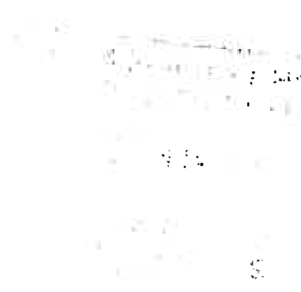
Objection	
Objector:	Colin Doyle
Objector Address:	12 Cottage Gardens, Ennis, Clare, .
Objection Title:	3rd party objection from Mr Colin Doyle
Objection Reference No.:	OS011552
Objection Received:	15 April 2024
Objector Type:	3rd Party
Oral Hearing Requested?	No
Application	
Applicant:	Amazon Data Services Ireland Limited
Reg. No.:	P1181-01

See below for Objection details.

Attachments are displayed on the following page(s).

Office of Environmental Sustainability
EPA Headquarters
P.O. Box 3000
Johnstown Castle Estate
Co. Wexford



Colin Doyle
12 Cottage Gardens
Ennis
Co. Clare
12th April 2024

I wish to object to the proposed determination for P 1181-01.

I enclose a cheque for €126.

Colin Doyle

Proposed Determination of Industrial Emissions Licence P 1181-01

I am objecting to the proposed determination of the Industrial Emissions licence P 01181-01 on the basis of the identified significant climate impact due to emissions of CO2, for which no reliable mitigation has been provided for in the proposed licence conditions.

Introduction – Consideration of Aspects of Inspector's Report

I review here a number of statements and items in the Inspector's Report, which are referred to later in support of my grounds for objection.

Inspector's Finding on Climate Impact

The Inspector's Report identified a significant climate impact as follows:

> "The activity will result in a net increase in Ireland's CO2 emissions and the impact of these direct and indirect emissions from the installation will contribute to climate change and therefore are considered significant. Furthermore, in relation to cumulative effects, it cannot be concluded that the combined greenhouse gas emissions from the installation and other sources will not have significant cumulative effects on climate." (Inspector's Report P. 39)

The above assessment by the Inspector agrees broadly with my own climate impact assessment as communicated in my submission to the EPA. It should be noted that the Inspector's assessment of climate impact is at complete variance with the assessment in the EIAR, which concluded that the climate impact in the operational phase was imperceptible to slight, and not significant:

> "Once the mitigation measures outlined in Section 9.6[1] are implemented, the residual impacts on air quality or climate from the construction of the Proposed Development will be short-term and imperceptible and for the operational phases of the Proposed Development will be long-term, negative and ranging from imperceptible to slight."
> (EIAR Chapter 9, page 24)
>
> "The cumulative impacts to air quality and climate from simultaneous operation of the proposed and indicative future developments at the site are deemed ***long-term, not significant*** in terms of significance and ***negative*** in terms of quality (following the EPA terminology for description of effects in EIA Reports)."
> (EIAR Chapter 16, page 8 – emphasis in original)

Inspector's Finding on GHG Offset

As a means of achieving the operator's stated goal of 100% renewable energy usage, the EIAR had presented supporting evidence of contracts to off-take electricity from wind

[1] Operational mitigation consisted only of optimally designed stack heights

energy projects and the use of Guarantee of Origin certificates for renewable electricity (EIAR, Chapter 2, page 14). In my original submission I challenged this sustainability claim on the basis that renewable energy purchase contracts do not necessarily represent additional renewables on the grid, and that Guarantee of Origin certificates do not in any sense represent a GHG offset. The inspector agreed with my view and stated:

> "....... the generation of renewable energy at off-site windfarms does not constitute an offset with respect to the actual emissions arising from the generation of grid power to supply the installation's needs." (Inspector's Report, page 23, item (iii))

Inspector's Comments on ETS

In the Inspector's Report direct and indirect emissions of GHG are stated to be covered by the EU ETS.

> "As regards Ireland's commitments at EU and International level, this installation is covered by the EU Emissions Trading System (EU ETS) and operates under a GHG permit (Reg. No. GHG200-02) for its own direct emissions of CO2 from the emergency generators and for the indirect emissions arising from the use of electricity from the national grid."
> Inspector's Report, page 16

I agree that the development will not compromise achievement of EU targets for the ETS sector. However, the impact of the development in the context of the national transition objective and sectoral emissions ceilings, as set out in CAP 2023, was not satisfactorily addressed in the Inspector's Report.

Proposed Condition 7

The proposed condition 7 attempts to address climate impact in the national context, but the condition essentially only requires the applicant to submit a report within 6 month on options to reduce fossil fuel energy use. Condition 7.3 furthermore places responsibility on the applicant to have regard to the targets of the most recent climate action plan. The wording "have regard to" is vague and open to wide interpretation. Moreover, there is no provision within legislation to force an already permitted development to align with the national climate action plan. Consequently, proposed condition 7 is not capable of reliably addressing and mitigating climate impact in the national context.

Grounds for Objection

I object to the proposed determination on the following grounds:

1. There were direct conflicts between the Inspector's findings with respect to climate impact and GHG offset, and the claims made in the EIAR. If the Inspector's findings are accepted, then logically it would have to be concluded that the EIAR did not "adequately identify, describe or assess" the climate impact and sustainability of the project. The obligation under the EPA Act 1992 (as amended) under these circumstances is clear as set out in Section 83 (2) (f) :

"(ii) if the Agency determines that the environmental impact assessment report and other material does not so adequately identify, describe or assess, the Agency shall give notice in writing to the applicant for the licence requesting further information, which notice shall—

(I) identify the manner in which the content of the environmental impact assessment report and other material is inadequate, and

(II) require the applicant for the licence to furnish to the Agency additional information required to correct the inadequacy so identified."

