

**RECORD OF EXECUTIVE BUSINESS AND CHIEF EXECUTIVE'S ORDER**

**Section 5 Reference:** FS5W/008/25

**Area:** Castleknock

**Date of Registration:** 24 February, 2025

**Correspondence:** Brian Minogue, Tom Philips and Associates 80 Harcourt Street,  
Dublin 2 D02 F449

**Development:** Temporary use of energy generation plant pursuant to planning  
permission FW17A/0167 and subsequent amendments.

**Location:** Orion Business Park, Ballycoolin, Dublin 15

**Applicant:** South Dublin Routing 4 No. 2 Limited

**Application Type:** Dec Under Section 5

---

**Planning Officers Report:**

**SW/AH**

**Report of the Planning Officer** typed 3rd March 2025.

This is an application for a **DECLARATION of EXEMPTED DEVELOPMENT** under SECTION 5 of the Planning and Development Act 2000 as amended for the temporary use of energy generation plant pursuant to planning permission FW17A/1067 and subsequent amendments at Orion Business Park, Ballycoolin, Dublin 15 for South Dublin Routing 4 No, 2 Limited.

**SITE LOCATION**

The subject site forms part of a wider landholding which is currently under construction to provide for 3 no. Data Centres – known as the Orion Data Centre Site. The area of the site subject to this application is located internally within the landholding and is positioned at the location for Data Centre 2.

**ZONING**

The site is zoned 'HT-High Technology' which seeks to *'Provide for office, research and development and high technology/high technology manufacturing type*

## COMHAIRLE CONTAE FHINE GALL

### RECORD OF EXECUTIVE BUSINESS AND CHIEF EXECUTIVE'S ORDER

Reference No: FS5W/008/25

*employment in a high quality built and landscaped environment*" in the Fingal Development Plan 2023 – 2029.

#### PLANNING HISTORY

FS5W/015/24 Temporary use of energy generation plant pursuant to planning permission FW17A/1067 and subsequent amendments. Decision – Is Development and Is Exempted Development

FW24A/0139 Permission GRANTED for amendments to permission Reg. Ref. FW17A/0167 and permission Reg. Ref. FW18A/0114 to include for alterations to the permitted above ground installation (AGI) and associated works including alterations to the location, design, and layout. The site also includes a portion of land within the business park access road. The proposed development includes all associated works, including general site clearance, removal of temporary infrastructure, roof mounted solar panels, security fencing, vehicular access and emergency pedestrian exits, site lighting, above and below ground pipework, drainage, tree removal and landscaping.

FW24A/0013 Retention permission GRANTED for modifications to the permitted entry area and guardhouse (gfa45.67 sqm & max height 4.275m) in relation to orientation and design. Other minor modifications to car parking and landscaping are also included. The development will also include amendment to permission Ref. FW17A/0167 and permission Ref. FW18A/0114 to include the works subject to retention.

FW24A/0012 Retention permission GRANTED for the construction of a new 500KVA substation (gfa of 30.1 sqm & max height of 3.2 m) and back-up generator. The development will also include amendment to permission Ref. FW17A/0167 and permission Ref. FW18A/0114 to include the works subject to retention.

FW22A/0168 Permission GRANTED for modifications to permission Ref. FW17A/0167 (for demolition of existing warehouse and construction of 3 no. data centres and associated works) and permission Ref. FW18A/0114 (Amendments to the permitted 3 no. data centres and associated works). the proposed modifications will relate to the first phase of the permitted development which encompasses Building No. 1, Energy Centre No. 1, the main site entrance, internal access roads, ancillary infrastructure, 35 no. car parking spaces and 24 no. bicycle spaces. The proposes modifications will comprise the following; Revised internal layout of building No. 1 with associated elevational changes including but not limited to material alterations, alteration of door locations, alteration of louver locations, alteration to the loading bay area and

## COMHAIRLE CONTAE FHINE GALL

### RECORD OF EXECUTIVE BUSINESS AND CHIEF EXECUTIVE'S ORDER

Reference No: FS5W/008/25

addition of canopies to the front and rear of the building; The provision of Solar PV Panels to the roof of the administration building; Additional roof penetrations; Alteration to the size, orientation and design of the security/guard house building no. 1; Alteration to the car park, entrance and access roads within the site, relocation of 4 no. motorbike parking spaces and addition of 1 no. additional space (total 5), provision of 4 no. EV charging points (with ducting provided for a further 14 no. future charging points). Alteration to the location and design of the gas metering skid, pump house and sprinkler water tank; Modification to the landscaping, perimeter fencing and entrance gates; Modification to the location and design of the GNI compound and its separate vehicle entrance along the southern boundary; and All associated site development works, landscape works and service provision. The gross floor area of Building No. 1 decreased to 12,153.63 sqm and the total gross floor area of the proposed development revised to 39,802.87 sqm. The proposed modifications to the first phase of the development will also include alteration to the energy centre for building no. 1 for a temporary period of c. 3.5 years. The temporary modifications within the generator yard include; Installation of 4 no. gas powered generators and 4 no. bio diesel (HVO) generators (including biodiesel storage) used in standby applications; Each generator will include a 12m tall flue stack; 2 no. Battery Storage area and a Battery inverter station; and Installation of 6 no. containerised switch gear rooms and 8 no. transformers; Installation of a n ESB substation(Max 500K Va) for a temporary period of c. 3.5 years is also proposed to the south of the generator yard. the temporary modifications will replace the permitted layout for the temporary period. Following the temporary period, the energy centre including the generator yard will return to the layout and design as permitted by FW18A/0114. The temporary works will be removed once Building 2 & 3 have been commissioned. The remainder of the development to be carried out in accordance with parent permission Reg. Ref. FW17A/0167 and Amendment permission FW18A/0114.

FW18A/0114 Permission GRANTED for modifications to permission Ref. FW17A/0167 (for demolition of existing warehouse and construction of 3 no. data centres and associated works). The proposed modifications to the permitted development will comprise the following: Revised internal layouts of the 3 no. permitted buildings, increase in the footprint of Building 2, and re-allocation of ancillary office/admin space between the 3 buildings with associated elevational changes. Provision of plant room within upper floors of each building and reduction in roof plant. Revised energy centre layouts with reduction in size of plant buildings and the number of flues reduced to 3 per stack (one stack per building, each c.28 m high). Provision of sprinkler pump house. Revised access, internal roads and car parking layouts with 82 no. car

## COMHAIRLE CONTAE FHINE GALL

### RECORD OF EXECUTIVE BUSINESS AND CHIEF EXECUTIVE'S ORDER

Reference No: FS5W/008/25

parking spaces, 63 no. bicycle parking spaces now provided. Revised security fencing and external lighting layouts. Provision of 2 no. single storey security buildings (c.72.69 sq.m total floor area). All associated site development works, landscape works and services provision. Total gross floor area of the proposed development revised to c. 40,635 sq.m. The remainder of the development to be carried out in accordance with parent permission Ref. FW17A/0167.

