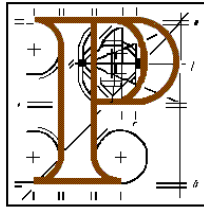


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2019

Laois County Council

Planning Authority Reference Number: 10/5

An Bord Pleanála Reference Number: 11.RL.3482

WHEREAS a question has arisen as to whether laying a 15.4 kilometres underground 38kV grid connection to link the permitted Cullenagh Mountain wind farm (Laois County Council Permission Reference 13/268 – An Bord Pleanála reference number PL11.242626) to an existing Electric Ireland sub-station at Abbeyleix Road, Portlaoise, County Laois, is or is not development or is or is not exempted development:

AND WHEREAS Laois County Council referred this question to An Bord Pleanála for determination on the 20th day of May, 2016:

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to:

- (a) Sections 2(1), 3(1), 4(4), 172(1) and 177U (9) of the Planning and Development Act, 2000, as amended,

- (b) Articles 3, 6 and 9 of the Planning and Development Regulations, 2001, as amended,
- (c) Classes 16 and 26 of Part 1 of the Second Schedule to the Planning and Development Regulations, 2001, as amended,
- (d) Schedules 5 and 7 of the Planning and Development Regulations, 2001, as amended,
- (e) the decision of the High Court in *Daly v Kilronan Windfarm Ltd. and, by Order, Derrysallagh Windfarm Ltd.*, [2017] IEHC 308,
- (f) the decision of the European Court of Justice in Case C-323/17 *People over Wind v Coillte*, ECLI:EU:C:2018:244, and
- (g) the documentation on file and the reports of the Planning Inspector, which included screening for environmental impact assessment and appropriate assessment:

AND WHEREAS An Bord Pleanála has concluded that:

- (a) the laying of the subject underground cable would constitute the carrying out of works, and would, therefore, constitute development as defined in the Planning and Development Act, 2000, as amended,

- (b) the documentation submitted by and on behalf of Coillte included an appropriate assessment screening report that concluded that the development in question would not be likely to have a significant effect on the River Barrow and River Nore Special Area of Conservation (Site Code: 002162), in the light of the conservation objectives of this site, alone and in combination with the Cullenagh wind farm, on the basis of the distance between the proposed grid connection and the European site, and the protective measures that had been built into the works design of the project, and
- (c) having regard to the judgement of the European Court of Justice, these protective measures were measures that are intended to avoid or reduce the harmful effects of the development on the European site concerned, and accordingly could not be taken into account in screening for an appropriate assessment. In the absence of these measures, An Bord Pleanála cannot be satisfied that the development in question would not have significant effects on the River Barrow and River Nore Special Area of Conservation, in the light of the conservation objectives of this European site, and accordingly considers that an appropriate assessment is required in relation to the development the subject of this referral. Therefore, the provisions of Section 4(4) of the Planning and Development Act, 2000, as amended, apply and the development is not exempted development.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by Section 5(4) of the Planning and Development Act, 2000, as amended, hereby decides that the laying of underground 38kV cables to link the permitted Cullenagh wind farm development (Laois County Council Permission Reference 13/268 – An Bord Pleanála reference number PL 11.242626) to an existing Electric Ireland sub-station at Abbeyleix Road, Portlaoise, County Laois, is development and is not exempted development.

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.

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

Dated this day of 2020.