



An  
Bord  
Pleanála

**Strategic Infrastructure Development**  
**Electricity Transmission Guidelines**

## Strategic Infrastructure Development

### Electricity Transmission Guidelines

1. Introduction
2. Electricity Transmission
3. Pre-Application Consultations
4. Conclusion of Consultations
5. Environmental Impact Assessment
6. Making a Section 182A Application
7. Clerical Errors / Clarification of Decision
8. Alteration of Approval
9. Enforcement of Decision and Conditions
10. Appeal / Review of Decision

#### 1. Introduction

Under the strategic infrastructure provisions of the Planning and Development Act 2000, as amended, electricity transmission development referred to in section 182A(1) is strategic infrastructure development.

#### 2. Electricity Transmission

Prospective applicants should note that certain private sector proposed developments may constitute electricity transmission under section 182A where such proposals will ultimately form a node on or part of the transmission network. This might include for example substations and related connection infrastructure to the national grid associated with large commercial or industrial development.

In relation to electricity transmission, transmission is defined in the 2000 Act as being construed in accordance with section 2(1) of the Electricity Regulation Act 1999 but, for the purpose of this section of the Act, the

foregoing expression, in relation to electricity, shall also be construed as meaning the transport of electricity by means of –

- (a) a high voltage line where the voltage would be 110 kilovolts or more, or
- (b) an interconnector, whether ownership of the interconnector will be vested in the undertaker or not.

### **3. Pre-Application Consultations**

#### **3.1 General**

Section 182E of the Planning and Development Act 2000, as amended, provides that before a person (prospective applicant) applies for approval for strategic infrastructure electricity transmission development, he/she shall enter into consultations with the Board in relation to the proposed development. A fee is payable. Please refer to the Board's "Guide to Fees payable to An Bord Pleanála" for information on current fees. In such consultations the Board may give advice to the prospective application regarding:

- the procedures involved in making such an application, and
- what considerations, related to proper planning and sustainable development or the environment, may, in the opinion of the Board, have a bearing on its decision in relation to the application.

In any situation where a person intends to carry out a development comprising or for the purposes of electricity transmission, he/she should write to the Board and request pre-application consultations. The Board will advise on whether or not the development is strategic infrastructure development. This may be done solely on the basis of written consultations dependent on the nature and scale of the proposed development.

At pre-application consultation meetings the Board will be represented by Inspectorate and Administrative staff. Any meetings will generally be chaired by the Director of Planning or an Assistant Director of Planning and a record

of the meeting will be taken by staff. This record will be made publicly available once the consultations are concluded.

The holding of consultations does not prejudice the performance by the Board of its functions and cannot be relied upon in the formal planning process or in legal proceedings (section 182E(5)).

## 3.2 Request for Consultations

3.2.1 An application for pre-application consultations should be made in writing and be addressed to **The Secretary, An Bord Pleanála, 64, Marlborough Street, Dublin 1.**

3.2.2 An application for pre-application consultations should generally include the following information:

- the name and address of the prospective applicant, contact telephone numbers and email address, if available,
- the name and address of the prospective applicant's main agent, if any, contact telephone numbers and email address, if available,
- general description of the nature and scale of the proposed development, including drawings should these be available and analysis of its role, purpose and function in regard to electricity transmission in the State (and elsewhere),
- address of the proposed development and a brief description of the site and surrounding area,
- a site location map(s) and a site map(s) showing the boundaries of the site,
- where necessary, a statement of the prospective applicant's legal interest to enable it to carry out the proposed development if approved,
- name of the planning authority or authorities, if more than one, in whose functional area(s) the site is situated,

- statement as to why or why not the prospective applicant considers the proposed development should be regarded as strategic infrastructure development including reference to any international, national, regional or local policy context for the proposed development.

Note: commercially sensitive information should not be submitted during pre-application consultations as all information on file will be available for public inspection at the close of the consultation stage. Prospective applicants should also note that the proposed development should be at a stage where it is mature enough to enter the pre-application consultation phase. Approaches to the Board where the proposed development is not properly defined or established can create undue delay with the process.

### 3.2.3 Fees

In accordance with the provisions of section 144 of the Planning and Development Act 2000, as amended, the Board has determined that a fee shall be charged for any request for pre-application consultations received on or after 5<sup>th</sup> September 2011. The fee should accompany a request for pre-application consultations. Please refer to the Board's "Guide to Fees payable to An Bord Pleanála" for information on current fees.

