuel sources, allowing for transition towards carbon neutrality, while a decision to grant permission has been issued by the Planning Authority in respect of a large-scale battery energy storage system (BESS) on adjoining lands within the overall campus, thereby fulfilling the requirement for advanced storage. Finally, as outlined above, the First Party is committed to sourcing PPAs and to powering the development using renewable energy.

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With regard to private wire arrangements, the necessary legislation does not currently exist to facilitate such an arrangement (albeit the First Party would welcome the option to avail of such an arrangement in the future, if legislation were to permit it).

The Government Statement outlines that PPAs have a key role to play in decarbonising the electricity sector and ensuring demand growth from large energy users, such as data centres, reduces the cost of reaching renewable energy targets. It recognises that data centre operators purchasing PPAs that add additional renewables, and use our electricity grid efficiently, can play a positive role in Ireland's renewable energy transformation. The First Party is committed to facilitating this transition by entering into PPAs with renewable energy providers fully in accordance with government policy and the policy of the County Development Plan.

We respectfully submit that the reasonableness of the first reason for refusal as it relates to PPAs must be questioned by the Board given the wording of this objective. The objective indicates intent only (given the need for permission to have been granted for a development, as it would not be feasible to enter into / finalise a binding commercial agreement like a CPPA in the absence of certainty provided by a grant of permission and is not a reasonable ground for refusal. As outlined in this appeal, it is a matter that could have been addressed by a condition of permission.

We respectfully submit that the First Party is committed to reducing carbon emissions and procuring carbon-free energy whenever possible, which is a requirement of the First Party under their signatory of the Climate Neutral Data Centre Pact. They have provided evidence of engagement with renewable energy PPA suppliers in Ireland, and in addition are willing to be conditioned that any grant of permission requires them to provide further evidence of this fact prior to the occupation of the development (see wording of suggested condition above). We can confirm that the First Party are committed to procuring electricity from 100% renewable sources.

In addition, we refer the Board to the fact that the First Party has bought renewable PPA's in other countries where they have operating data centres and fully intend, as is evidenced in the accompanying letters to do so in Ireland. We can confirm, for example that Vantage Data Centers have entered into a 20 year PPA with a solar energy company in South Africa that enables them to supplement the grid with 87MW of renewable energy (see <https://vantage-dc.com/news/vantage-data-centers-enters-power-purchase-agreement-with-solarafrica-to-secure-87mwp-of-solar-energy-for-johannesburg-data-center-campus/>). The First Party fully commits to continuing this positive engagement in procuring PPAs in Ireland to support the ongoing development of renewable energy capacity.

The First Party is also investigating how the previously permitted MFGP plant and the need for HVO supply can encourage the investment of an HVO depot in Ireland to supply not just the permitted facilities nor only the data centre sector but other industry as well. All these measures ensure that the maximum onsite renewable energy generation is achieved.

We respectfully submit that this appeal indicates undeniably that the First Party has provided evidence of engagement with PPA's in Ireland fully in accordance with the third objective of Policy EDE7 objective 2 of the County Development Plan and the Government Statement. We therefore request the Board to overturn this aspect of the decision and grant permission in this instance.

v. the reliance of on a predominately gas-powered plant to provide energy to the development

It is unclear what application criteria this refusal ground relates to. Having an on-site generation plant that is predominately powered by natural gas is not, of itself, a ground for refusal. This would be contrary to the requirement relating to on-site energy generation under Policy EDE7 Objective 2. As explained further above, under this requirement, where an applicant cannot maximise its on-site generation by 100% renewable energy, it can still satisfy the requirement if it provides evidence that it has been engaging with renewable PPAs in Ireland. In this regard, the First Party has provided evidence of engagement with PPA brokers and refers the Board to its responses to points 2 and 4 above for further detail.

On this basis, the First Party submits that it has satisfied the requirement relating to on-site generation under Policy EDE7 Objective 2 (as per its responses to points 2 and 4 above) and that this refusal ground should not have been considered by the Planning Authority.

