



An
Bord
Pleanála

Inspector's Report ABP-301358-18

Development	Laying of a 110kV cable and connection to existing substation from a 100MW Battery Energy Storage System
Location	Kilcommon More (North), Co. Tipperary
Prospective Applicant	Bord Gáis Energy
Planning Authority	Tipperary County Council
Type of Application	Pre-Application Consultation under s.182E of the Planning and Development Act 2000, as amended
Date of Site Inspection	25 th August 2019
Inspector	Niall Haverty

1.0 Pre-Application Consultation

- 1.1. The Board received a request on 5th April 2018 from Mott MacDonald on behalf of Bord Gáis Energy to enter into pre-application consultation under Section 182E of the Planning and Development Act 2000, as amended, in relation to proposed development in the townland of Kilcommon More (North), to the south of Cahir, Co. Tipperary.
- 1.2. The Board's representatives met with the prospective applicant and their agent on the 28th August 2019. Subsequently, the prospective applicant formally requested closure of the pre-application consultation process in an email received on the 23rd September 2019.

2.0 Site location

- 2.1. The site in question is located in the townland of Kilcommon More (North), c. 1.5km south west of Cahir, in Co. Tipperary. The site is bounded by agricultural lands to the north, west and north east, by an industrial facility to the south east and by a local road to the south. The site and adjoining lands to the east, west and south are zoned for industrial development.
- 2.2. Tipperary County Council decided to grant permission for a 100 MW Battery Energy Storage System (BESS) and associated development on the site in June 2018, and that decision is currently the subject of third party appeals to the Board (Ref. ABP-302055-18). Permission was previously granted on the site for a 100MW Open Cycle Gas Turbine power plant (OCGT; Ref. PL23.227961, subsequently extended), however this has now expired. Further details of this planning history are provided in Section 4.0 below.
- 2.3. The existing Cahir 110kV substation is located c. 3km north east of the BESS site in the townland of Ballyhenebery, on the opposite side of Cahir Town. The likely route of the proposed 110kV underground cable would be eastward from the BESS site along a local road, then northwards along the R668 into Cahir Town, and then eastward along the R640 to the Cahir 110kV substation, with the total length of the proposed cable route being c. 4km.

2.4. The site of the proposed BESS development is not located within a European Site, however the Lower River Suir SAC (Site Code 002137) runs in a north-south direction through Cahir Town. The BESS site is located c. 0.9km west of the SAC boundary, while the existing Cahir 110kV substation is located c. 1.9km east of the SAC boundary. The route of the proposed 110kV underground cable will therefore be required to cross the SAC.

3.0 Proposed Development

3.1. The purpose of the proposed development is to facilitate the connection of a BESS development, which is currently the subject of third party appeals, to the national transmission grid at the existing Cahir 110kV substation.

3.2. The proposed development was briefly described in the prospective applicant's original request for pre-application consultation and was subsequently elaborated upon in the presentation submitted at the meeting held on the 28th August 2019, with further details of the proposed cable route and the nature of the proposed development being provided.

3.3. The proposed development comprises c. 4km of 110kV underground cable between the substation that forms part of the BESS development and the fenceline of the existing 110kV Cahir substation. The prospective applicant stated that the substation within the BESS development includes separate 'customer' and 'Eirgrid' compounds, and that correspondence from Eirgrid indicates that a new bay will be required within the existing Cahir substation to facilitate the connection. The Board should note that neither the on-site substation within the BESS site nor the new bay within the existing Cahir substation form part of the proposed development that this request for pre-application consultation relates to.

3.4. The prospective applicant stated that the connection into the existing 110kV Cahir substation would be a 'tail-fed' connection and not a 'loop-in' connection. They also stated that the proposed cable would solely serve the BESS development and that it would not serve any third parties.

3.5. Finally, while the original request for pre-application consultation referred to either a BESS or an OCGT development being constructed on the site, the applicant noted at

the meeting that the OCGT permission had expired, and that a BESS facility was the preferred development option for the site.

4.0 Planning History

- 4.1. **ABP-302055-18 (Tipperary Co. Co. Reg. Ref. 18600187):** Current third party appeals against the decision of Tipperary County Council to grant permission for the construction of a 100MW Battery Energy Storage System (BESS) with associated plant, equipment and buildings, including: BESS building, firewater storage tanks, surface water attenuation tank, firewater retention tank, 110kV electrical substation and control building, an access and circulation road with new junction onto the local road, footpath, 8 No. car parking spaces, 3 No. retaining wall structures, paladin security fence and all other associated site development works.
- 4.2. **PL23.227961 (South Tipperary Co. Co. Reg. Ref. 07/1911, subsequently extended under 14/137):** Expired permission for the construction of a 100MW Open Cycle Gas Turbine Power Station with associated plant, equipment and buildings.

