



## Board Direction

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**Ref: PL02.VA0017**

An initial presentation of the file was made to the Board by the reporting inspectors (Ms. Breda Gannon and Ms. Deirdre McGowan) at a Board meeting held on November 16<sup>th</sup>, 2016.

The Board visited the site of the proposed development on November 17<sup>th</sup>, 2016 in the company of the reporting Inspectors.

The file was considered at further Board meetings held on November 22<sup>nd</sup>, November 24<sup>th</sup>, November 29<sup>th</sup> and December 1<sup>st</sup>, 2016 and was deferred on each occasion for further consideration.

Having considered all of the documentation on file, including the submissions received, the Board was satisfied that there was no need to re-open the oral hearing or to seek any further documentation, submissions or expert reports.

The submissions on this file and the Inspector's report were considered at a further Board meeting held on December 6<sup>th</sup>, 2016. The Board decided, unanimously, to grant approval generally in accordance with the Inspector's recommendation and the Board also determined costs arising from the case.

At a further meeting on December 13<sup>th</sup>, 2016, the Board approved this Board Direction.

### REASONS AND CONSIDERATIONS

In coming to its decision, the Board had regard to the following:

- (a) the benefits of integration of national electricity grids recognised at European Union level and reflected in the designation of the proposed development as a Project of Common Interest (PCI),
- (b) the provisions of the National Spatial Strategy for Ireland 2002-2020, which seeks to strengthen energy networks in the regions,

- (c) the provisions of the Government White Paper 'Ireland's Transition to a Low Carbon Energy Future 2015-2030',
- (d) the provisions of the 'Government Policy Statement on the Strategic Importance of Transmission and Other Energy Infrastructure' (2012),
- (e) the provisions of EirGrid's grid development strategy 'Your Grid, Your Views, Your Tomorrow' (2015),
- (f) the provisions of Grid 25, EirGrid's transmission network development strategy,
- (g) the provisions of the Border Regional Authority Planning Guidelines 2010-2022, and the provisions of the Regional Planning Guidelines for the Greater Dublin Area 2010-2022,
- (h) the provisions of the Monaghan County Development Plan 2013-2019; the provisions of the Cavan County Development Plan 2014-2020 and the provisions of the Meath County Development Plan 2013-2019,
- (i) all documentation on file including:
  - i) the environmental impact statement,
  - ii) the Natura impact statement,
  - iii) the Joint Environmental Report,
  - iv) the submissions and observations made in respect of the application, including at the oral hearing, and
  - v) the applicant's response to the submissions received,
- (j) the report and recommendation of the Planning Inspector.

### **Appropriate Assessment Screening (Stage 1)**

The Board noted that the proposed development is not directly connected with or necessary for the management of a European site.

The Board had regard to:

- the Natura impact statement submitted with the planning application and the documentation on file,
- the submissions from the planning authorities, prescribed bodies and from the observers, including from the Department of Arts Heritage and the Gaeltacht (DAHG), in the course of the application and at oral hearing stage,
- the applicant's response to the submissions received including the supplementary screening report,
- the Senior Planning Inspector's report and recommendation dated the 14<sup>th</sup> day of November, 2016,
- the Planning Inspector's note to the Board dated the 5<sup>th</sup> day of December, 2016, pointing out the typographical error on page 601 of her planning report, and

completed a screening for appropriate assessment. The Board noted that the Natura impact statement considered European sites within a 30 kilometre radius, including relevant European sites in Northern Ireland due to the presence of mobile species such as wintering birds. The NIS also took into account several Special Protection Areas located at distances greater than 30 kilometres from the study area (i.e. Lough Oughter and Associated Loughs Special Protection Area, Lough Swilly Special Protection Area, Lough Foyle Special Protection Area and Lough Neagh and Lough Beg Special Protection Area) as Whooper Swan is a qualifying interest for these sites.

The Board accepted and adopted the screening assessment carried out by the Inspector in respect of the identification of the European sites which could potentially be affected, and the identification and assessment of the potential likely significant effects of the proposed development, either individually or in combination with other plans or projects, on these European sites in view of the sites' conservation objectives. The Board was satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on the following eight European sites:

- Killyconny Bog (Cloghbally) Special Area of Conservation (site code 000006);
- Rye Water Valley/Carton Special Area of Conservation (site code 001398);
- Boyne Coast & Estuary Special Area of Conservation (site code 001957);
- Dundalk Bay Special Area of Conservation (site code 000455);
- Stabannan-Braganstown Special Protection Area (site code 004091);
- Boyne Estuary Special Protection Area (site code 004080);
- Slieve Beagh Special Protection Area (site code 004167); and
- Slieve Beagh-Mullaghfad-Lisnaskea Special Protection Area (EU code UK902302).

