



Planning and Development Acts 2000 to 2018

Planning Authority: Kerry County Council

Planning Register Reference Number: 18/964

Appeal by Sliabh Luachra Windfarm Awareness Group care of Shaun O'Rourke of Ballynahulla, Ballydesmond, Mallow, County Cork against the decision made on the 29th day of November, 2018 by Kerry County Council to grant subject to conditions a permission to EirGrid PLC of The Oval, 160 Shelbourne Road, Ballsbridge, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: The proposed development will comprise the construction of one number ± 100 Mvar STATCOM transformer, one number auxiliary transformer, three number reactors, and one number outdoor cooling bank, control and valve building (268 square metres), underground connection to existing Electricity Supply Board substation. It further includes security fencing, security gate, four number 24.2 metres high lightning masts, permeable surfacing and an internal access road. A temporary contractors' compound is also proposed. The development is an extension to the existing substation and this extension has an overall site area (within the planning application boundary) of 1.1 hectares. Access is provided via an existing access onto Church Road, accessed via the R577. A Natura impact statement

has been prepared as part of this application. All at Ballynahulla, Ballydesmond, County Kerry.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations

Having regard to the location of the site adjacent to an existing Gas Insulated Switchgear (GIS) substation, to the pattern of development in the area, which includes existing wind farms and a sparse population, to the mitigation measures set out in the Natura impact statement, and subject to compliance with the conditions set out below, it is considered that the proposed development would not seriously injure the visual amenity of the area or be prejudicial to public health, and would be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Stage 1

The Board considered the Screening Report for Appropriate Assessment, the Natura impact statement and all the other relevant submissions and carried out both an Appropriate Assessment screening exercise and an Appropriate Assessment in relation to the potential effects of the proposed development on designated European Sites.

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle Special Protection Area (Site Code: 004161) and the Blackwater River (Cork/Waterford) Special Area of Conservation (Site Code: 002170), are the only European Sites in respect of which the proposed development has the potential to have a significant effect.

Appropriate Assessment Stage 2

The Board considered the Natura impact statement and all other relevant submissions and carried out an Appropriate Assessment of the implications of the proposed development for European Sites, namely, the Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle Special Protection Area (Site Code: 004161), and the Blackwater River (Cork/Waterford) Special Protection Area (Site Code: 002170) in view of the sites' conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

In completing the appropriate assessment, the Board considered, in particular, the following:

- (i) likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (ii) mitigation measures which are included as part of the current proposal, and
- (iii) the conservation objectives for the European Sites.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Sites, having regard to the sites' conservation objectives. In particular, the Board agreed with the conclusion that there was no potential effect on the hen harrier.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the sites' conservation objectives.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer 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.

Reason: In the interest of clarity.

2. The development shall be operated and managed in accordance with an Environmental Management System (EMS), which shall be submitted by the developer to, and agreed in writing with, the planning authority prior to commencement of development. This shall include the following:
 - (a) Proposals for the bunding around all temporary oil containment facilities.
 - (b) Monitoring of ground and surface water quality, levels and discharges.
 - (c) Details of site manager, contact numbers (including out of hours) and public information signs at the entrance to the facility.

Reason: In order to safeguard local amenities.

3. The developer shall ensure that all construction methods and environmental mitigation measures set out in the Natura impact statement and associated documentation are implemented in full, save as may be required by conditions set out below.

Reason: In the interest of protection of the environment.

4. The developer shall retain the services of a suitably qualified and experienced Ecologist during construction works.

Reason: In the interest of protecting ecology and wildlife in the area.

5. The developer shall ensure that all plant and machinery used during the works should be thoroughly cleaned and washed before delivery to the site to prevent the spread of hazardous invasive species and pathogens.

Reason: In the interest of the proper planning and sustainable development of the area.

6. During the both the construction phase and operational phase of the development, the noise levels shall not exceed the noise levels indicated in the Planning and Environmental Considerations Report submitted to the planning authority on the 8th day of October, 2018.

Reason: To protect the residential amenities of property in the vicinity of the site.

7. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development including traffic management and waste management.

Reason: In the interest of public safety.

8. Details of the proposed colour scheme for the facility and all ancillary structures shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the visual amenities of the area.

9. Site development and building works shall be carried out between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

10. Any external lighting shall be properly cowled and directed away from all public roadways, and shall also not be visible from any point more than 100 metres away from the light.

Reason: In the interest of traffic safety and to control light pollution in the rural environment.

11. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Terry Prendergast
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Dated this day of 2019.