Furthermore, as set out previously, the Proposed Development is covered by the existing Connection Agreement. The First Party intends to procure renewable energy under the VDC Grid Connection Agreement and will not solely rely on the on-site generation plant (i.e. the MFGP) to provide energy to the Proposed Development (as this refusal ground eludes to).

In addition, the Permitted Development compasses the MFGP, which is scaled to cover the Proposed Development also (the MFGP does not need to be reconsidered under the current application). The principle, use, scale, and capacity of the MFGP is established in planning terms, and is not open for reconsideration as part of the current application or appeal.

As noted in the introduction to this appeal document, the provision for export of electricity to the grid by the permitted MFGP is a positive aspect of the overall development of the Facility Campus, and directly aligns with the CRU Direction to system operators and can support the increased penetration of intermittent renewable energy on the grid in line with the 2021 and 2023 Climate Action Plans.

Additionally, it is noted, as stated previously, that the inclusion of the (already permitted) dispatchable generation (i.e. the MFGP) as part of the overall Campus Facility is in accordance with EirGrid and CRU policy.

It should also be noted that the MFGP is designed to allow for the use of renewable HVO, biogas, and hydrogen to provide electricity. The First Party is committed to increasing its use of these renewable energy resources when they become more available at scale in the Irish market. As set out above, the First Party is also committed to engagement with renewable PPAs in Ireland and the securing of renewable energy to power the Proposed Development.

Having regard to the foregoing responses to each of the individual points raised within the first reason for refusal, it is submitted that the decision to refuse permission should be overturned, and that the Board should proceed to grant permission for the Proposed Development, which complies fully with EDE7 Objective 2 of the Development Plan.

REASON FOR REFUSAL NO. 2

The second reason for refusal was as follows:

2. *The applicant has failed to submit an updated Chapter 15 of the Main EIAR. In the absence of this information, the Planning Authority is unable to determine whether the information contained within the EIAR allows for adequate assessment of the potential impacts of the proposed development on the receiving environment and complies with the requirements of Article 94 of the Planning and Development Regulations 2001 (as amended)*

We submit with this First Party appeal a hard (2 no. copies) and soft copy of all sections of the updated EIAR undertaken by Ramboll that should have been submitted as part of the AI response. This was an erroneous error that is reflected in Chapter 15 being included within the Non-technical Summary document submitted as part of the AI response. The inclusion of the updated Chapter 15 is the only amendment from the EIAR submitted to the Planning Authority as part of the AI response, and the EIAR now being submitted as part of the appeal to An Bord Pleanála.

The revised Chapter 15 further considers the cumulative effect on Material Assets during the Operational Phase in relation to the Electricity Grid and Gas networks, and how it will be met with reference to the single connection agreement that is in place for overall Facility Campus is also fully detailed. No additional connection agreement is required for the Proposed Development that is now before the Board. This is fully set out within this appeal and is supported by the note obtained from Eversheds Sutherland LLP (attached as Appendix A). The revised EIAR is fully in accordance with the requirements of Article 94 of the Planning and Development Regulations 2001 (as amended). We therefore request the Board to overturn this aspect of the decision and grant permission in this instance.

The revised Chapter 15 sets out that the already permitted MFGP as granted under the Permitted Development has the capacity to dispatch energy into the National Grid (surrounding and wider electricity network) that is at least equal to the required power to the amount consumed on the overall campus. The MFGP will be called to provide power into the local network when it is required in accordance with EirGrid's DCCOPP regulations. We refer the Board to the fact that the primary fuel for the MFGP is natural gas and the secondary fuel is HVO.

On site renewable energy generation is provided by the MFGP when powered with HVO. It is not possible for HVO to be used as the primary fuel for the MFGP due to volume of HVO required and current availability.

We respectfully submit that the Proposed Development has no potential to impact on the National Grid. This is due to the requirements of the Data Centre Connection Offer Policy and Process. The permitted MFGP would increase the resilience of the power network and ensures a power supply for the Proposed Development.