5.0 Applicant's Case

- 5.1. The prospective applicant's case can be summarised as follows:
- In the event of either an OCGT or a BESS being constructed on the site, there will be a requirement for a 110kV underground electricity cable to be laid to facilitate a connection to the national grid. Initial consultations with Eirgrid indicate that the proposed electricity cable will be routed between the substation on site and the existing 110kV Cahir substation.
 - The length of underground cable is likely to be c. 4km.
 - The proposed development does not constitute SID, as the works do not satisfy any of the criteria set out in Section 37A(2) of the Act.
 - The proposed development is to facilitate the connection of a privately developed and operated electricity generator that is not of a scale to be considered SID as described in the Seventh Schedule of the Act.

- The proposed development is not of strategic importance to the State or South Eastern Region.
- The proposed development will have no effect on any area outside of the Tipperary County Council administrative area.

6.0 Eirgrid Correspondence

6.1. The Board requested the prospective applicant to obtain clarification from Eirgrid in relation to the following matters:

- Whether the proposed development may form part of the national transmission network and any relationship that the proposed development might have with the existing transmission network having regard to its indicated function.
- Whether any connection agreement been applied for and/or agreed.

6.2. The prospective applicant submitted a letter from Eirgrid, dated 11th October 2018, which can be summarised as follows:

- The proposed development is not at a stage of design where it is possible to determine whether or not if it becomes operational the development would form part of the transmission network and the project will be subject to future assessment when additional details become known.
- Bord Gáis Energy has applied to Eirgrid for a grid connection agreement.
- A grid connection agreement offer has not yet been made.

7.0 Legislative Provisions

7.1. Section 2(1) of the Planning and Development Act 2000, as amended ('the Act'), defines 'strategic infrastructure' as including, *inter alia*:

“any proposed development referred to in section 182A(1)”

7.2. Section 37A of the Act states that:

“(1) An application for permission for any development specified in the Seventh Schedule (inserted by the Planning and Development (Strategic

Infrastructure) Act 2006) shall, if the following condition is satisfied, be made to the Board under section 37E and not to a planning authority.

(2) That condition is that, following consultations under section 37B, the Board serves on the prospective applicant a notice in writing under that section stating that, in the opinion of the Board, the proposed development would, if carried out, fall within one or more of the following paragraphs, namely—

(a) the development would be of strategic economic or social importance to the State or the region in which it would be situated,

(b) the development would contribute substantially to the fulfilment of any of the objectives in the National Planning Framework or in any regional spatial and economic strategy in force in respect of the area or areas in which it would be situated,

(c) the development would have a significant effect on the area of more than one planning authority.”

7.3. Under subsection 182A(1) of the Act, where a person (the ‘undertaker’) intends to carry out development comprising or for the purposes of electricity transmission, the undertaker shall prepare, or cause to be prepared, an application for approval of the development under section 182B and shall apply to the Board for such approval accordingly.

7.4. Subsection 182A(9) states that:

“...‘transmission’, in relation to electricity, shall be construed in accordance with section 2(1) of the Electricity Regulation Act 1999 but, for the purposes of this section, 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.”

7.5. The following definitions, as set out in section 2(1) of the Electricity Regulation Act, 1999, as amended, are noted:

- **‘Transmission’:**

“...the transport of electricity by means of a transmission system, that is to say a system which consists, wholly or mainly, of high voltage lines and electric plant and which is used for conveying electricity from a generating station to a substation, from one generating station to another, from one substation to another or to or from any interconnector or to final customers but shall not include any such lines which the Board¹ may, from time to time, with the approval of the Commission, specify as being part of the distribution system but shall include any interconnector owned by the Board.”

- **‘Distribution’:**

“...the transport of electricity by means of a distribution system, that is to say, a system which consists of electric lines, electric plant, transformers and switch gear and which is used for conveying electricity to final customers.”

- **‘Electric plant’:**

“...any plant, apparatus or appliance used for, or for the purposes connected with, the generation, transmission, distribution or supply of electricity other than –

(a) An electric line

(b) a meter used for ascertaining the quantity of electricity supplied to any premises, or

(c) an electrical appliance under the control of a consumer”

- **‘Electric Line’:**

Section 2(1) of the 1999 Act, as amended, states that ‘electric line’ has the meaning assigned to it by section 4(1) of the ESB (Electronic Communications Networks) Act 2014. The definition set out in s. 4(1) of the 2014 Act is as follows:

“...any line which is used solely or amongst other things for carrying electricity for any purpose and as including—

¹ For clarity, references to the ‘Board’ in this instance relate to the Electricity Supply Board.