3.2.4 On receipt of a request for pre-application consultations, the Board must notify the relevant planning authority (or planning authorities where the proposed application site would cross different planning authority areas) of the request. This notification will consist of a letter describing the nature of the proposed development and a site location map(s).

3.2.5 Notice of all requests for pre-application consultations will be recorded on the Board's statutory weekly list of new applications received and will be posted on the Board's website ([www.pleanala.ie](http://www.pleanala.ie)).

## 3.3 Consultations

### 3.3.1 General

The nature of pre-application consultations may vary from case to case and may require more than one meeting. The Board will be represented at officer level (at least one inspector and one administrator). Board members will not be present at the meeting. The Board may require the prospective applicant to

supply additional information to it in order for the Board to give its opinion. Discussions/meetings forming part of the pre-application consultations will generally take place in the Board's offices. It is envisaged that a meeting will be held within 4 weeks of the making of a formal valid request and the submission of satisfactory information to the Board. The timing and frequency of any further meetings will be dictated by the nature, scale and complexity of the proposed development, maturity of the project and prospective applicant's requirements.

Although there are no statutory timelines within which pre-application consultations must be completed applicants should be aware of the Board's general obligation to deal with matters expeditiously and to avoid unnecessary delays. In order to facilitate the expeditious carrying out of consultations, requests for pre-application consultations should be made when the applicant has defined the project and generally requests should not be made at a very preliminary stage of a project. Prospective applicants should also note that significant changes to the nature and scale of a proposed development as originally described and recorded in the Board's statutory weekly list during pre-application consultations may not be permitted and may require the opening of a completely new consultation process under section 182E.

### **3.3.2 Issues**

During pre-application consultations the Board may indicate what considerations relating to the proper planning and sustainable development or the environment may have a bearing on its decision. For general guidance on such considerations and the matters a prospective applicant might be expected to address at pre-application consultations, see paragraph 6.6 following relating to the planning authority report. Most of the items mentioned will also be relevant to prospective applicants.

The Board may consult with the local authority(s) in whose area the site is situated, or with any of the relevant prescribed bodies. The purpose of any such consultations will be to identify any constraints that would affect the site and to ascertain whether there are plans or programmes being contemplated or undertaken that would have a bearing on the application. The Board may also consult with any other person who may have information which is relevant for the purposes of consultations.

Prospective applicants are strongly advised to directly and comprehensively engage with the local authority in whose area the site is situated, and with any relevant national, regional or prescribed bodies and with the public at the earliest possible stage in the formulation of their proposals.

### **3.3.3 Record of Consultations**

The Board will make a record of any meetings held. It will forward a copy of the record, to the prospective applicant as soon as may be after (each of) the meeting(s). These will be treated as confidential by the Board until the consultation stage has concluded.

Where the Board consults with the local authority in whose area the site is situated or with any prescribed body or other person, a record of such consultations will be made and a copy of such record(s) will be given to the prospective applicant at the next meeting. The record of any such consultations will also become publicly available when the pre-application consultation stage has concluded.

## **4. Conclusion of Consultations**

### **4.1 Letter**

Prospective applicants are requested to write to the Board once they are satisfied that the consultation process can be concluded. Following consultations and after receipt of such a request the Board will issue a letter of its decision to the prospective applicant and also to the relevant planning authority(s) and any other party that has been consulted.

### **4.2 Development Not Determined as SID**

Where the Board issues a letter that the proposed development is not regarded as strategic infrastructure development, any application must then be submitted to the relevant planning authority(s) in the normal way. There is a normal right of appeal to the Board by any person against the decision of any such planning authority on the application.

### 4.3 Development is Determined as SID

Where the Board issues a letter that the proposed development is regarded as strategic infrastructure development, the application must be submitted directly to the Board. When issuing the notice, the Board may indicate to a prospective applicant the following:

- which bodies, prescribed under article 213 of the Regulations, should be notified of the application by the prospective applicant,
- where the Board concludes that there would be likely significant effects on the environment in a Transboundary State, which bodies, in which States, should be notified and how many copies of the application and EIAR/NIS (where relevant) should be sent with the notification,
- any specific requirements in relation to Gaeltacht areas,
- the plans, particulars or other information required to be submitted in order to consider the application,
- the timeframes and sequencing of the application process,
- any other matters in relation to the application process including information in relation to the nature of the costs which may be awarded against the applicant under section 182B(5A)(c) of the 2000 Act (as amended) and any fee to be paid, and the form in which the application should be submitted,
- the form and content of the public newspaper notice required to be published in advance of a planning application to the Board,
- whether the erection of a site notice is required by the Board, specify a location/place and/or website for making available the application, EIAR/NIS (where relevant) and any other relevant documentation for inspection or purchase at a reasonable fee (this information will be contained in the public notice),
- use of local or national media, and/or holding of meetings with any person or body or for the public.