Structure of the EIAR

The structure of this revised EIAR is consistent with the November 2022 EIAR that was submitted with the planning application. In order to ease understanding where the EIAR has been updated and amended from the original EIAR submitted as part of the planning application, and it includes tracked changes for the clarity of the Board, of changes undertaken in response to the AI request of the Planning Authority, and the revisions of Chapter 15, which is referred to as Chapter 15A Material Assets in the EIAR being submitted to the Board, that form the only changes undertaken as part of this appeal. This will aid the reader in understanding what text, figures and tables of the November 2022 EIAR have been amended and/or replaced, where amendments to an original Chapter have been considered necessary as a result of the proposed amendments, these have been highlighted in the text as follows:

- Deleted text is shown as strikethrough red text (e.g., ~~proposed-development~~);
- Replacement or new text is shown as underlined blue text (e.g., proposed development);
- All paragraphs where text has been amended within a paragraph, the whole paragraph has been reproduced showing the relevant correction. Such amended paragraphs are labelled with the addition of the letter **A**, i.e., 7.75**A**;
- Where the content of a table has changed, but it is considered useful to show a direct comparison with the original text, the Table title is identified by the addition of the letter **A**, i.e., Table 2.1**A**;
- Where a paragraph, figure image or table has been replaced in full, the new paragraph, Figure or Table title is identified by the addition of the letter **R**, i.e., Table 2.1**R**;
- Where additional paragraphs are inserted, they are indicated by the inclusion of a letter **N**, with consecutive numbers **N1**, **N2**, **N3** etc. after the preceding paragraph number, i.e., 8.87**N1**. This avoids having to change all subsequent paragraph numbers; and
- Where it has been necessary to amend or replace or add Technical Appendices, the amended or replacement Technical Appendix is renumbered by the addition of the letter **A** or **R** respectively, i.e., Technical Appendix 7.1**R**.

These details are also set out in paragraph 1.7**N7** of Volume 1A of the EIAR.

9. Conclusion

We respectfully submit that this appeal has comprehensively addressed the two reasons that led to the refusal of permission by the Planning Authority, which in our considered opinion was inherently flawed.

We submit that no aspect of the refusal related to concerns relating to the scale, form and massing of the Proposed Development. All the reasons were technical, apart from that relating to Reason no. 2 of the refusal, which was purely an inadvertent error, has been comprehensively remedied by the inclusion of an updated EIAR that includes a revised Material Assets chapter with this appeal. In terms of the other reason for refusal cited as reason no. 1 we can confirm the following which addresses each of the five constituent parts of the reason, as addressed in detail within section 8 of the appeal:

- With regard to the existing capacity in the electricity grid, the appeal confirms that the Proposed Development and the adjacent Permitted Development are subject to an existing connection agreement, and it is further noted that the permitted MFGP is scaled to ensure that not only will the permitted and Proposed Development being progressed by the First Party not result in further capacity issues on the electricity network, the overall development will in fact add to the resilience and stability of the grid.
- With regard to the aspect of the first reason relating to on site renewable generation, it is noted that the Facility Campus entails the MFGP, which is designed to accommodate operation on renewable fuel sources, in addition to the proposed BESS facility. Furthermore, this item is not required to be met where the First Party has provided clear evidence in engaging with PPAs.

- With regard to the absence of a fixed connection agreement purported by the Planning Authority, the First Party already has a 'connection agreement' with EirGrid (i.e. the VDC Grid Connection Agreement). The Proposed Development will operate under the same connection agreement as the already Permitted Development. There will be no need for a new connection agreement for the Proposed Development. The appeal also confirms that the First Party is acting fully in accordance with the terms and conditions of the existing connection agreement.
- With regard to the requirement for evidence of engagement with PPAs, the First Party has confirmed and provided evidence under this appeal that they have engaged their broker of PPAs in Ireland. As part of this appeal, we submit evidence of this engagement.
- With regard to the aspect of the first refusal reason relating to the predominate reliance on gas generation, it is submitted that the First Party has satisfied the Planning Authority's requirements in relation to on-site generation and that this reason should not have been considered as a ground for refusing the Proposed Development. The MFGP is already permitted with capacity to serve the current development proposal. Furthermore, the MFGP will also support the grid, and is a requirement under EirGrid / CRU policy. It is also noted that the MFGP is designed to accept renewable fuels.

