

Signed: 

Date: 06/03/2025



OFFICE OF ENVIRONMENTAL SUSTAINABILITY

Water, Energy & Business Support Memo

|         |                                                                                                                                                                                    |                                        |
|---------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|
| TO:     | Directors                                                                                                                                                                          | Office of Environmental Sustainability |
| FROM:   | Cian O'Rourke                                                                                                                                                                      | Water, Energy & Business Support Team  |
| DATE:   | 06/03/2025                                                                                                                                                                         |                                        |
| RE:     | <b>Oral Hearing Request</b>                                                                                                                                                        |                                        |
| DETAIL: | Request to the EPA for an Oral Hearing of an objection on Proposed Determination for Data and Power Hub Services Limited, Peamount Road, Newcastle, Dublin, IEL Reg. No. P1165-01. |                                        |

The EPA issued a Proposed Determination to Data and Power Hub Services Limited, Peamount Road, Newcastle, Dublin, Reg. No. P1165-01 on 12 December 2024. The EPA subsequently received one third party objection.

The objector listed below requested an oral hearing in the case of the above referenced Proposed Determination and this request has been validated in accordance with the regulations:

| <b>Objection No</b> | <b>Requestor</b> | <b>Date of Objection</b> |
|---------------------|------------------|--------------------------|
| OS011824            | Dr. Colin Doyle  | 16/01/25                 |

The objector proposes that the aspects of their objection could be clarified most effectively by expert witnesses as part of an oral hearing and proposes that this would provide opportunity for the Agency to respond to and if necessary correct, any significant errors and omissions prior to a final decision.

The main concerns and issues raised by the objector are set out below. The original objection (Ref. No. OS011824) can be referred to for greater detail and expansion of particular points.

**1) Section 15 of the Climate Action and Low Carbon Development (Amendment) Act 2021 (hereafter referred to as the Climate Act).**

- a. The objector raises that since 2021 the Agency has been assigned additional responsibilities under Section 15 of the Climate Act, including an obligation

to ensure in so far as practicable that Agency determinations align with the national Climate Action Plan (CAP). The objector states that: *“The procedures for such decision making have not been publicly set out by the Agency and have not been subject to examination by the public, and only very recently has Section 15 been subject to interpretation by the High Court”*. The objector proposes that in the interests of transparency, an oral hearing would provide an opportunity to explore this important aspect in public.

- b. Further to the Agency’s obligations under Section 15 of the Climate Act, the objector raises a number of points for the Agency to consider if the PD truly aligns with CAP 24 (see items 2, 3 & 4 below) and proposes that in the case of significant climate impacts there may be situations where there is no possibility of effective mitigation to ensure alignment with the national objectives set out in CAP 24.

**2) GHG emissions and impact on Ireland’s domestic targets.**

- a. The applicant’s indirect GHG emissions calculations have assumed all CAP 24 targets will be met for the energy sector by 2030. The objector proposes that calculations should instead assume that the power demands will be met by fossil fuels. To support this, they highlight that the rate of power demand from data centres is greatly outpacing the rate of new supply from renewables. Applying this conservative approach, the objector calculates indirect GHG emissions for 2030 to be more than three times the applicant’s projected figures.
- b. The applicant’s direct GHG emissions calculations for 2030 are ~ 180,000 tonnes CO<sub>2</sub>e, which represents ~ 6% of the 2030 emissions ceiling allocated to the energy sector under CAP 24. When EPA methodology is applied to the projections however, direct emissions of > 420,000 tonnes CO<sub>2</sub>e are calculated for 2030 – this represents 14% of the 2030 emissions ceiling allocated to the energy sector under CAP 24.
- c. The government statement on the role of data centres in Ireland asserts that not all demand in Ireland for data centres can be accommodated due to the sectoral carbon budgets. EPA projections of sectoral GHG emissions already predict an exceedance of the national carbon budgets for the energy sector in 2030. Emissions from the proposed installation would thus only add to these exceedances.
- d. The objector proposes that neither the measures of the ETS nor those of Condition 7 of the PD truly achieve the means to ensure the installation’s climate impact is mitigated to align with Ireland’s domestic objectives set out in CAP 24. The objector expands on this by explaining that as the ETS has no bearing over individual member state targets, it offers no specific control mechanism over Ireland’s domestic targets for CAP 24. Regarding Condition 7.1 and 7.2 of the PD, the objector proposes there would be very little scope

for increased energy efficiency at a newly constructed BAT-designed installation. The objector highlights that any alternative energy requirements arising from Condition 7.3, are ultimately limited to recommendations predicated on an initial “feasibility” study and that the wording “have regard for” used in Condition 7.4 effectively nullifies the condition relating to the CAP targets.