FW18A/0114/E1: Extension of duration permitted. The revised expiry date is the 5th March 2028.

FW17A/0167 Permission GRANTED for Demolition of existing warehouse building (c.14,940 sq.m); Construction of 3 no. 2-storey, Data Centres, each building including data halls, offices, staff areas, plant areas, roof plant. Max height of each building c.12 m to parapet; Provision of an Energy Centre at each Data Centre, each including 5 no. flues (c.28m high), fuel tanks, switch rooms and associated plant; Provision of gas pressure reduction facility (including 2 no. service buildings of total c.52 sq.m) and with separate access; Provision of 80 no. car parking spaces, 60 no. bicycle parking spaces, internal roads and docking areas. Individual vehicular access to each data centre to be provided via the 3 no. existing entrances to the north of the site. Extension of existing footpath to the north-east of the site; Site lighting and security fencing (c.2.4m high palisade); All associated site development works, landscape works and services provision; Total floor area of the proposed development is c.31,537 sq.m at Former Brian Daly Transport Services Building, Orion Business Park, Ballycoolin, Dublin 15.  
FW17A/0167/E1 Extension of duration of FW17A/0167 granted, with the following condition: This permission extends the duration of FW17A/0167, expiring on the 5th March 2028. Reason: In the interest of clarity

#### **PROPOSAL**

The applicant seeks a decision under Section 5 (1) of the Planning & Development Act 2000 as amended as follows:

Temporary installation of energy plant comprising 4 no. gas-powered generators and 4 no. biodiesel ( HVO) generators. Each generator will include 12m tall flue stacks, 2 no. battery storage areas and a battery inverter station. Installation of 6 no. containerised switchgear rooms and 6 no. transformers and ancillary equipment including fuel interceptor.

The proposed energy plant will be used temporarily for a period up to December 2026 (c. 22 months from February 2025) and removed once Energy Centre No. 1 and 2 have been commissioned.

## COMHAIRLE CONTAE FHINE GALL

### RECORD OF EXECUTIVE BUSINESS AND CHIEF EXECUTIVE'S ORDER

Reference No: F55W/008/25

#### ASSESSMENT

Consideration as to whether a development constitutes exempted development or not is governed by Sections 3, 4, 5 of the Planning and Development Act 2000 (as amended) and Articles 5,6,7,8,9,10 and 11 of the Planning and Development Regulations 2001(as amended).

Section 2 (1) "works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure

Planning and Development Regulations, 2001 as amended  
Article 6 subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1

Schedule 2 Part 1 Exempted Development

#### *Temporary Structures and Uses*

CLASS 16 The erection, construction or placing on land on, in, over or under which, or on land adjoining which, development consisting of works (other than mining) is being or is about to be, carried out pursuant to a permission under the Act or as exempted development, of structures, works, plant or machinery needed temporarily in connection with that development during the period in which it is being carried out.

#### Conditions and Limitations

Such structures, works, plant or machinery shall be removed at the expiration of the period and the land shall be reinstated save to such extent as may be authorised or required by a permission under the Act.

#### Is the proposal considered to be development?

Part 1, Section 2 of the Planning and Development Act 2000 as amended gives the interpretation of development.

*'development' has the meaning assigned to it by section 3 and develop shall be construed accordingly.*

## COMHAIRLE CONTAE FHINE GALL

### RECORD OF EXECUTIVE BUSINESS AND CHIEF EXECUTIVE'S ORDER

Reference No: F55W/008/25

Part 1, Section 3- (1) of the Planning and Development Acts 2000 as amended. *'In this Act, 'development' means, except where the context otherwise requires, the carrying out of any works on, in over or under land or the making of any material change in the use of any structures or other land.'*

It is considered that the temporary installation of energy plant comprising 4 no. gas-powered generators and 4 no. biodiesel ( HVO) generators is development.

Is the proposal considered to be exempted development?

South Dublin Routing 4 No 2 Limited intend to install on a temporary basis energy plant comprising 4 no. gas-powered generators and 4 no. biodiesel ( HVO) generators. Each generator will include 12m tall flue stacks, 2 no. battery storage areas and a battery inverter station. It is also proposed to install 6 no. containerised switchgear rooms and 6 no. transformers and ancillary equipment including fuel interceptor.

CLASS 16 allows for development of a temporary nature to be exempt if it meets certain criteria

*The erection, construction or placing on land on, in, over or under which, or on land adjoining which, development consisting of works (other than mining) is being or is about to be, carried out pursuant to a permission under the Act or as exempted development, of structures, works, plant or machinery needed temporarily in connection with that development during the period in which it is being carried out.*

#### *Conditions and Limitations*

*Such structures, works, plant or machinery shall be removed at the expiration of the period and the land shall be reinstated save to such extent as may be authorised or required by a permission under the Act.*

The proposed energy plant on a site with active construction relating to permitted development will be used temporarily for a period to November 2026 and removed once Energy Centre No. 1 and 2 have been commissioned.

This Section 5 is being made on foot of delays identified for the final transportation of gas to the site and commissioning of the final permanent energy plant past the period of c.15 months as requested in the previous Section 5. For the abundance of caution, the applicants have submitted this additional Section 5 request. The only change to occur is the length of time that the now installed temporary energy generation plant will remain on site is from c15 to c.22 months. All elements remain equal otherwise.

**RECORD OF EXECUTIVE BUSINESS AND CHIEF EXECUTIVE'S ORDER**

Reference No: F55W/008/25

The plant is to be located where Data Centre Building No. 2 is to be located. The plant is required whilst construction works are ongoing to develop the permitted scheme and whilst the permitted Energy Centres 1, 2 and 3 are constructed

**Conclusion**

The Planning Authority considers that the proposed works comprise development which would fall under Class 16 of Schedule 2 of the Planning and Development Regulations 2001 as amended and would constitute exempted development under the Planning and Development Act 2000 as amended.