As set out in the Inspector's report the Board also considered the supplementary screening report prepared by the applicant in response to submissions received and DAHG concerns in respect of potential ex-situ impacts on migratory species associated with SPAs in the east and south east of Ireland located between 40 and 115 kms from the study area. The Board noted the conclusion in the applicant's supplementary screening report that there is no possibility of significant effects arising from the proposed development that would impact significantly on the qualifying interests (migratory swans and geese) of the referenced European sites. The Board concurred with the Inspector who considered the applicant's conclusion to be "reasonable on the basis of distance and the absence of

connectivity between species that are common to both the study area and the relevant SPAs” (ref. Inspector’s Report, page 601).

The Board further accepted and adopted the screening assessment carried out by the Board’s Inspector, which concluded that there are eight European sites for which there is a possibility of significant effects:

- River Boyne and River Blackwater Special Area of Conservation (site code 002299);
- River Boyne and River Blackwater Special Protection Area (site code 004232);
- Upper Lough Erne Special Protection Area (EU code UK9020071);
- Lough Oughter and Associated Loughs Special Protection Area (site code 004049);
- Lough Neagh and Lough Beg Special Protection Area (EU code UK9020091);
- Lough Swilly Special Protection Area (site code 004075);
- Lough Foyle Special Protection Area (site code 004087); and
- Dundalk Bay Special Protection Area (site code 004026).

### **Appropriate Assessment (Stage II)**

The Board considered all of the information referred to in the above screening assessment and all of the relevant documentation referred to in the reasons and considerations, above, and concluded that the information before it was adequate to allow the carrying out of an appropriate assessment. Having regard to all the documentation referred to and the Inspector’s assessment, the Board completed an appropriate assessment of the impacts of the proposed development on the following eight European sites:

- River Boyne and River Blackwater Special Area of Conservation (site code 002299);
- River Boyne and River Blackwater Special Protection Area (site code 004232);
- Upper Lough Erne Special Protection Area (EU code UK9020071);
- Lough Oughter & Associated Loughs Special Protection Area (site code 004049);
- Lough Neagh and Lough Beg Special Protection Area (EU code UK9020091);
- Lough Swilly Special Protection Area (site code 004075);
- Lough Foyle Special Protection Area (site code 004087); and
- Dundalk Bay Special Protection Area (site code 004026).

The Board considered that it was reasonable to conclude on the basis of the information on the file, which the Board considered to be adequate to carry

out Appropriate Assessment (Stage 2), that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of any European site, in particular the River Boyne and River Blackwater Special Area of Conservation (site code 002299) or the River Boyne and River Blackwater Special Protection Area (site code 004232), in view of the sites' conservation objectives. In doing so, the Board adopted the report of the Inspector.

### **Environmental Impact Assessment**

The Board completed an environmental impact assessment of the proposed development, taking into account:

- the nature, scale, extent and route of the proposed development;
- the environmental impact statement submitted with the application;
- the submissions from the planning authorities, prescribed bodies and from the observers in the course of the application, including submissions made to the oral hearing;
- the applicant's response to the submissions received,
- the Inspector's report and recommendation dated the 14<sup>th</sup> day of November, 2016,

The Board considered that the environmental impact statement, supported by the "Response to the Issues Raised in Submissions/Observations" document, identifies and describes adequately the direct and indirect effects of the proposed development on the environment.

The Board completed an environmental impact assessment in relation to the proposed development and concluded, subject to compliance with the conditions set out below, including compliance with the mitigation measures proposed, that the impact of the proposed development on the environment would be acceptable. In doing so the Board adopted the report of the Inspector.