**3) Power plant planning and operations.**

- a. Planning documents demonstrate that in response to climate concerns and energy-based queries raised by the planning authorities, the applicant strongly asserted the power plant would not be connected to, or power the data centre. The applicant informed the authorities that the plant was a peaking plant, wholly separate from the data centre which would be powered by the national grid. And that furthermore, as a peaking plant, it would in fact support Ireland's climate objectives by further facilitating the ongoing transition to increased renewables on the Irish grid. In this capacity however, it would be unable to offer effective waste heat capture and distribution due to the nature of a peaking plant which does not operate continuously. The application received by the EPA is for a peaking plant, and the same alignment with national climate objectives that will be achieved by its peaking nature have been communicated extensively in the application documentation. The objector proposes however that the power plant is likely to be used by the applicant as the main continuous power source for the data centre instead, despite the applicant's assurances otherwise.
- b. The objector calculates this would translate to continuous operation of the power plant at ~ 95% capacity in order to meet the supply demands of the data centre. The objector raises how this would not be in accordance with the climate and energy-based commitments and intentions communicated to the planning authorities and the Agency, and that the remaining capacity that might be available for grid supply is marginal at best and comes at the cost of additional permanent energy demands and additional GHG emissions on top of the sectors already forecasted CAP exceedances.
- c. The objector states: *“it appears to me that the applicant has exploited the planning process and used project splitting to persuade the planning authorities that the PGF (power plant) is an independent generator with an export capacity contract to the grid and has nothing to do with the data centre” ... and that, “While the Agency may not have review of a planning consent within its remit, the Agency is not obliged to accept arguments and “reasoned conclusions” that are irrational”.*

#### **CAP 24 sectoral ceiling exceedance.**

- d. The objector has carried out an exercise summing the projected 2030 GHG emissions reported for 10 developments in the energy sector. The objector has then compared the total sum of figures projected for these 10 sites to the total amount of GHG emissions allowable for the entire sector under CAP 24. The objector's findings present that just these 10 sites alone would account for 116% - 139% of the entire sectoral ceiling.
- e. The objector states the only state body with ready access to much of the relevant data on GHG emissions from existing and proposed developments is the EPA and states: *"While the Agency has not been designated any specific responsibility in this matter, it should reflect upon how it could use such data to assist in performing its licensing functions in a manner consistent with the most recent approved climate action plan, the most recent approved national long term climate action strategy, and in the context of the Agency's core purpose of protecting the environment."*

#### **4) AQS exceedance.**

- a. Worst case cumulative air emissions modelling predicts an NO<sub>2</sub> concentration that is up to 116% of the AQS. This has the potential to impact human health.

#### **Assessment**

The Agency has 'absolute discretion' in relation to the holding of an oral hearing of objections received, whether or not a request for an oral hearing accompanied the objections (in accordance with section 87(8) of the EPA Act 1992 as amended). Should the Agency decide not to hold an oral hearing, a technical committee of the Agency will prepare a report for the Board with recommendations in relation to their consideration of the objections. The Agency may also request additional information from any party to an objection to enable consideration of the objection by a Technical Committee or the Board.

The oral hearing request was assessed in accordance with the Agency's guidance document *"Waste Management and IPPC Licensing Aspects of Licensing Procedures: Objections and Oral Hearings, EPA 2010"*. Criteria items 1 and 5 of the 2010 guidance were assessed in tandem and as such have been listed together in this assessment. Additional criteria approved by the Agency's Board at the Board meeting of 04/03/2025 have also been considered and included in this assessment and are listed as criteria items no. 5 and 6.

The request for an oral hearing was assessed against the following criteria:

- 1. new significant information or new issues not previously raised that are specific to the location or the development,
- 2. the sensitivity of the location/local environment,
- 3. whether it is a matter of national or regional importance,
- 4. the scale or complexity of the development,

5. new information/evidence which materially conflicts with previous evidence, and
6. if it is in the interest of fair procedure.