We respectfully submit that the decision of the Planning Authority is inherently flawed. We respectfully submit that the Planning Authority have taken an unduly rigid and have misinterpreted two parts of the First Party's response to issues raised in relation to Policy EDE7, objective 2 of the County Development Plan.

We respectfully submit that the Proposed Development is fully aligned and in accordance with government policy set out under the Government Statement. The First Party is committed to advancing the goals behind the Six Principles set out within this document, 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 the Planning Authority and to grant permission on the basis that the Proposed Development has a connection agreement; that the First Party has engaged in seeking PPAs; and that there is sufficient capacity within the electricity network; and therefore is fully in accordance with Policy EDE7, objective 2 of the County Development Plan 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

Advice Note

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Vantage Data Centers Dub11 Limited
1-2 Victoria Buildings
Haddington Road
Dublin 4

**Note to Vantage Data Centers Dub11 Limited ("VDC DUB11")
in relation to the DUB13 planning appeal**

Dear Sirs

1. Summary

- 1.1 South Dublin County Council ("SDCC") has rejected VDC DUB11's planning application for its proposed "DUB13" data centre project in Profile Park, Grangecastle, Dublin 22 ("DUB13") (the "DUB13 Planning Application"). SDCC has cited a number of grounds for rejecting the DUB13 Planning Application. You have asked us to carry out a legal review of the following rejection by SDCC:

1.1.1 *"the lack of a fixed connection agreement to connect to the grid";*

- 1.2 We have set out our legal analysis of the above rejection ground below.

- 2.1 We note that one of SDCC's application requirements requires VDC DUB11 to have entered into a grid connection agreement to connect DUB13 to the Irish electricity grid. In this regard, VDC DUB11 sought to rely on the grid connection agreement between Vantage Data Centers Dub11 Limited and EirGrid plc ("EirGrid") (the "VDC Grid Connection Agreement") in the DUB13 Planning Application to satisfy this requirement.

- 2.2 However, SDCC has referenced *"the lack of a fixed connection agreement to connect to the grid"* as a ground for rejecting the DUB13 Planning Application. Further, we understand that SDCC noted that as the VDC Grid Connection Agreement was used for VDC's DUB11 and DUB12 planning application, this was not sufficient to demonstrate connection to the electricity grid for the purposes of the DUB13 Planning Application.

- 2.3 In this regard, you have asked us to advise on the relevant legislation governing grid connection agreements to determine if legislation allows VDC DUB11 to connect the DUB13 data centre to the electricity grid via the VDC Grid Connection Agreement or if it is required to obtain a separate grid connection agreement to do this.

- 2.4 EirGrid's General Conditions of Connection and Transmission Use of System (the "General Conditions") contain provisions around the supply of electricity to a site. The General Conditions are incorporated into all transmission grid connection agreements, including the VDC Grid Connection Agreement. EirGrid derive their power to establish the General Conditions through their statutory appointment as "Transmission System Operator" or "TSO" for the Irish transmission grid pursuant to the Electricity Regulation Act, 1999.

Clause 4.3 of the General Conditions states:

"The Customer may not connect or take any action with a view to connecting any premises, other than Customer Premises, whether owned or controlled by the Customer or by another person, and whether generating or consuming electricity or doing both of these, to the Company's Connection Equipment or the Customer's Equipment, and may not permit or act in collusion with any other person

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to allow such other person or any third party receive a supply of electricity recorded on the Metering associated with the Connection Point." (Emphasis added).