It should be noted that responsibility for the accuracy of the description of both the development and its location in the public notices, on the website and in the application documents rests solely with the prospective applicant.

#### **4.4 Other Matters**

On completion of pre-application consultations:-

- the Board's determination on the status of the proposed development will be recorded on the Board's statutory weekly list of cases decided and will be posted on the Boards website ([www.pleanala.ie](http://www.pleanala.ie)).
- a copy of the Board's file, including the records of any meetings, will be made available to the public.

#### **4.5 Meetings Non-Prejudicial to Board**

The holding of consultations does not prejudice the decision of the Board in any subsequent application in any way and cannot be relied upon in the formal planning process or in legal proceedings.

### **5. Environmental Impact Assessment**

#### **5.1 Environmental Impact Assessment**

Not all electricity transmission development will be subject to environmental impact assessment. Where however such development belongs to a class of development identified for the purposes of section 176 (prescribed classes of development requiring environmental impact assessment) of the Planning and Development Act 2000, as amended, the development proposal must be accompanied by an environmental impact assessment report.

#### **5.2 Scoping Opinion**

A prospective applicant may request the Board to give him/her an opinion, in writing, on what information will be required to be contained in an environmental impact assessment report in relation to the proposed development. A request to scope an EIAR may be made while pre-application consultations are ongoing. Scoping is not mandatory. Before providing this

opinion, the Board must consult with bodies prescribed by the Minister under article 211 of the Regulations including the relevant planning authority. It may also invite submissions or observations from a wide range of other bodies prescribed under article 213 of the Regulations. A request to scope an EIAR should be made in writing and should supply sufficient information to enable the Board to assess the proposed development.

The Board may request the prospective applicant to submit sufficient hard or electronic copies of the scoping request so that it can be circulated to the appropriate prescribed bodies. The Board is required to comply with a request for scoping as soon as is practicable.

- 5.2.1 Scoping can be defined as the prior determination of the nature and detail of the information to be contained in an EIAR. It seeks to identify the areas of significant potential impact and assessments required prior to the commencement of detailed data collection or survey. The information to be contained in an EIAR is set out in article 94 and Schedule 6 of the Planning and Development Regulations 2001, as amended, and the criteria for determining whether a development would or would not be likely to have significant effects on the environment is set out in Schedule 7 of those Regulations. These are matters to which the Board will have regard when giving a scoping opinion and prospective applicants will be required to submit sufficient information to the Board to enable it to provide such an opinion. The Environmental Protection Agency's *Guidelines on the Information to be contained in Environmental Impact Statements* (March 2002) should be consulted for further information on the matter. Ultimately, it is a matter for the applicant to prepare the EIAR in accordance with the statutory requirements when making the application.
- 5.2.2 The Board may hold a meeting (at officer level) with the prospective applicant in order to clarify any matter or obtain any additional information. A scoping opinion provided by the Board will be sent to the prospective applicant and will also be attached to the planning application file upon the making of an application.
- 5.2.3 The Board's file on the scoping procedure will be open for public inspection at the Board's offices following the giving of the written opinion. The case will be

listed on the Board's weekly list of cases determined and the opinion will be posted on the Board's website.

5.2.4 Any opinion given is without prejudice to the Board and cannot be relied upon in the formal planning process or in legal proceedings.

## **6. Making a Section 182A Application**

### **6.1 General**

Where the Board has issued a letter to a prospective applicant that a proposed development is deemed to be strategic infrastructure development an application for approval in writing for that proposed development may only be made to the Board. An application form is available and should be completed and submitted with the application documents. (Electronic applications are not acceptable at present). If the Board considers the application or any EIAR/NIS submitted is inadequate or incomplete it may refuse to deal with the application or it may require further information.