**Appropriate Assessment**

The Project site is not connected with any European (Natura 2000) site and there is no realistic pathway between the Proposed Project site and any European sites. Having regard to the nature, scale and location of the Proposed Project, in comparison with the existing baseline, it is considered that there is no likelihood of significant effects on any European sites during the construction or operation of the Proposed Project, and it is further considered that there are no other plans or projects that will act in combination with the Proposed Project to have a significant effect on European sites. It is considered that the Proposed Project, individually or in combination with another plan or project, will not have a significant effect on any European sites. This assessment was reached without considering or taking into account mitigation measures or measures intended to avoid or reduce any impact on European sites.

**Environmental Impact Assessment**

The proposed works are not listed in Schedule 5 (Part 1 or Part 2) of the Planning and Development Regulations 2001 as amended nor does the proposed development meet the requirements for sub-threshold EIA as outlined in Section 103 of the Planning and Development Regulations 2001 as amended. No Environmental Impact Assessment (EIA) is therefore required.

**Conclusion**

The Planning Authority consider that the proposed works comprise development which would fall under Class 16 of Schedule 2 of the Planning and Development Regulations 2001 as amended and would constitute exempted development under the Planning and Development Act 2000 as amended.

COMHAIRLE CONTAE FHINE GALL

RECORD OF EXECUTIVE BUSINESS AND CHIEF EXECUTIVE'S ORDER

Reference No: FS5W/008/25

**RECOMMENDATION**

I recommend that a **DECLARATION BE ISSUED** pursuant to Section 5 of the PLANNING & DEVELOPMENT ACT 2000, AS AMENDED, informing the applicant that the above proposal is considered to be **Exempted Development**.

COMHAIRLE CONTAE FHINE GALL

RECORD OF EXECUTIVE BUSINESS AND CHIEF EXECUTIVE'S ORDER

Reference No: FS5W/008/25

*Seán Hoban*

Senior Executive Planner

Endorsed:

*Niamh Reid*  
Administrative Officer

Order: A **DECLARATION** pursuant to Section 5 of the Planning and Development Act 2000 (as amended), informing the applicant that the above proposal is considered to be **Exempted Development**.

Dated: 18<sup>th</sup> March, 2025

*R Burke*  
Senior Planner

Thereunto empowered by order of the Chief Executive, Fingal County Council C.E. No. 8196 delegating to me all powers, functions & duties in relation to the council of the County of Fingal in respect of this matter.

Planning Department  
Fingal County Council  
County Hall  
Main Street  
Swords  
Co. Dublin  
K67 X8Y2

Monday, 24<sup>th</sup> February 2025

**Re: REFERENCE UNDER SECTION 5 OF THE PLANNING AND DEVELOPMENT ACT 2000 (AS AMENDED), ORION BUSINESS PARK, BALLYCOOLIN, DUBLIN 15**

## 1.0 INTRODUCTION

### 1.1 Purpose of this Reference

South Dublin Routing 4 No.2 Limited<sup>1</sup> has retained Tom Phillips + Associates<sup>2</sup> to seek a Declaration under Section 5 of the *Planning and Development Act 2000* (as amended) ('the Act') on Development in respect of the following:

- 1. Temporary energy generation plant and associated work proposed and outlined in this request at Orion Business Park is Exempted Development under Class 16 of Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended).***

## 2.0 RATIONALE FOR THIS REQUEST

On Friday, 14 June 2024, Fingal County Council (FCC) declared the 'temporary use of energy generation plant pursuant to planning permission FW17A/0167<sup>3</sup> and subsequent amendments' as Exempted Development (FCC Reg. Ref. FS5W/015/24) in response to a Section 5 request dated Friday, 31 May 2024. The parent permission and subsequent amendments consented by FCC remain unchanged<sup>4</sup>.

Following further engagement with Gas Networks Ireland (GNI) and ongoing construction of the permitted development, there have been several delays identified. These have extended the timeline for final transportation of gas to the site and commissioning of the final permanent energy plant past the period of c. 15 months as requested in the Section 5 Request

---

<sup>1</sup> 3<sup>rd</sup> Floor, Kilmore House, Park Lane, Spencer Dock, Dublin 1, D01 YE64

<sup>2</sup> 80 Harcourt Street, Dublin 2, D01 F449

<sup>3</sup> This Section 5 request dated 31/5/24 contains a typo within the referred Reg. Ref. 'FW17A/1067', where FW17A/0167 is the correct Reg. Ref. as per the Final Grant issued 6/3/18 and FCC Planning Portal

<sup>4</sup> FW18A/0114, FW24A/0012, FW24A/0013, FW24A/0139, FW24A/0246E, and FW24A/0532E



to FCC dated 31 May 2024. This means the timeline for such under that Section 5 Request will now conclude prior to final provision of gas supply for the permanent development, as necessitates extension of the period of time for a further c.22 months. As these delays were beyond our clients and developers control, and for the abundance of caution, our clients wish to submit this additional Section 5 request.

Note that there is no material difference between the Section 5 request submitted to and granted by FCC on 14 June 2024, and this Section 5 request (dated Monday, 24<sup>th</sup> February 2025). The only change to occur is the length of time that the now installed temporary energy generation plant will remain on site, from c. 15 to c.22 months. All elements remain equal otherwise.

As noted in our previous submission dated 31 May 2024, Permission was granted in 2018 for 3 no. Data Centres, with each supported by a discrete Energy Centre. The development has been subject to amendments since the initial grant of permission. Data Centre Building No. 1 is complete and the balance of works to develop the site in accordance with the relevant planning permissions is ongoing.

In line with the Section 5 Declaration issued by FCC on 14 June 2024, the energy generation plant has been erected on a temporary basis pursuant to development permitted under parent permission FW17A/0167 and subsequent amendments. The plant is only operational whilst construction works are ongoing to complete the permitted scheme. As such, whilst the balance of the scheme including Energy Centres 1 and 2 are being developed, temporary energy generation (via gas-power generators, biodiesel generators, and batteries) is now required in connection with the permitted development for a further period of c.22 months (From February 2025 – December 2026)<sup>5</sup>.

When the Energy Centres 1 & 2 are complete the temporary energy plant will be removed, and remaining elements of the permitted scheme including Data Centre Building No. 2 and Energy Centre No. 3 will be completed as per the relevant permissions.

### **3.0 BACKGROUND**

#### **3.1 Site Location and Context**

The overall site of approximately 5.73 Ha at Orion Business Park, Ballycoolin, is located c. 1.5km north of the M50, c.2km west of the N2 and c.3km east of the N3.

Ballycoolin, located northeast of Blanchardstown Town Centre, is one of the main employment clusters in Fingal County which contains several estates with a broad variety of businesses from I.T., manufacturing, logistics and warehousing. Ballycoolin is part of the Dublin 15 Enterprise Zone. Fingal County Council is committed to the continued investment in, management and promotion of the Dublin 15 Enterprise Zone.