2.5 The definition of "Customer Premises" referred to above is:

"any land and buildings owned or controlled by the Customer on or in which any of the Company's Equipment or Customer's Equipment is to be installed or is for the time being situated".

2.6 In this regard, clause 4.3 of the General Conditions requires (inter alia) customers to connect the grid network to (a) land and buildings that is owned or controlled by the customer and (b) those land and buildings must contain the "Company's Equipment" or "Customer's Equipment".

2.7 In relation to (a) above, you have confirmed that VDC DUB11 is the legal owner of the lands comprising the DUB11, DUB12 and DUB13 data centres. In relation to (b) above, your technical advisor has confirmed to us that, for the purposes of the definition of "Customer Premises" above, the "Customer's Equipment" will be installed on the lands comprising the DUB11, DUB12 and DUB13 data centres. On this basis, the DUB13 data centre (and the DUB11 and DUB12 data centres) should be considered as "Customer's Premises" for the purposes of clause 4.3 of the General Conditions.

3. Conclusion

On this basis, in our view, the General Conditions allows VDC DUB11 to use the VDC Grid Connection Agreement to connect the lands comprising the DUB11, DUB12 and the DUB13 data centres.

Should you have any queries on the contents of this advice please contact us.

Yours Sincerely

Sent by email, bears no signature

Eversheds Sutherland LLP

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APPENDIX B – EirGrid confirmation of the VDC Grid Connection Agreement

CP1188 Kilcarbery

Murphy, Kilian <[REDACTED]>

Tue 6/20/2023 7:08 AM

To: Almas Sabitov [C] <[REDACTED]>

Cc: Adam Cunningham <[REDACTED]>

CAUTION This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Almas,

We, EirGrid Plc are aware of the following;

1. Transmission Connection Agreement between EirGrid Plc and with Vantage Data Centers DUB11 Limited signed on the 1st July 2022, for connection of a demand facility for their campus located at Vantage Data Centers DUB1, Profile Park, Kilcarbery, Co. Dublin
2. That there is modification to the Transmission Connection Agreement mentioned in point 1 above in progress with Vantage Data Centers DUB11 Limited for a generation/export facility for their campus located at Vantage Data Centers DUB1, Profile Park, Kilcarbery, Co. Dublin. The modification to the Transmission Connection Agreement is currently at Stage 2 of the application process awaiting offer letter to be issued from EirGrid Plc to Vantage Data Centers DUB11 Limited

Kind Regards,

Kilian Murphy | Senior Engineer | Chief Infrastructure Office

M: [REDACTED]
[REDACTED]

[EirGrid.com](https://eirgrid.com)



We're working flexibly at EirGrid Group. I'm sending this message at a time that suits me. Please feel comfortable knowing that I don't expect you to read, respond to or action it outside of regular working hours.

EirGrid plc - Transmission System Operator, Ireland.
The Oval, 160 Shelbourne Road, Ballsbridge, Dublin 4, D04 FW28.

Oibrítheoir Eangach Leictreachais na hÉirearn.
160 Bóthar Shíol Bhroin, Droichead na Dothra, Baile Átha Cliath 4, D04 FW28.

Registered Office
The Oval, 160 Shelbourne Road, Ballsbridge, Dublin 4, D04 FW28.
Registered in Ireland No. 338522 V.A.T. No. IE 6358522H
TELEPHONE + 353 (0)1 677 1700
EMAIL info@eirgrid.com

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FAX + [REDACTED]
WEB www.eirgrid.com

Directors:

Brendan Tuohy CHAIR, Mark Foley CHIEF EXECUTIVE

Dr Theresa Donaldson, Shane Brennan, Tom Coughlan, Michael Hand, James Nyhan, Rosa M. Sanz
García (Spain) *****

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Séanadh:

Tá faisnéis (agus/nó ceangaltáin) a d'fhéadfadh a bheith faoi phribhléid nó faoi rún sa teachtaireacht leictreonach seo. Tá an t-ábhar uile beartaithe a bheith d'úsáid an duine aonair nó an aonáin chuig a ndírítear é amháin. Sa chás nach tú an faighteoir beartaithe, biodh fios agat go bhfuil cosc ar aon nochtadh, cóipeáil, dáileadh nó úsáid d'ábhair na teachtaireachta seo. Is iad tuairimí nó barúlacha an údair amháin na tuairimí nó na barúlacha a léirítear sa teachtaireacht seo, agus b'fhéidir nach ionann iad agus tuairimí nó barúlacha EirGrid. Má shíleann tú go bhfuair tú an ríomhphost seo trí earráid, cuir é seo in iúl don seoltóir láithreach le do thoil. Cé go scanann EirGrid ríomhphoist agus ceangaltáin, ní thugann siad ráthaíocht go mbíonn ceachtar acu saor ó vireas ná ní ghlacann siad aon dliteanas as aon damáiste a dhéantar de thoradh vireas.

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APPENDIX C – Decision of South Dublin County Council

An Rannóg Talamhúsáide, Pleanála agus Iompair
Land Use, Planning & Transportation Department

Telephone: 01 4149000

Fax: 01 4149104

Email: planningdept@sdbulincoco.ie



Marston Planning Consultancy
23, Grange Park
Foxrock
Dublin 18

NOTIFICATION OF DECISION TO REFUSE PERMISSION PLANNING & DEVELOPMENT ACT 2000 (as amended) AND PLANNING REGULATIONS THEREUNDER

Decision Order No.	0604	Date of Decision	29-May-2023
Register Reference	SD22A/0420	Date	04-Apr-2023

Applicant:

Vantage Data Centers DUB11 Ltd.

Development:

Development on a Site that includes a two storey residential property on lands to the south of the New Nangor Road (R134), Dublin 22; and on land within the townlands of Ballybane and Kilbride within Profile Park, Clondalkin, Dublin 22 on an overall site of 3.79hectares; The development will consist of the demolition of the two storey dwelling (207.35sqm) and associated outbuildings and farm structures (348.36sq.m); and the construction of 1 two storey data center with plant at roof level and associated ancillary development that will have a gross floor area of 12. 893sqm that will consist of the following. 1 two storey data center (Building 13) with a gross floor area of 12. 893sqm. It will include 13 emergency back-up generators of which 12 will be double stacked and one will be single stacked within a compound to the south-western side of the data center with associated flues that each will be 22.316m in height and 7 hot-air exhaust cooling vents that each will be 20.016m In height; The data center will include data storage rooms, associated electrical and mechanical plant rooms, loading bays, maintenance and storage spaces, office administration areas, and plant including PV panels at roof level as well as a separate house generator that will provide emergency power to the admin and ancillary spaces. Each generator will include a diesel tank and there will be a refuelling area to serve the proposed emergency generators; The data center will have a primary parapet height of 14.246m above ground level, with plant and screen around plus a plant room above at roof level.

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The plant room has an overall height of 21.571m; Construction of an internal road network and circulation areas, with a staff entrance off Falcon Avenue to the east, as well as a secondary vehicular access for service and delivery vehicles only across a new bridge over the Baldonnell Stream from the permitted entrance as granted under SDCC Planning Ref. SD21A/0241 from the south-west, both from within Profile Park that contains an access from the New Nangor Road (R134); Provision of 60 car parking spaces (to include 12 EV spaces and 3 disabled spaces), and 34 cycle parking spaces; Signage (5.7sq.m) at first floor level at the northern end of the eastern elevation of the data center building; Ancillary site development works will include footpaths, attenuation ponds that will include an amendment to the permitted attenuation pond as granted to the north of the Baldonnell Stream under SDCC Planning Ref. SD21 A/0241, as well as green walls and green roof. The installation and connection to the underground foul and storm water drainage network, and installation of utility ducts and cables, that will include the drilling and laying of ducts and cables under the internal road network within Profile Park. Other ancillary site development works will include hard and soft landscaping that will include an amendment to the permitted landscaping as granted under SDCC Planning Ref. SD21A/0241, lighting, fencing, signage, services road, entrance gates, and sprinkler tanks; An Environmental Impact Assessment Report (EIAR) has been submitted with this application.

