



An
Bord
Pleanála

Our Case Number: ABP-319771-24

Your Reference: Kinbrace Ltd

Tom Phillips & Associates
80 Harcourt Street
Dublin 2
D02 F449

Date: 10 September 2024

Re: Battery Energy Storage System & 110KV Substation and Associated Grid Connection to the Adjacent 220KV Flagford Substation
On the lands at Culleenatreen or Flagford, Co Roscommon

Dear Sir / Madam,

Please be advised that following consultations under section 182E of the Planning and Development Act 2000, as amended, the Board has concluded as set out below.

A. The proposed Battery Energy Storage System (BESS) **does not** fall within the scope of section 182A of the Planning and Development Act 2000, as amended, and that a planning application should be made in the first instance to Roscommon County Council, in accordance with the provisions of section 34 of the Planning and Development Act 2000, as amended.

B. The proposed development of a 110kV substation and 110kV underground cabling on lands at Culleenatreen or Flagford, Co. Roscommon, as set out in the plans and particulars received by An Bord Pleanála on the 17th May 2024 **does fall** within the scope of section 182A of the Planning and Development Act 2000, as amended, and that a planning application should therefore be made directly to the An Bord Pleanála under section 182A(1) of the Act.

Please also be informed that the Board considers that the pre-application consultation process in respect of this proposed development is now closed.

The following is a list of prescribed bodies to be notified of the application for the proposed development.

1. Minister for Housing, Local Government and Heritage
2. Minister for the Environment, Climate and Communications •
3. Roscommon County Council
4. Commission for the Regulation of Utilities

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5. Transport Infrastructure Ireland
6. Uisce Éireann
7. Inland Fisheries Ireland
8. Office of Public Works
9. An Taisce
10. Heritage Council
11. An Chomhairle Ealaíon
12. Fáilte Ireland

Further notifications should also be made where deemed appropriate.

In accordance with section 146(5) of the Planning and Development Act 2000, as amended, the Board will make available for inspection and purchase at its offices the documents relating to the decision within 3 working days following its decision. This information is normally made available on the list of decided cases on the website on the Wednesday following the week in which the decision is made.

In accordance with the fees payable to the Board and where not more than one pre-application meeting is held in the determination of a case, a refund of €3,500 is payable to the person who submitted the pre-application consultation fee. As a meeting was not required / only one meeting was required in this case, a refund of 3,500 will be sent to you in due course.

The following contains information in relation to challenges to the validity of a decision of An Bord Pleanála under the provisions of the Planning and Development Act, 2000, as amended.

Judicial review of An Bord Pleanála decisions under the provisions of the Planning and Development Acts (as amended).

A person wishing to challenge the validity of a Board decision may do so by way of judicial review only. Sections 50, 50A and 50B of the Planning and Development Act 2000 (as substituted by section 13 of the Planning and Development (Strategic Infrastructure) Act 2006, as amended/substituted by sections 32 and 33 of the Planning and Development (Amendment) Act 2010 and as amended by sections 20 and 21 of the Environment (Miscellaneous Provisions) Act 2011) contain provisions in relation to challenges to the validity of a decision of the Board.

The validity of a decision taken by the Board may only be questioned by making an application for judicial review under Order 84 of The Rules of the Superior Courts (S.I. No. 15 of 1986). Sub-section 50(7) of the Planning and Development Act 2000 requires that subject to any extension to the time period which may be allowed by the High Court in accordance with subsection 50(8), any application for judicial review must be made within 8 weeks of the decision of the Board. It should be noted that any challenge taken under section 50 may question only the validity of the decision and the Courts do not adjudicate on the merits of the development from the perspectives of the proper planning and sustainable development of the area and/or effects on the environment. Section 50A states that leave for judicial review shall not be granted unless the Court is satisfied that there are substantial grounds for

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contending that the decision is invalid or ought to be quashed and that the applicant has a sufficient interest in the matter which is the subject of the application or in cases involving environmental impact assessment is a body complying with specified criteria.

Section 50B contains provisions in relation to the cost of judicial review proceedings in the High Court relating to specified types of development (including proceedings relating to decisions or actions pursuant to a law of the state that gives effect to the public participation and access to justice provisions of Council Directive 85/337/EEC i.e. the EIA Directive and to the provisions of Directive 2001/12/EC i.e. Directive on the assessment of the effects on the environment of certain plans and programmes). The general provision contained in section 50B is that in such cases each party shall bear its own costs. The Court however may award costs against any party in specified circumstances. There is also provision for the Court to award the costs of proceedings or a portion of such costs to an applicant against a respondent or notice party where relief is obtained to the extent that the action or omission of the respondent or notice party contributed to the relief being obtained.

General information on judicial review procedures is contained on the following website, www.citizensinformation.ie.

Disclaimer: The above is intended for information purposes. It does not purport to be a legally binding interpretation of the relevant provisions and it would be advisable for persons contemplating legal action to seek legal advice.

If you have any queries in the meantime, please contact the undersigned officer of the Board or email sids@pleanala.ie quoting the above mentioned An Bord Pleanála reference number in any correspondence with the Board.

Yours faithfully,



Raymond Muwaniri
Executive Officer
Direct Line: 01-8737125

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