It is a brownfield site that was formerly occupied by a Brian Daly Transport warehouse/logistics facility. This facility has been demolished as the construction of the permitted data centre development has commenced.

---

<sup>5</sup> September 2024 – November 2025 (c.15 Months) Under Timeframe of Previous Section 5 Request

The permitted development consists of 3 no. data centre buildings with onsite power generation to the rear. Each data centre includes an office block facing onto the internal estate road to the north of the site. Building 1 known as “DUB01” Is constructed including ancillary buildings and infrastructure. The balance of the permitted development is under construction.

The subject site of this request is c. 1.6 ha, outlined in red in Figure 4.1, and is located to the centre of the site relating to the final location of Data Centre 2.



**Figure 2.1:** Indicative boundary of the overall site (Red outline), illustrating the sites’ location relative to the M50 and N3 and surrounding areas (Source: Google Earth Pro, annotated by Tom Phillips + Associates, May 2024)

### 3.2 Planning History

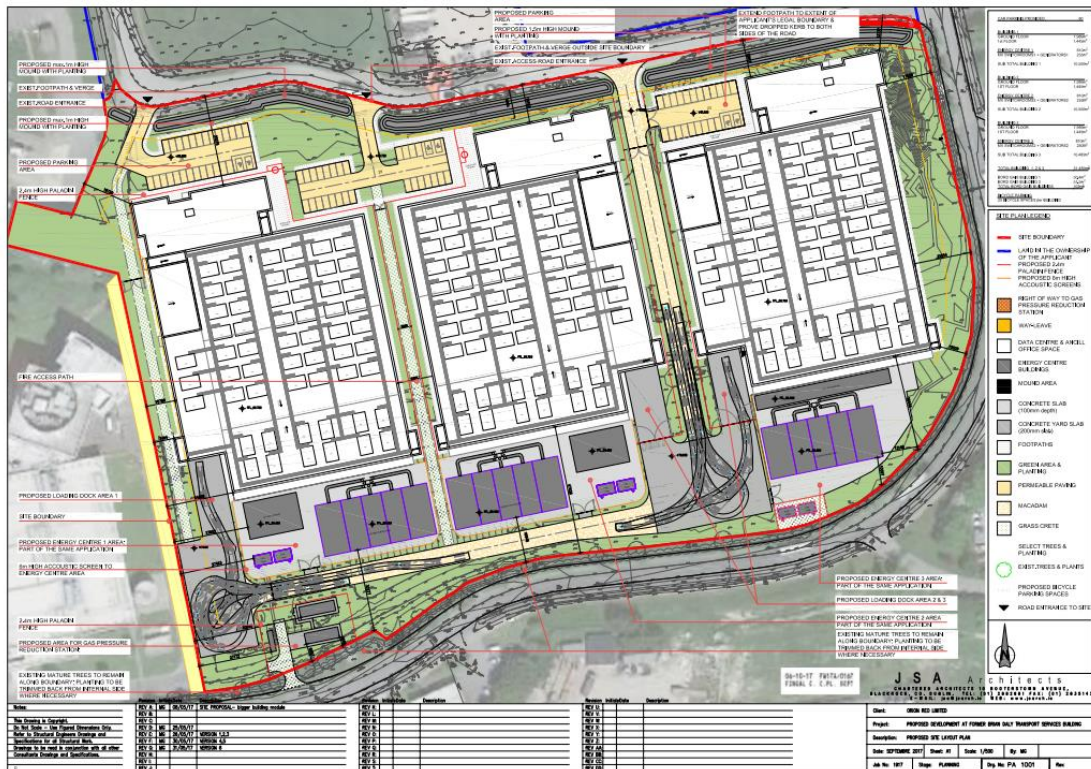
#### Fingal County Council Planning Ref. FW17A/0167

Under Fingal County Council planning ref. no. FW17A/0167, planning permission was secured for a proposed development described as follows:

*“Demolition of existing warehouse building (c.14,940 sq.m) Construction of 3 no. 2-storey, Data Centres, each building including data halls, offices, staff areas, plant areas, roof plant. Max height of each building c.12 m to parapet. Provision of an Energy Centre at each Data Centre, each including 5 no. flues (c.28m high), fuel tanks, switch rooms and associated plant. Provision of gas pressure reduction facility (including 2 no. service buildings of total c.52 sq.m) and with separate access. Provision of 80 no. car parking spaces, 60 no. bicycle parking spaces, internal roads and docking areas. Individual vehicular access to each data centre to be provided via the 3 no. existing entrances to the north of the site. Extension of existing footpath to the north-east of the site. Site lighting and security fencing (c.2.4m high palisade.) All associated site development works, landscape works and services provision. Total floor area of the proposed development is c.31,537 sq.m”.*

This planning permission was permitted on 31 January 2018.

The permitted Site Layout Plan for Reg. Ref. FW17A/0167 is shown in Figure 3.1



**Figure 3.1:** Site Layout Plan permitted under Fingal County Council Reg. Ref. FW17A/0167 (Source: JSA drawings, September 2017.)