### **Conclusions in relation to Proper Planning and Sustainable Development**

It is considered that the proposed development:

- would support the core objectives of European and national energy policy of sustainability, security of supply and competitiveness,
- would address existing restrictions that limit cross border electricity flows between Ireland and Northern Ireland, which would enhance security of supply and facilitate the more efficient operation of the single electricity market on an all-island basis and a wider integrated European electricity network,

- would facilitate greater penetration of renewable energy allowing both Ireland and Northern Ireland to meet legally binding greenhouse gas emission targets, and provide benefits to the economies of both Ireland and Northern Ireland and for individual consumers,
- would be the most appropriate and cost effective solution to satisfy the current requirements of the proposed North-South Interconnector development,
- would be in accordance with national policies and guidance, and with regional and local development policies,
- would not seriously injure the amenities of, or properties in, the wider area through which it is routed,
- would not seriously detract from the character or setting of features of architectural or archaeological heritage,
- would not have unacceptable impacts on the visual or landscape amenities in the wider area through which it is routed,
- would not seriously injure the ecology of the area, including bird life, protected species and habitats, and areas designated for environmental protection,
- would not adversely affect the hydrology or hydrogeology of the area,
- would not give rise to the risk of, or exacerbation of, flooding,
- would be acceptable in terms of traffic safety and convenience,
- would not be prejudicial to public health or safety, and
- would not result in significant transboundary impacts.

In conclusion, it is considered that, subject to compliance with the conditions set out below, including compliance with the mitigation measures set out in the environmental impact statement, the Natura impact statement and the 'Response to the Issues Raised in Submissions/Observations' document, the proposed development would be in accordance with the proper planning and sustainable development of the area.

## **CONDITIONS**

1. a) The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application for approval to An Bord Pleanála on 9th day of June 2015, and the further information, received by An Bord Pleanála by way of the 'Response to the Issues Raised in Submissions/Observations' document lodged on the 19<sup>th</sup> day of October 2015, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the relevant planning authority, the undertaker shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

b) All environmental mitigation measures set out in the Environmental Impact Statement, Natura impact statement, and associated documentation submitted by the applicant with the application and the further information received by An Bord Pleanála by way of the 'Response to the Issues Raised in Submissions/Observations' document lodged on the 19<sup>th</sup> day of October 2015, shall be implemented in full, except as may otherwise be required in order to comply with the Conditions of this order.

**Reason:** In the interest of clarity and environmental protection.

2. Prior to the commencement of development, an Agricultural Liaison Officer or Officers shall be appointed and shall be responsible for liaison with landowners, prior to and during the construction phase of the project, to identify and address issues of concern to individual landowners including disease protocols, if relevant, in accordance with the measures set out in the application for approval, and thereafter for the operational phase of the development.

**Reason:** To ensure the satisfactory completion and operation of the development in the context of agricultural activities.

3. Prior to the commencement of development, a construction and environmental management plan, a traffic management plan and a waste management plan shall be submitted to, and agreed in writing with, the relevant planning authority following consultations with relevant statutory agencies, including Inland Fisheries Ireland and the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs, and Irish Water. This plan shall incorporate the mitigation measures indicated in the environmental impact statement and shall provide details of intended construction practice for the proposed development, including:
  - (a) details of appropriate geophysical survey in respect of construction sites in the vicinity of towers 103 to 118,
  - (b) measures to demonstrate compliance with the relevant regional waste management plans,
  - (c) site specific arrangements for each temporary access route, to include, where necessary:
    - (i) arrangements for stepping down vehicle size,
    - (ii) arrangements for off-loading of materials,
    - (iii) short term road closures,

- (iv) the phasing of construction works which are accessed by single lane carriageways, and
- (v) the arrangements for the transfer and management of concrete, including wash out facilities,
- (d) arrangements for the completion of pre and post construction road surveys. The preconstruction survey shall be completed three months prior to the commencement of the development,
- (e) details of the locations for water quality monitoring and the proposed water quality monitoring protocols in respect of surface water bodies,
- (f) details of monitoring of water levels and water quality in wells within 100 metres of the proposed alignment,
- (g) means to control dust at construction sites, and
- (h) details of liaison procedures to resolve any issues or community concerns.

Monitoring of the construction phase of the development shall be carried out by a suitably qualified person to ensure that all mitigation measures contained in the environmental impact statement and the Response to the Issues Raised in Submissions/Observations document are implemented. A record of daily checks that works are being undertaken in accordance with the construction environmental management plan shall be available for inspection by the relevant planning authority. Monitoring reports shall be submitted to the relevant planning authority and other relevant statutory bodies in accordance with the requirements of the relevant planning authority.

**Reason:** In the interest of protecting the amenities of the area, sustainable waste management, preventing pollution of surface waters, protection of existing habitats, and traffic safety.