### **6.2 Notice of Application**

Before making an application to the Board, a prospective applicant (referred to in the legislation as the undertaker) must publish a notice in one or more newspapers circulating in the area of the application site indicating the following:-

- the nature and location of the proposed development,
- that approval is being sought from the Board and that an Environmental Impact Assessment report (EIAR), where relevant and a Natura Impact Statement (NIS) where relevant, have been prepared,
- the times and places and the period (not less than 6 weeks) during which the application and EIAR/NIS (where relevant) may be inspected or purchased (this time period should commence at least 5 working days after the application has been submitted to the Board),

- that submissions and observations may be made to the Board relating to the implications for the proper planning and sustainable development of the area and the likely effects on the environment or any European site, if the development is carried out,
- that the Regulations require that any such submission or observation shall state the subject matter of the submission or observation and the reasons, considerations and arguments on which it is based in full. (Article 217 of the Planning and Development Regulations refers),
- that it is at the absolute discretion of the Board whether to hold an oral hearing on the case. (For further details see 'A Guide to Public Participation in Strategic Infrastructure Development on the Board's website),
- indicating the types of decision the Board can make in relation to the application,
- the name/address of the stand-alone website, and
- how a person may question the validity of any decision by the Board and where practical information on the review mechanism may be found.

In addition, site notices, the use of local or national media or the holding of public meetings relating to the proposed application may be required. The Board will have specified its requirements, if any, in that regard at the pre-application stage.

A sample public notice is available from the Board.

## 6.3 Making an Application

### 6.3.1 Documents to be Submitted

In making an application for permission, the applicant is required to submit the following in writing to the Board:-

- A completed application form,

- Copies of plans and particulars of the proposed development, including any EIAR (where relevant), and any plans, particulars or other information required by the Board (the number of copies and their format will be clarified during the pre-application consultation stage),
- Screening opinion in relation to article 6 of the Habitats Directive and Natura Impact Statement in relevant cases. (The number of copies and their format will be clarified during the pre-application consultation stage).
- A copy of the published notice(s) including any site notice (if required),
- A list of the bodies notified of the application and an indication of the date they were notified,
- A list of any other public notices or other public consultations, and an indication of the date or dates of such notice(s) or consultations (including any notice or consultation required by the Board and indicated to the prospective applicant in pre-application discussions),
- The application fee is payable when the application is being lodged.

Application documents, including the EIAR and the NIS where relevant, must be complete on lodgment of the application and the holding of an oral hearing should not be automatically expected with all cases and should not be regarded as a stage in the process where deficiencies can be corrected. Unsolicited additional information in the form of survey material or reports generally should not be submitted following lodgement of the application. Any unsolicited information should be confined to non-contentious matters such as clarification of particulars already submitted (as per the Development Management Guidelines 2007). This also applies where the applicant is requested to respond to observations made in advance of an oral hearing.

### **6.3.2 Copies to Planning Authority**

Before an application for permission is made to the Board, the applicant will be required to send a prescribed number of copies of the application and any EIAR/NIS to the relevant planning authority in whose area the proposed development would be situate.

### **6.3.3 Copy to Prescribed Bodies**

The applicant will also be required to send a copy of the application and any EIAR/NIS to any prescribed bodies (listed in article 213) who were identified by the Board for that purpose at the pre-application consultation stage. (The Board may require that more than one copy is sent). The application and any EIAR/NIS will be accompanied by a statement inviting submissions or observations from the bodies to the Board relating to the implications for the proper planning and sustainable development of the area, the likely effects on the environment and the likely effects on any European site, if the proposed development is carried out. A sample notice to prescribed bodies is available from the Board.

#### **6.4 Electronic Copy**

In addition to the above, the Board may require that any or all of the application documents to be submitted to it and the planning authority be in electronic form. The Board may also require the applicant to create a specific website to include all of the application documentation. In such cases, the Board will specify the time period during which the public would continue to have access to the website and will require the applicant to certify that the documentation on the website is identical to the application documentation lodged with the Board.

#### **6.5 Weekly Lists**

The Boards weekly list will record applications for permission for strategic infrastructure development and will be available for public inspection at the Board's offices and on the Board's website ([www.pleanala.ie](http://www.pleanala.ie)).

#### **6.6 Planning Authority Report**

The Board will contact the local planning authority (authorities) and request it to submit a report within the same time period as allowed to the public i.e. a minimum of 6 weeks.

The specific issues to be addressed in the submissions and observations of the planning authority will vary from case to case depending on the nature of the proposed development and the receiving environment. The following list of topics will give general guidance to planning authorities – not all will be relevant to each case.