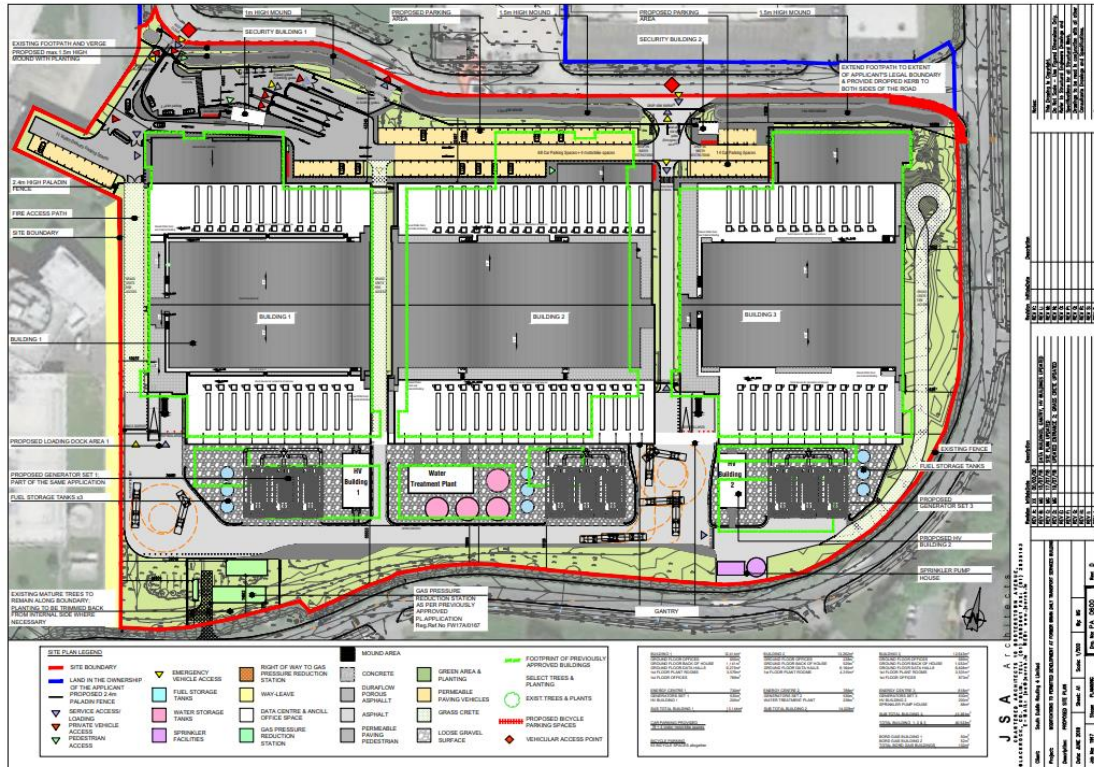
Fingal County Council Planning Ref. FW18A/0114

Under Fingal County Council planning ref. no. FW18A/0114, planning permission was secured for modifications to the 2018 consent, that were described as follows:

*“Modifications to permission Ref. FW17A/0167 (for demolition of existing warehouse and construction of 3 no. data centres and associated works). The proposed modifications to the permitted development will comprise the following: Revised internal layouts of the 3 no. permitted buildings, increase in the footprint of Building 2, and re-allocation of ancillary office/admin space between the 3 buildings with associated elevational changes. Provision of plant room within upper floors of each building and reduction in roof plant. Revised energy centre layouts with reduction in size of plant buildings and the number of flues reduced to 3 per stack (one stack per building, each c.28 m high). Provision of sprinkler pump house. Revised access, internal roads and car parking layouts with 82 no. car parking spaces, 63 no. bicycle parking spaces now provided. Revised security fencing and external lighting layouts. Provision of 2 no. single storey security buildings (c.72.69 sq.m total floor area). All associated site development works, landscape works and services provision. Total gross floor area of the proposed development revised to c. 40,635 sq.m. The remainder of the development to be carried out in accordance with parent permission Ref. FW17A/0167”.*

This planning permission was issued a Notice of Grant on 21 September 2018.

The permitted Site Layout Plan for Reg. Ref. FW18A/0114 is shown in Figure 3.2. It is noted that both above planning permissions have recently secured extensions of duration until 5<sup>th</sup> March 2028.



**Figure 3.2:** Site Layout Plan permitted under Fingal County Council Reg. Ref. FW18A/0114 (Source: JSA drawings, June 2018.)

Fingal County Council Planning Ref. FW24A/0012

Under Fingal County Council planning ref. no. FW24A/0012, planning permission was secured for retention construction and associated modifications to planning ref. nos. FW17A/0167 and FW18A/0114, that were described as follows:

*“The application for retention consists of construction of a new 500KVA substation (gfa of 30.1 sqm & max height of 3.2 m) and back-up generator. The development will also include amendment to permission Ref. FW17A/0167 and permission Ref. FW18A/0114 to include the works subject to retention.”*

This planning permission was issued a Notice of Final Grant on 8 April 2024.

Fingal County Council Planning Ref. FW24A/0013

Under Fingal County Council planning ref. no. FW24A/0013, planning permission was secured for retention construction and associated modifications to planning ref. nos. FW17A/0167 and FW18A/0114, that were described as follows:

*“The application for retention consists of modifications to the permitted entry area and guardhouse (gfa 45.67 sqm & max height 4.275m) in relation to orientation and design. Other minor modifications to car parking and landscaping are also included. The development will*

also include amendment to permission Ref. FW17A/0167 and permission Ref. FW18A/0114 to include the works subject to retention.”

This planning permission was issued a Notice of Final Grant on 7 July 2024.

Fingal County Council Planning Ref. FS5W/015/24

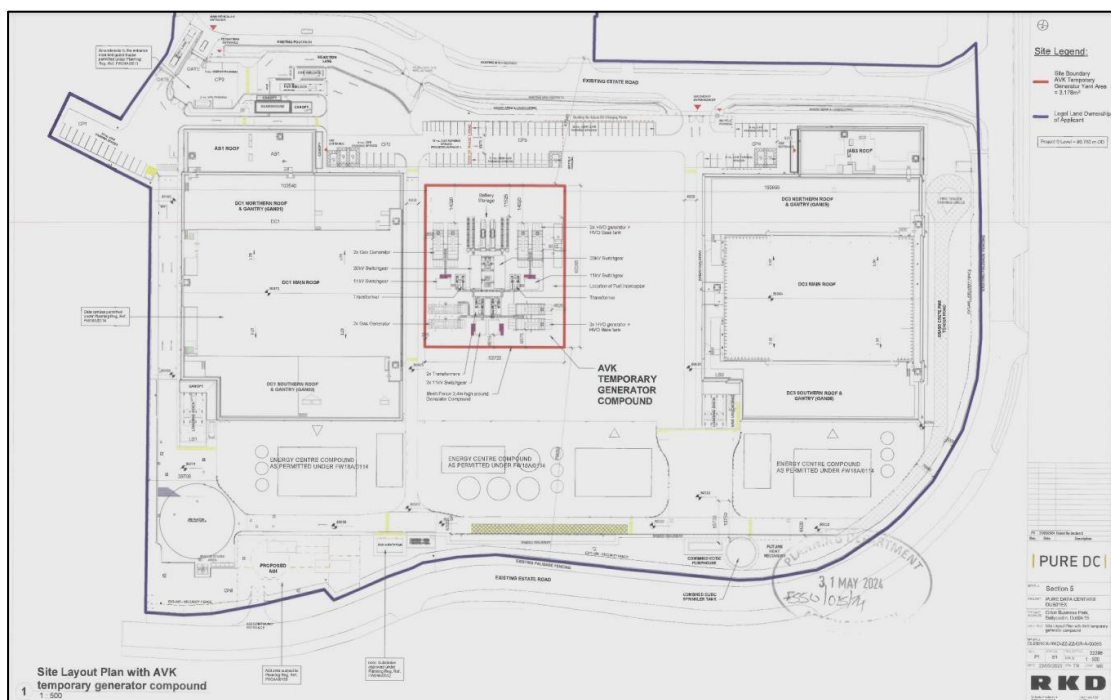
Under Fingal County Council Planning Ref. FS5W/015/24, a Section 5 Declaration was issued on the use of the temporary energy generation plant pursuant to planning permission ref. FW17A/0167 and subsequent amendments, as exempted development.