1. **New significant information or new issues not previously raised that are specific to the location or the development.** The queries raised by the objector pertaining to the relationship between the power plant and the data centre have already been subject to consideration as part of the application process and are matters for the planning authorities and have been discussed in Section 3 of the EPA's Inspector's Report. The modelled exceedance of the AQS was raised with the board and it is considered that the conditions of the PD effectively control and mitigate for this. The application was assessed by the Agency against Section 15 of the Climate Act, including the impact of the installations GHG emissions at domestic and EU level. The exercise carried out by the objector identifying the piecemeal accumulation of GHG emissions compared to 2030 targets is considered significant but does not contain new information. It is the opinion of the inspector that the Judgment of 10 January 2025 by Justice Humphreys may represent new significant information that requires the Agency's due consideration. While the objector raises valid points and broader questions for the Agency regarding the judgment, it is considered that in the context specific to this determination, this matter can be adequately addressed by a Technical Committee. Accordingly, it is considered that no new issues specific to the location or development have been presented which merit an oral hearing and that these issues can be assessed by a Technical Committee.
2. **The sensitivity of the location/local environment.** The site is in the townland of Milltown, near Newcastle, Co. Dublin, on the northern side of the Peamount Road. It is largely greenfield land and is ~ 400 m from Grange Castle Business Park. Most land bordering the site is agricultural pasture. A small portion of the site boundary borders commercial property. Nearby residences are sparse and disperse, however the nearest is within 30 m of the boundary. The activity was assessed against the requirements of the European Communities (Birds and Natural Habitats) Regulations 2011, SI 477/2011 as amended, European Communities Environmental Objectives (Surface Waters) Regulations 2009, SI 272/2009 as amended, European Communities Environmental Objectives (Groundwater) Regulations 2010, SI 9/2010 as amended and Air Quality Standards Regulations 2022, SI 739/2022. There are no Special Protection Areas, candidate Special Areas of Conservation or proposed Natural Heritage Areas within or immediately adjacent to the proposed development site. The nearest designated site is the Grand Canal pNHA at c. 800 m north of the proposed development. There is no direct hydrogeological link with the canal. The closest European Site is approximately 4.8 kms away (Rye Water Valley/Carlton SAC). A screening for Appropriate Assessment was carried out which determined that an Appropriate Assessment of the activity was not required, and an Environmental Impact Assessment was included with the application. There have been no changes to the designation of sites in the local environment or changes to the

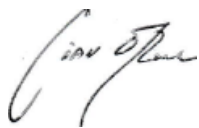
relevant legislation since the PD was issued. Accordingly, it is considered that these aspects can be adequately addressed by a Technical Committee and do not merit an oral hearing.

3. **Whether it is a matter of national or regional importance.** The issues raised are primarily at a level of national importance relating to the impact of the installation on national climate targets arising from the activities expected GHG emissions. With particular regard to the cumulative exercise carried out by the objector and to the recent Judgment of Justice Humphreys, it is the opinion of the inspector that further consideration of these issues is warranted. It is considered that how these issues relate specifically to this licensing determination can be adequately assessed by a Technical Committee and do not merit an oral hearing.
4. **The scale or complexity of the development.** The proposed development is for a power plant, substation and data centre on an 8.2 ha site of largely greenfield land. The proposed power plant has a total thermal input of 269 MWth. It combusts natural gas as primary fuel and HVO as secondary fuel. It will be contained on site in a ~ 14,000 m<sup>2</sup> compound consisting of seven no. 38.4 MWth dual-fuel engines, two no. 25 m stacks, a step-up transformer skid station, and associated ancillaries and auxiliaries. Its maximum generation capacity is ~116 MWe. The proposed data centre consists of two no. matching two-storey ICT buildings. Taken in combination, the data centre buildings will have 36 no. 8 MWth backup generators (HVO), 10 no. 25 m high stacks, and a gross footprint of ~ 30,000 m<sup>2</sup>. It will require about ~110 MWe. It is considered that an oral hearing is not merited on the grounds of the scale or complexity of the development.
5. **New information/evidence which materially conflicts with previous evidence.** The objection has highlighted a significant discrepancy between the GHG emissions figures calculated by the applicant versus when EPA methodology is applied. It is considered this issue can be adequately addressed by a Technical Committee however and does not merit an oral hearing.
6. **If it is in the interest of fair procedure.** All parties concerned, including the public, have been allowed and provided opportunity to make a submission in relation to the application, which was received 27/10/2021. Three submissions were received from the public, along with submissions from the HSE, GSI, and Uisce Éireann. All submissions, information and concerns received were considered fully and objectively and have been addressed in the submissions section of the Inspectors Report. All relevant communications, correspondences and notices regarding the application and proposed determination process have been, and remain, publicly available on the EPA website. All submitters have been notified directly throughout the process of any significant developments. Following the notification of the PD, one objection has been received. It is considered that all proceedings followed have been open and fair and are in accordance with EPA procedures and the EPA customer charter.

Therefore, it is considered that an oral hearing on these grounds is not merited and that the objection can be adequately assessed by a Technical Committee.

### **Recommendation**

I consider that an oral hearing of the objection is not merited in this case. I consider that the objection can be fully and adequately assessed by a Technical Committee of the Agency.

A handwritten signature in black ink, appearing to read 'Cian O'Rourke', written over a horizontal line.

Cian O'Rourke

Water, Energy & Business Support Team  
Office of Environmental Sustainability