- Main relevant Development Plan provisions relating to the subject site and surrounding area including any relevant Core Strategy provisions. A clear indication of the current status of the relevant Development Plan and any Draft Plans should be given, together with any relevant issues arising.
- Details of other relevant Plan provisions (e.g. Local Area Plans) and a statement regarding status of these Plans (adopted or in draft form).
- Relevant planning history relating to the subject site and the surrounding area.
- Relevant enforcement information relating to the subject site.
- Relevant national, regional and local policies.
- Any Special Amenity Area Order (SAAO) which may be affected by the proposed development.
- European designations, Natural Heritage Areas, which may be affected by the proposed development (whether in or proximate to same).
- Comments regarding article 6 of the Habitats Directive in relation to Appropriate Assessment in relevant cases and screening for and/or Appropriate Assessment under the Habitats Directive.
- Protected Structures, Architectural Conservation Area (ACA) etc.
- Any views on the adequacy of the public water supply (noting that Irish Water may be a Prescribed Body).
- Any views on public sewerage facilities and capacity to facilitate the proposed development (noting that Irish Water may be a Prescribed Body).
- Availability and capacity of public surface water drainage facilities.
- Flood risk assessment in accordance with *The Planning System and Flood Risk Management – Guidelines for Planning Authorities (November 2009)*.
- Assessment of landscape status and visual impact, as appropriate.

- Carrying capacity and safety of road network serving the proposed development.
- Environmental carrying capacity of the subject site and surrounding area, and the likely significant impact arising from the proposed development, if carried out.
- Description of any public use of adjoining, abutting or adjacent lands in the applicants ownership, and the planning authority's view on any condition which may be appropriate for the purpose of conserving a public amenity on those lands.
- Planning authority view in relation to the decision to be made by the Board.
- Planning authority view on conditions which should be attached in the event of the Board deciding to grant permission.
- Planning authority view on community gain conditions which may be appropriate.

## **6.7 Processing the Application**

### **6.7.1 Submissions and Observations**

Any person has the right to make a submission or observation to the Board in relation to a proposed development. Any such submission must be received by the Board within the period specified in the public notice and be accompanied by the required fee. The legislation does not provide for further follow-up written submissions unless specifically invited by the Board. The opportunity for elaboration of submissions may arise at an oral hearing, if held, subject to the inspector's discretion. The Board will have regard to all submissions or observations made in accordance with the 2000 Act and Regulations in making its decision.

### **6.7.2 Additional Information**

The Board has the absolute discretion to require an applicant to submit additional information, including a revised EIAR/NIS. Such a request would be made by way of notice to the applicant and may require new public notices. The Board has the power to request any person (whether or not that person



made submissions or observations on the application) who, in the opinion of the Board, may have information which is relevant to the determination of the application to make (further) submissions or observations to it. The Board may make any information relating to the application available for inspection, notify any person or the public that information is so available and invite further submissions or observations, if appropriate, within a specified period.

Applicants are reminded that the Board's discretion to seek additional information/further submissions will not necessarily be used to remedy deficiencies in the original application submissions. Use of these powers can create delays and prevent the expeditious handling of casework.

The Board may request an applicant to submit a Natura Impact Statement (NIS) in accordance with section 177T(5) of the Planning and Development Act 2000 as amended. Where such a statement is requested a notice must be published by the applicant not more than 2 weeks prior to submitting the NIS. Article 214B of the Planning and Development Regulations sets out details in relation to the information to be contained in the public notice. Submissions or observations may subsequently be made to the Board relating to the effects of the proposed development on any European site. When an NIS is submitted to the Board in these circumstances a fee is payable. In the event of an applicant not submitting a Natura Impact Statement when requested within the specified period the application shall be deemed to be withdrawn.

### **6.7.3 Oral Hearings and Meetings**

While it is the policy of the Board to generally direct the holding of an oral hearing in such cases it may not do so in all cases, particularly where the Board considers that the nature of the issues arising can be adequately and appropriately assessed by way of written submissions. Where an oral hearing is to be held the inspector has discretion as to its conduct. In addition the Board may at its absolute discretion, given the nature of the proposed development and issues arising, and following a recommendation of the inspector, consider directing a limited agenda for the oral hearing. All parties will be so notified in writing by the Board should such a direction be made.

The Board may hold a meeting or meetings where such is likely to resolve any issue with the applicant or any disagreement between the applicant and any other party or where the meeting would facilitate the efficient holding of an

oral hearing. A meeting may take place either before an oral hearing, or during an adjournment of an oral hearing or after an oral hearing- A written record will be taken of any meeting and this record will be made available by the Board to all participants.