*“Temporary use of energy generation plant pursuant to planning permission FW17A/0167 and subsequent amendments IS Exempted Development.”*

This Section 5 Declaration confirms planning permission is not needed for the use of the temporary energy generation plant for a period of c.15 months, from September 2024 to November 2025.

This Section 5 Declaration was issued 14 June 2024.

A reference Site Layout Plan for the Section 5 Request is shown in Figure 3.3



**Figure 3.3:** Temporary Energy Plant Site Layout Plan submitted with Section 5 Request to Fingal County Council, declared under Reg. Ref. FS5W/015/24 (Source: RKD drawings, May 2023.)

Fingal County Council Planning Ref. FW24A/0139

Under Fingal County Council Planning Ref. FW24A/0139, planning permission was secured for alterations to the permitted above ground installation (AGI) and associated works, described as follows:

*“The Application for permission consists of amendments to permission Reg. Ref. FW17A/0167 and permission Reg. Ref. FW18A/0114 to include for alterations to the permitted above ground installation (AGI) and associated works including alterations to the location, design, and layout. The site also includes a portion of land within the business park access road. The proposed development includes all associated works, including general site clearance, removal of temporary infrastructure, roof mounted solar panels, security fencing, vehicular access and emergency pedestrian exists, site lighting, above and below ground pipework, drainage, tree removal and landscaping.”*

This planning permission was issued a Notice of Final Grant on 17 June 2024.

Fingal County Council Planning Ref. FW24A/0246E

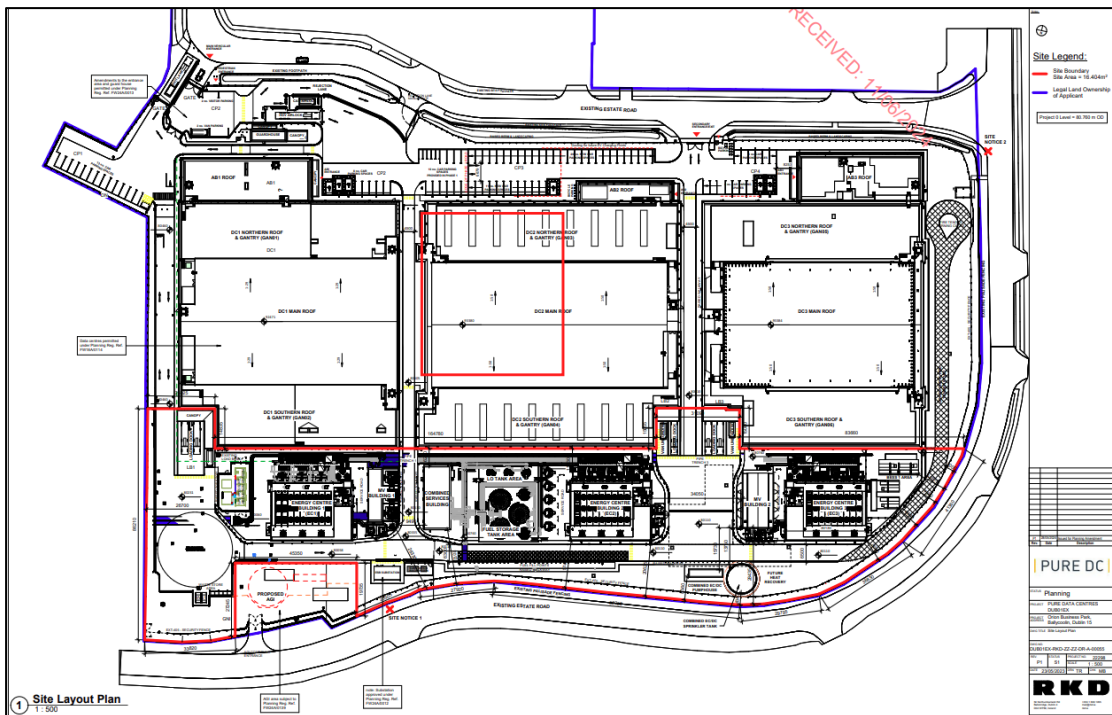
Under Fingal County Council Planning Ref. FW24A/0246E, planning permission was secured for installation of a temporary energy generation compound, and modifications to planning ref. nos. FW17A/0167 and FW18A/0114, that were described as follows:

*“The application for planning permission consists of modifications to permission Ref. FW17A/0167 (for demolition of existing warehouse and construction of 3 no. data centres and associated works) and permission Ref. FW18A/0114 (Amendments to the permitted 3 no. data centres and associated works). The proposed modifications will comprise the following: Revised layout of Plant Yard No. 1 to provide a new gas pressure reduction station (GPRS), revised Energy Centre, modifications to permitted flue design, and alteration of HV Building to MV building and revised design; Revised layout of Plant Yard No. 2 to provide revised Energy Centre, modifications to permitted flue design, fuel storage tanks, and combined services building; Revised layout of Plant Yard No. 3 to provide revised Energy Centre, modifications to permitted flue design, and alteration of HV Building to MV building and revised design, new battery energy storage system (BESS); Modifications to internal access and landscape areas to accommodate redesigned Plant Yards; Ancillary infrastructure including revised sprinkler tank and pumphouse location; Minor modifications to rear loading of Buildings No. 1, 2 and 3; and All associated works ancillary to the modifications.*

*The proposed modifications will also include a temporary energy generation compound for a period of c. 1.5 year. The temporary modifications include: Installation of 4 no. gas powered generators and 4 no. bio diesel (HVO) generators (including biodiesel storage) used in standby application; Each generator will include a 12 m tall flue stack; 2 no. Battery Storage area and a Battery inverter station; Installation of 6 no. containerised switchgear rooms and 6 no. Transformers; and ancillary equipment including fuel interceptor. Following the temporary period, Data Centre building No. 2 will be developed in accordance with the layout and design as permitted by FW18A/0114 including the modifications proposed in this application. The temporary works will be removed once Energy Centre No. 1 and 2 have been commissioned. The remainder of the development is to be carried out in accordance with parent permission Reg Ref. FW17A/0167, Amendment permission FW18A/0114, and any subsequent amendments permitted by this application for planning permission.”*

This planning permission was issued a Notice of Final Grant on 28 August 2024.