4. Prior to the commencement of development the undertaker shall agree with the relevant planning authorities, following consultation with the National Parks and Wildlife Service, a protocol for pre-construction verification surveys. In the event of these surveys identifying species of conservation interest, measures for their protection shall be incorporated into the construction environmental management plan.

**Reason:** In the interest of protecting the ecology of the area.

5. The undertaker shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the undertaker shall:



- (a) notify the relevant planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development who shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the relevant planning authority and, arising from this assessment, the undertaker shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

- 6. Prior to commencement of development, the undertaker shall agree a monitoring programme for Whooper Swan, with the relevant planning authority, following consultation with the National Parks and Wildlife Service. The monitoring programme shall be based on standard good practice and shall include details in respect of location, frequency, duration and methodology. A copy of the results of the monitoring programme shall be submitted to the relevant planning authority and to the National Parks and Wildlife Service.

**Reason:** To ensure appropriate monitoring of the impact of the development on Whooper Swans.

- 7. Prior to the commencement of development, details of the external appearance of the construction materials storage yard, and also the restoration of the site, including a time scale for implementation, shall be submitted to, and agreed with, the relevant planning authority.

**Reason:** In the interest of visual amenity.

8. All road surfaces, culverts, watercourses, verges and public lands shall be protected during construction and, in the case of any damage occurring, shall be reinstated to the satisfaction of the relevant planning authority. Details in this regard, including a survey prior to construction and post construction, shall be agreed with the relevant planning authority prior to commencement of development.

**Reason:** In order to ensure a satisfactory standard of development.

9. Prior to the commencement of development, the undertaker shall lodge with the relevant planning authority a cash deposit, a bond of an insurance company, or other security to secure the satisfactory reinstatement of all public roads damaged as a result of activities related to construction of the proposed development, coupled with an agreement empowering the relevant planning authority to apply such security or part thereof to the reinstatement of such roads. The form and amount of the security shall be as agreed between the relevant planning authority and the undertaker or, in default of agreement the details shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure a satisfactory reinstatement of the road network.

### SCHEDULE OF COSTS

In accordance with the provisions of section 182B of the Planning and Development Act 2000, as amended, the Board noted the details of costs arising on the case for An Bord Pleanála and the costs claimed by the planning authorities (memo on file dated December 1<sup>st</sup>, 2016). No other parties made claims for costs to An Bord Pleanála.

The Board determined costs to be paid by the applicant as follows:

To ABP: €505,128

To the Planning Authorities:

Monaghan County Council €24,312

Cavan County Council €2,957

Meath County Council €29,127

Board Member: \_\_\_\_\_ Date: December 13<sup>th</sup>, 2016

**Notes:** (To be included in Board Order)

1. Project of Common Interest (PCI) - Regulation (EU) No. 347/2013

The Board acknowledged that the matter of PCI was raised by observers and was referred to in the Inspector's report.

The Board considered that, even in the absence of PCI status, the need for the project and the need to improve the quality of energy transmission in the island of Ireland has been clearly established, as set out in the reasons and considerations.

In reaching the decision in this case the Strategic Infrastructure Division of An Bord Pleanála confined its decision to the matters pertinent to the SID application and in particular issues arising in respect of Appropriate Assessment, Environmental Impact Assessment and the consideration of the proper planning and sustainable development. The Board did not consider that it was conflicted in any way by the separate administrative role fulfilled by An Bord Pleanála as the Competent Authority for Projects of Common Interest.

2. Community Gain

The Board noted the applicant's proposals in respect of community gain as set out under Section 5.5.3 of the Planning Report. The Board considered that the approach was clearly stated, with only minor details to be finalised, and did not consider it necessary to modify the applicant's proposal or to re-inforce the applicant's commitment in this regard by means of a planning condition.

In respect of Condition No. 3 attached to the Inspector's report the Board was not satisfied regarding the need for the condition and, therefore, decided to remove recommended condition number 3.

3. The Board noted the Inspector's view that she would not anticipate any structural damage to properties arising as a consequence of ground vibration during construction. The Board generally concurred with this view and decided that it was not necessary to attach recommended condition number 5(g).

4. In relation to the Brittas Estate, and following careful consideration, the Board concluded that the selected overhead line route was acceptable, notwithstanding the negative impacts on the estate. In reaching this conclusion, the Board did not give particular weight to whether, or not, the demesne was accessible to the public.