The inspector or inspectorate team dealing with the application will not be available for discussions with the applicant or any other party except through formal meetings or oral hearings.

Where an oral hearing is directed, the hearing will be held in accordance with the Board's "*Guidelines on Procedures at Oral Hearings*".

#### **6.7.4 Considering an Approval**

The Board has the absolute discretion to indicate that it is considering granting approval subject to the submission of revised particulars, plans or drawings. Such an indication would be given by way of notice to the undertaker, planning authority, prescribed bodies and observers to the application and may also involve a public notice.

#### **6.8 Matters to be Considered**

The decision of the Board will be made on the basis of the proper planning and sustainable development of the area and on the likely effects of the development on the environment. In reaching its decision, the Board will have regard to the following:-

- The application,
- The EIAR,
- Any submissions or observations made to the Board in accordance with the statutory provisions,
- Assessment of the significant effects of the proposed development on the environment,
- The report of the planning authority,
- Any additional information submitted in response to a Board request,

- The written record of any meetings held in connection with the application,
- The provisions of the development plan(s) and/or Local Area Plan(s) for the area, including any impacts on protected structures,
- The provisions of any Special Amenity Area Order relating to the area,
- Any European site or Natural Heritage Area designation relating to the site or any impact on such a designated ecological site, including any Natura Impact Statement and Appropriate Assessment where relevant,
- The proximity of any SEVESO site,
- Any transboundary effects,
- Any relevant policies of the Government, a State Authority, the Minister or any Minister of the Government,
- Any relevant provisions of the 2000 Act as amended or associated Regulations,
- The national interest and any effect the performance of the Board's functions may have on issues of strategic economic or social importance to the State,
- The National Planning Framework and any regional spatial and economic strategies for the time being in force, and
- The report and recommendation of the Inspector assigned to the case, including the report of any oral hearing held.

## 6.9 **Contravention of Development Plan**

While the Board may grant permission for a proposed development which would materially contravene the Development Plan for the area, the Board gives importance to placing the proposed project in its plan and policy context, particularly the hierarchy of plans, i.e. the National Planning Framework, Regional Spatial and Economic Strategies and County, City or Local Area Development Plan. The Board may also have regard to any international

status or designations to which the proposed development may be subject – such as designation as a Project of Common Interest (PCI).

## **6.10 Board Decision**

### **6.10.1 Timeliness**

There is a duty on the Board to make its decision as expeditiously as is consistent with proper planning and sustainable development, and to avoid delays. There is a statutory objective to make decisions within 18 weeks beginning on the last day for making submissions or observations by the public following the applicant's newspaper notice of intention to apply for permission. Where the Board cannot meet the statutory objective period it must serve notice in writing on the applicant, the relevant planning authority and any person who made submissions or observations and give a reason why it will not decide the case within that period. It must also indicate a new date for making the decision.

### **6.10.2 Types of Decision**

The Board may decide to:-

- Grant approval with or without conditions,
- Grant approval with specified modifications, with or without conditions,
- Grant approval in part, with or without conditions, or
- Refuse approval.

### **6.10.3 Content of Decision**

In making its decision, the Board must state the following:-

- the main reasons and considerations for the decision (this will include its conclusions on screening for and or carrying out AA and EIA),
- the main reasons for the imposition of any conditions,
- that the Board had regard to any submissions and observations received in accordance with the Act and Regulations,

- the sum of money to be paid to:
  - the Board
  - any planning authority and,
  - to any other person – (see also 6.11 below).

In the event of the Board not accepting the inspector's recommendation in relation to a grant or refusal, it is the Board's practice to state the reason(s) for not doing so.

#### **6.10.4 Effective date of Approval**

A grant of approval will not become operative until costs determined by the Board have been paid.

#### **6.10.5 Notification of Decision**

The Board must send a copy of its decision to the applicant, the planning authority for the area and any person who made a submissions or observations in relation to the proposed development. The Board also informs parties in relation to judicial review procedures.

In accordance with article 220(1)(a) of the Planning and Development Regulations 2001, as amended, the Board is required to publish notice of its decision in one or more newspapers circulating in the area. The notice must state that a person may question the validity of the decision in accordance with section 50 of the Act. The notice must also state where practical information on the review mechanism can be found.