The permitted Site Layout Plan for Reg. Ref. FW24A/0246E is shown in Figure 3.4.



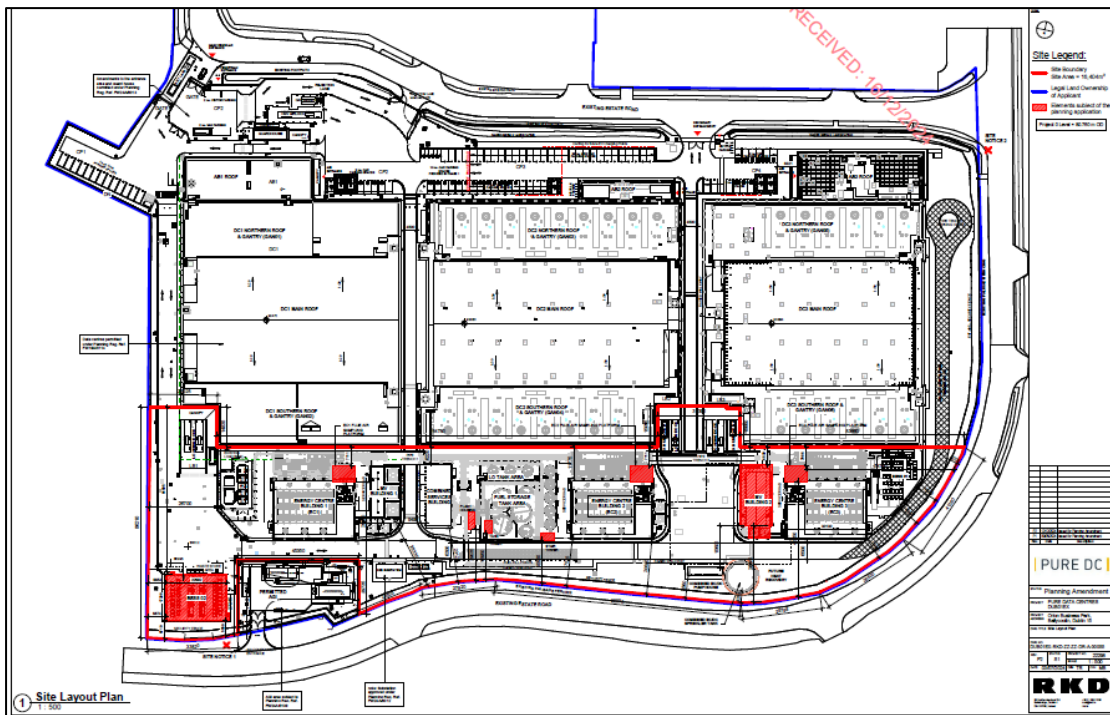
**Figure 3.4:** Site Layout Plan permitted under Fingal County Council Reg. Ref. FW24A/0246E (Source: RKD drawings, May 2023.)

Fingal County Council Planning Ref. FW24A/0532E

Under Fingal County Council Planning Ref. FW24A/0532E, planning permission was secured for modifications to planning ref. nos. FW17A/0167 (amended by FW18A/0114, and further amended by FW24A/0246E), that were described as follows:

*“The application for permission consists of amendments to permission Reg. Ref. FW17A/0167 as amended by Reg. Refs. FW18A/0114, and FW24A/0246E accounting for various amendments to the permitted 3 no. data centres, associated infrastructure and associated works. The proposed modifications will comprise the following: Revised layout for the southwest corner of the site to provide for a Battery Energy Storage System (BESS) with raised platform and screening, and modifications to the permitted concrete surface and landscaping to allow for the same; 500mm increase in the building height of the permitted MV2 building; Modification of stair access to the permitted fuel & Urea tanks by way of addition of 2 No. steel chair towers; Addition of plant housing between the CSB building and fuel tanks of c. 15 sq m and height of c. 3.7m; Change in height of flue sampling platforms at each of the 3 No. flue groups by 800mm; and All associated works ancillary to the modifications.*”

This planning permission was issued a Notice of Decision to Grant 12 February 2025.



**Figure 3.5:** Site Layout Plan permitted under Fingal County Council Reg. Ref. FW24A/0532E (Source: RKD drawings, July 2024.)

#### 4.0 DESCRIPTION OF PROPOSAL

##### 4.1 Details of the Proposed Development

The development subject to this Section 5, consists of the temporary use of the installed energy plant comprising 4 no. gas-powered generators and 4 no. biodiesel (HVO) generators (including biodiesel storage) used in standby application. Each generator has a 12 m tall flue stack, 2 no. Battery Storage area and a Battery inverter station; 6 no. containerised switchgear rooms and 6 no. Transformers; and ancillary equipment including fuel interceptor. The energy plant is to be used temporarily for a period of c.22 months pursuant to parent permission FW17A/0167, FW18A/0114 and subsequent amendments. The temporary works will be removed once Energy Centre No. 1 and 2 have been commissioned. Following the conclusion of the temporary period at the time of December 2026, Data Centre Building No. 2 will return to the layout and be developed as permitted by FW17A/0167, FW18A/0114 and subsequent amendments.

##### 4.1.1 Proposed Layout

The plant is situated where Data Centre Building No. 2 will be ultimately constructed. It is connected and provides power to Data Centre Building No. 1 and Data Centre Building No. 3 until Energy Centre No. 1 and No. 2 are constructed.