There is no record of compliance with the above requirement in the documentation on the EPA industrial emissions licensing portal.

2. There is an evident conflict between the Inspector's findings on climate impact and GHG offset, and the Inspector's statement on page 26:

   "I am satisfied that the information contained in the EIAR has been prepared by competent experts and that the environmental effects arising as a consequence of the activity have been satisfactorily identified, described and assessed."

3. Under the Heading *"Decision and Reasons for the Decision", it is stated:*

   "The Environmental Protection Agency is satisfied, on the basis of the information available, that subject to compliance with the conditions of this licence, any emissions from the activity will comply with and will not contravene any of the requirements of Section 83(5) of the Environmental Protection Agency Act 1992 as amended."

   The above statement, which is presented as a reason for the decision, does not represent a valid reasoned conclusion. As identified and quantified in the Inspector's Report there will be significant indirect emissions of CO2, which will cause environmental pollution[2], in contravention of Section 83 (5) (v) of the EPA Act 1992. There is no robust provision in Condition 7 to mitigate this impact.

[2] As per S.I. No. 138 of 2013, the word "pollution" has the same meaning as in the Industrial Emissions Directive 2010/75/EU where "pollution" is defined as "the direct or indirect introduction, as a result of human activity, of substances, vibrations, heat or noise into air, water or land which may be harmful to human health <u>or the quality of the environment</u>, result in damage to material property, or impair or interfere with amenities and other legitimate uses of the environment." Significant CO2 emissions from human activities are harmful to the quality of the environment and consequently fall within the definition of pollution.

4. In the fourth paragraph under the heading "Decision and Reasons for the Decision", it is stated:

> "......The Agency has performed its functions in a manner consistent with Section 15 of the Climate Action and Low Carbon Development Act 2015 as amended."

I contest the validity of the above statement. In particular, given the identified significant CO2 emissions in the Inspector's Report, the Agency has failed to comply with section 15 (1) (c) and (d), to ensure that these emissions are consistent with furtherance of the national transition objective, and are appropriately mitigated. The proposed licence condition 7 is defective and not capable of ensuring compliance with Section 15 (1).

5. Condition 7 has been proposed to address the identified significant climate impact in the national context. As discussed earlier, this condition is vague, open to interpretation, and in any event could not lead to a legally enforceable reduction in indirect GHG emissions. Furthermore, the realistic options for sourcing a significant quantity of additional renewable energy to decrease or offset energy use are inherently so unlikely that Condition 7 is unworkable and serves no useful purpose.

   Given space limitations, on-site renewables such as solar PV and wind power would be insignificant compared with the 48MW power demand. Renewables generation off-site could in principle be used to feed the national grid, and nominally offset the power demand of the development[3]. But to achieve this would require development of either very large solar farms or windfarms. New Solar PV farms to offset the power consumption (and resultant GHG emission) would need to be of 480 MW[4] (capacity) which would require a total area approximately 7 sq. Km, or new windfarms of installed capacity approximately 160 MW[5] (say 80 large wind turbines). Such projects would cost in excess of 300 million euro, and could take a decade to proceed through the planning process. The evident technical, financial, and time-scale unfeasibility of achieving a significant GHG offset renders Condition 7 impractical and unenforceable.

6. I question the validity and legal basis for the Inspector's statement on page 40:

> "While there are national targets (as discussed above) and sectoral targets for the electricity sector, it is up to the electricity market to achieve these through the use of renewables and decarbonisation of the sector in accordance with the Climate Action Plan."

---

[3] Discussed here on an annual basis for simplicity and clarity – a complete offset would require more renewables

[4] Assuming 10% capacity factor for Solar PV

[5] Assuming 30% capacity factor for wind turbines

The above would imply that the applicant, and in this specific case also the EPA, can pass on responsibility to the electricity market (TSO/DSO/CRU) for mitigating identified climate impacts of new loads connected to the national grid. Were this to be accepted it would mean that all new loads connected to the national grid could make a similar claim, and regardless of indirect GHG emissions would have to be granted licences. There is no mechanism in the existing national climate governance nor in law to oblige state bodies to take responsibility for ensuring that new electrical loads do not result in a net increase in GHG emissions. The responsibility of these state bodies in legislation is to ensure grid stability and security of supply.

7. The Agency's conclusions on mitigation (page 8) follow along the lines of the Inspector's Report and are flawed:

> "effects on climate due to release of CO2 emissions will be mitigated through the limitations on the generators, which includes an operating hour restriction, conditions relating to energy efficiency and alternative energy sources, and through the requirement to participate in the EU Emissions Trading System (ETS)."

Given the significant climate impact identified in the Inspector's Report, the absence of a verified GHG offset, the inapplicability of the EU ETS to Irish climate targets, and the lack of a legal basis for requiring the electricity market to decarbonise the new 48MW load, the above is a flawed conclusion. Furthermore, Condition 7 can be simply complied with by submitting a technical report within 6 months, with no requirement for any quantitative commitment. The remaining parts of Condition 7 are vague and any direction by the Agency to achieve a significant mitigation of climate impact would most likely be legally unenforceable.

Colin Doyle 12/4/24