Location:

Site within the townlands of Ballybane & Kilbride, Clondalkin, Dublin 22

Time extension(s) up to and including:

Additional Information Requested/Received:

12-Jan-2023/04-Apr-2023

Clarification of Additional Information Requested/Received:

DECISION: Pursuant to the Planning and Development Act 2000 (as amended), dated as above a decision to **REFUSE PERMISSION** is hereby made for the said development for the reason(s) set out on the Schedule hereto.

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REASON(S)

1. Having regard to the existing insufficient capacity in the electricity network (grid), the lack of a fixed connection agreement to connect to the grid, the lack of significant on site renewable energy to power the proposed development, the lack of evidence provided in relation to the applicant's engagement with Power Purchase Agreements (PPAs) in Ireland, and the reliance on a predominantly gas powered plant to provide energy to the development, it is considered that the applicant has failed to demonstrate that the proposed use is acceptable on EE zoned lands, in accordance with EDE7 objective 2 and section 12.9.4 of the South Dublin County Development Plan 2022-2028.

In this regard the proposed development, would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The applicant has failed to submit an updated Chapter 15 of the Main EIAR. In the absence of this information, the Planning Authority is unable to determine whether the information contained within the EIAR allows for adequate assessment of the potential impacts of the proposed development on the receiving environment and complies with the requirements of Article 94 of the Planning and Development Regulations 2001 (as amended).

Please note that upon receipt of this document you are obliged to remove the planning site notice in compliance with Article 20 of the Planning and Development Regulations 2001 (as amended). Please note that any valid submissions or observations received in accordance with the provisions of the Planning and Development Regulations 2001 (as amended), have been considered in the determination of this application.

Register Reference: SD22A/0420

Signed on behalf of the South Dublin County Council.

Yours faithfully,

Pamela Hughes 31-May-2023
for Senior Planner

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APPENDIX D— Letter from PPA broker



Vantage Data Centers DUB11 Limited
1-2 Victoria Buildings,
Haddington Road,
Dublin 4,
Ireland.

21 June 2023

Re: Engagement to date between Vantage Data Centers DUB11 Ltd and Open Energy Market Limited in respect of the potential provision of a Power Purchase Agreement in respect of its proposed development for a data centre within Profile Park, Clondalkin, Dublin 22

Dear Stephen Kinch

Open Energy Market Limited already has a long-standing contractual relationship with Vantage Data Centers in our role as your primary energy brokers and consultants in the United Kingdom and Europe, where we manage your electricity supply contracts, trading positions, strategy and risk and reporting. Part of our remit in this role is sourcing Power Purchase Agreements (PPA) for the long-term supply of energy from a new renewable generating asset and then coordinating the integration of this volume with supply contracts with licensed electricity suppliers (*sleeving*).

Over recent months we have held numerous discussions and meetings on the possibility of sourcing a suitable PPA in Ireland whereby Vantage Data Centers DUB11 Ltd and/or a related company on its behalf is contemplating entering into a PPA. We are currently at the stage of evaluating suitable projects as part of a broad tender exercise and are liaising on behalf of Vantage Data Centers both directly with generators and intermediaries that have already contracted with such generators. The next stage of this process will be to agree a Head of Terms on a project(s) part of which will give Vantage Data Centers a period of exclusivity within which to sign a contract. During these discussions you have provided us with further details of the proposed development of a data centre and associated ancillary development at Profile Park as outlined in the application to the planning authority for permission.

Based on our series of conversations, we understand that Vantage Data Centers DUB11 Ltd has engaged with PPA providers in Ireland generally and specifically as regards the proposed development at Profile Park.

Yours faithfully,


Jonathan Anstey
Head of Partnerships

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