#### **6.10.6 Conditions**

When deciding to grant approval for strategic infrastructure development, the Board may attach conditions in the normal manner.

Conditions may include the following:-

- A condition providing for 'community gain'. Such a condition may require the construction or the financing, in whole or in part, of a facility or the provision of a service in the area in which the proposed development would

be situated and which the Board considers would constitute a gain to the community.

- A condition controlling the use of land adjoining, abutting or adjacent to the application site which is under the control of the applicant where it is expedient for the purposes of or in connection with the development or appropriate for conserving a public amenity on the adjoining, abutting or adjacent lands.
- A condition providing that points of detail relating to a specific issue may be agreed between the planning authority and the person carrying out the development. Any such agreement must be confined to the points specified by the Board. In default of agreement, the matter may be referred to the Board for determination.

#### **6.11 Costs of the Application**

It is a requirement that the Board's decision states the costs to be paid by the applicant: -

- (a) To the Board for the costs incurred by it in conducting any pre-application consultations and complying with any scoping request,
- (b) To the Board for the costs incurred by it in determining the application,
- (c) To the planning authority for its reasonable costs incurred during the course of consideration of the application,
- (d) To any other person as a contribution towards the reasonable costs incurred by that person during the course of consideration of the application.

The Board has absolute discretion to decide reasonable costs and payment of the costs must be complied with before a permission of the Board becomes operative. Where there is a failure to pay costs, the Board and any person to whom costs were awarded may recover the sum as a simple contract debt in any court of competent jurisdiction.

Any fees paid by the applicant to the Board will be offset against the Board's costs.

The costs involved must be paid regardless of whether the decision is to grant or refuse approval.

## **7. Clerical Errors / Clarification of Decision**

Where there is a clerical error in the Board's decision or where the Board considers it necessary to clarify what it intended should be facilitated by the permission or decision, the Board may amend its decision. The Board may invite submissions to it before it decides whether to exercise its powers to make an amendment. An amendment may not result in a material alteration to the terms of the development, the subject of the decision.

## **8. Alteration of Approval**

Under section 146B of the 2000 Act on formal request by a person who is carrying out or intending to carry out a strategic infrastructure development, the Board may alter the terms of an approval for strategic infrastructure development on the request of any person carrying it out or intending to carry it out. The Board must first decide if the making of the requested alteration would constitute a material alteration and it may invite submissions in relation to the matter from appropriate persons, including the planning authority. The Board will have regard to any submissions made on foot of this invitation in its determination of the matter. Different procedures apply depending on the nature of the proposed alteration, as follows:-

### **Alteration would not be material.**

If the Board decides that the alteration would not be material, it may alter the approval and notify the requester and the planning authority for the area, of the alteration.

### **Alteration would be material but EIAR not required.**

Where the Board determines that the alteration would be material but would not be likely to have significant effects on the environment, it may make the alteration, make an alternative alteration or refuse to make the alteration, having required the applicant to make information on the alteration available for public inspection for a specified period and having invited the making of

submissions. In certain circumstances an NIS may be required for the proposed alteration(s).

### **Alteration would be material and EIAR required.**

Where the Board decides that the alteration would be material and likely to have significant effects on the environment, it will require the requester to prepare an EIAR of the proposed alteration or other alteration identified by the Board. When an EIAR is prepared the requester must publish a notice in the normal manner and invite submissions or observations to the Board before a specified date (not less than 4 weeks from the publication of the notice). The requester must also send a copy of the EIAR, together with a notice in the prescribed form, to the local authority concerned inviting submissions or observations in writing to the Board within a specified date in relation to the likely effects on the environment of the proposed alteration. The Board must have regard to any such submissions or observations in making its determination.

## **9. Enforcement of Decision and Conditions**

The enforcement of planning decisions for electricity transmission infrastructure, including conditions attached, is a matter for the local planning authority. The enforcement provisions in Part VIII of the 2000 Act (as amended) apply.

## **10. Appeal / Review of Decision**

There is no appeal against the decision of the Board on an application to carry out strategic infrastructure development. Its validity may only be challenged by way of judicial review in the High Court within 8 weeks. The Court will not re-open the planning merits of the case and may only give leave to pursue the review process where it is satisfied that there are substantial grounds for contending that the Board's decision is invalid or ought to be quashed and that the person seeking the judicial review has a sufficient interest in the matter. When issuing its decision, the Board provides information in relation to judicial review procedures.

May 2018.