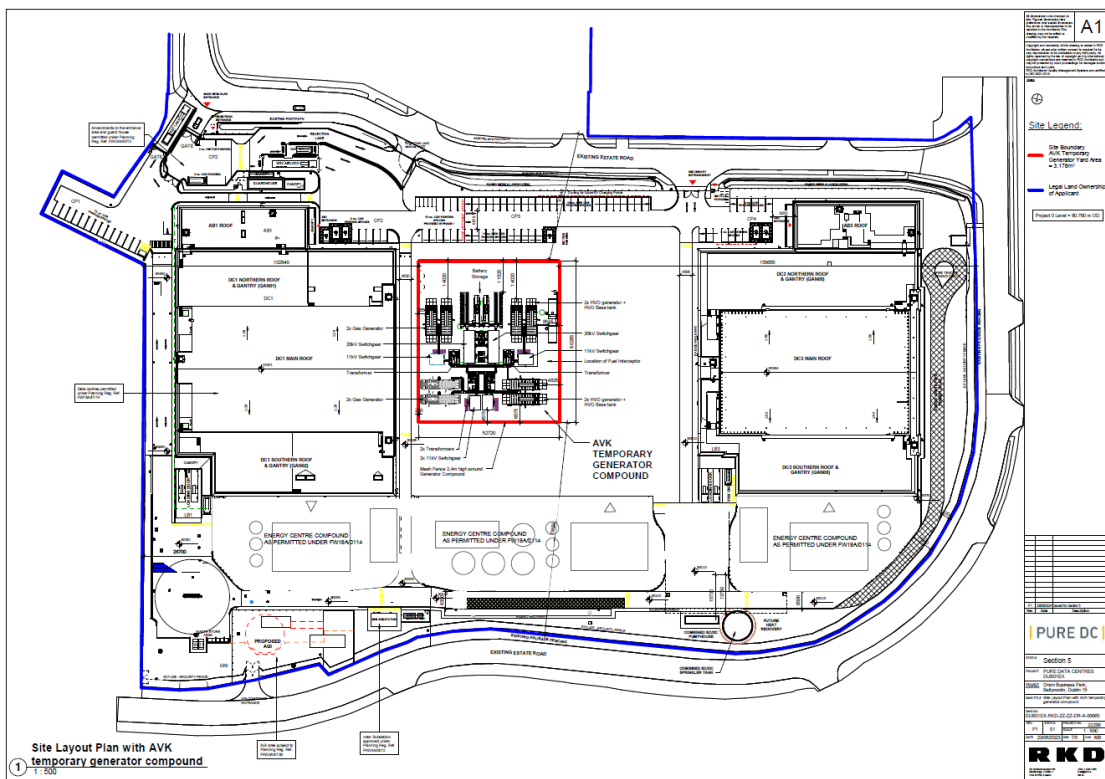


Figure 4.1: Site Layout Plan (source: RKD Architects)

## 5.0 COMPLIANCE WITH EXEMPTED DEVELOPMENT PROVISIONS

### 5.1 Schedule 2, Part 1, Class 16

The development is exempted under the Regulations as it still falls within Class 16 of Schedule 2, Part 1 – General Exempted Development, which is stated as:

*The erection, construction or placing on land on, in, over or under which, or on land adjoining which, development consisting of works (other than mining) is being or is about to be, carried out pursuant to a permission under the Act or as exempted development, of structures, works, plant or machinery needed temporarily in connection with that development during the period in which it is being carried out.*

*[emphasis added]*

This is subject to conditions that “such structures, works, plant or machinery shall be removed at the expiration of the period and the land shall be reinstated save to such extent as may be authorised or required by a permission under the Act.”

As per the already issued FCC Section 5 Declaration 31 May 2024, the temporary energy generation is still needed to facilitate the operation of the constructed Data Centre No. 1 and the to be constructed Data Centre No.3 whilst the balance of the permitted development is ongoing. The temporary structures and plant will be removed in line with the conditions of Class 16 upon the completion of the permitted Energy Centre Buildings. As such, it is clear that the temporary energy generation plant and structures are still required in connection with the

permitted development until December 2026 and reasonably meet the exemption provided for under the above referenced Schedule 2, Part 1, Class 16.

## **5.2 Article 9 Restrictions on Exemption do not Apply**

Article 9 of the *Planning and Development Regulations 2001* (as amended) sets out a number of restrictions which can 'de-exempt' development that would otherwise constitute exempted development. The development does not fall within the scope of any of the restrictions due to the nature, scale and location of the development.

## **5.3 Appropriate Assessment/Environmental Impact Assessment are not Required**

Section 4(4) of the Act stipulates a further 'de-exemption' in circumstances where an Appropriate Assessment (AA) or an Environmental Impact Assessment (EIA) would be required in respect of development:

*"Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required."*

### **5.3.1 Appropriate Assessment**

The development is relatively minor and comprises the temporary use of the energy plant comprising 4 no. gas-powered generators and 4 no. biodiesel (HVO) generators (including biodiesel storage) used in standby application. Each generator includes 12 m tall flue stack, 2 no. Battery Storage area and a Battery inverter station; 6 no. containerised switchgear rooms and 6 no. Transformers; and ancillary equipment including fuel interceptor.

The permitted parent permissions (FW17A/0167 and FW18A/0114) underwent AA Screening, which found "given the nature of the development and distance from Natura 2000 sites, [it] is not considered to result in any likely direct, indirect or secondary impacts on the Nature 2000 network." Similarly, having regard to the nature, scale and location of the proposed development it is not considered that a requirement for Appropriate Assessment can arise in this instance.

### **5.3.2 Environmental Impact Assessment**

The various classes and thresholds of development for which an EIA is required are listed in Schedule 5 of the *Regulations*, such that energy generation for 300mw requires EIA. As the development relates to relatively minor works where the temporary energy generation is approximately 10mw, it is not a form of development which would require an EIA nor is it considered likely to have a 'significant effect on the environment'. The development subject to this request has significantly less thermal input than the permitted 3 no. Energy Centres (180-200MW).

Having regard to the above, it is our professional planning opinion that the restrictions on exemption relating to AA and EIA as set out under the Act are not applicable in respect of the development which is the subject of this section 5 referral.

## 6.0 DOCUMENTS ENCLOSED

The following documents are enclosed with this request for a Section 5 Declaration:

- A copy of this Planning Cover Letter, prepared by TPA, dated 24<sup>th</sup> February 2025.
- 4 no. copies of OS Map
- 4 no. copies of Site Layout Drawing
- 4 no. copies of Elevations
- A Completed Fingal County Council Section 5 Application Form.
- The appropriate fee - €80

## 7.0 CONCLUSION

In our professional planning opinion, the development comprises exempted development, as it is clear that the temporary energy generation plant and structures are required in connection with the permitted development and reasonably meet the exemption provided for under the above referenced Schedule 2, Part 1, Class 16. Additionally, FCC whilst have previously come to this conclusion, our client seeks an additional declaration through an abundance of caution and for reasons outside the control of the developer which have led to the delay of full and final implementation of the permitted scheme. As such, the timeline included in our previous Section 5 request (dated 31 May 2024) has been updated in this request, to reflect the new timeline for full and final delivery. All other elements are equal.

We look forward to a positive determination of this case from Fingal County Council in the near future. In the meantime, if you require any further information, please do not hesitate to contact me.

Yours sincerely,



---

**Brian Minogue**  
**Associate Director**  
**Tom Phillips + Associates**