- (a) any support for any such line, that is to say, any structure, pole or other thing in, on, by or from which any such line may be supported, carried or suspended,
- (b) any apparatus connected to or associated with any such line for the purpose of carrying electricity or electronic communications services, whether such apparatus is owned by the Board or by any company referred to in section 2 or by a company which has been provided access or services referred to in section 3, or
- (c) any wire, cable, tube, pipe or similar thing (including its casing or coating) which is used for the purpose of carrying electricity or electronic communications services and which surrounds or supports or is surrounded or supported by, or is installed in close proximity to, or is supported, carried or suspended in association with, any such line.”

8.0 Planning Policy

8.1. Project Ireland 2040: National Planning Framework

8.1.1. National Planning Objective 54:

“Reduce our carbon footprint by integrating climate action into the planning system in support of national targets for climate policy mitigation and adaptation objectives, as well as targets for greenhouse gas emissions reductions.”

8.1.2. National Policy Objective 55:

“Promote renewable energy use and generation at appropriate locations within the built and natural environment to meet national objectives towards achieving a low carbon economy by 2050.”

8.2. Regional Planning Guidelines for the South-East Region 2010-2022

8.2.1. Section 6.2.3 relates to ‘electrical generation and the national transmission/distribution network.

8.2.2. Planning Policy Objective (PPO) 6.5:

“The Regional Authority supports the sustainable development and expansion of the GRID network and future connections to renewable sources of energy (including Gate 3 projects), subject to appropriate assessment of all necessary environmental considerations.”

9.0 Assessment

- 9.1. This pre-application consultation concerns c. 4km of 110kV underground cable intended to facilitate the connection of a 100MW Battery Energy Storage System (BESS) on a site at Kilcommon More (North), Cahir, Co. Tipperary to the national grid at the existing Cahir 110kV substation. Neither the BESS facility nor the additional bay that may be required at the existing Cahir 110kV substation form part of this consultation, and I note that an on-site substation is included within the BESS proposal that is currently before the Board as a third party appeal (Ref. ABP-302055-18).
- 9.2. The letter provided by Eirgrid to the prospective applicant was non-committal and stated that the proposed development was not at a stage of design where it was possible for Eirgrid to determine whether or not it would form part of the transmission network.
- 9.3. Notwithstanding Eirgrid’s position, the Board will note previous decisions it has made on strategic infrastructure pre-application consultation requests in relation to electricity transmission infrastructure under Section 182E. With regard to the BESS project that would be facilitated by the proposed development, I note that in each of the following cases the Board determined that the provision of 110kV electrical infrastructure and grid connections associated with BESS facilities do not constitute Strategic Infrastructure:
- ABP-301392-18: Purcellsinch, Co. Kilkenny.
 - ABP-301705-18: Athenry, Co. Galway.
 - ABP-301675-18: Millstreet, Co. Cork.
 - ABP-301672-18: Kellistown East, Co. Carlow.
 - ABP-301236-18: Poolbeg, Dublin 2.

- ABP-301173-18: Millstreet, Co. Cork.

- 9.4. In other recent cases, where the Board determined that 110kV electrical infrastructure would constitute Strategic Infrastructure, this has typically been in circumstances where a new substation was proposed with a loop in/loop out connection to an existing 110kV transmission line. That connection type entails all power within the circuit being entirely diverted into the substation and back out again with the new substation becoming, in effect, a new node on the 110kV transmission line. That is not the case in this instance, where the prospective applicant has stated that a tail-fed connection to the existing Cahir substation is proposed.
- 9.5. In the cases listed above, the Board, in addition to considering the provisions of section 182A, had regard to the long title of the Planning & Development (Strategic Infrastructure) Act 2006, which states that it provides for “the making directly to An Bord Pleanála of applications for planning permission in respect of certain proposed developments of strategic importance to the state...”. In such cases, the Board has therefore considered the 3 No. criteria contained in section 37A(2) for determining whether development constitutes Strategic Infrastructure, notwithstanding the fact that the s. 37A(2) criteria do not explicitly apply to cases falling within the scope of s. 182A rather than the Seventh Schedule of the Act.
- 9.6. With reference to the s. 37A(2) criteria, the prospective applicant submits that the proposed development is not Strategic infrastructure as: it will facilitate the connection of a privately developed and operated electricity generator that is not of a scale to be considered SID with reference to the thresholds set out in the Seventh Schedule of the Act; it is not of strategic importance to the State or South Eastern Region; it would not contribute substantially to the fulfilment of any objectives of the National Planning Framework or the Regional Planning Guidelines; and it would have no effect on any area outside of the Tipperary County Council administrative area.
- 9.7. Having reviewed: the information submitted by the prospective applicant regarding the proposed development; the proposed BESS development; the relevant objectives of the National Planning Framework and the Regional Planning Guidelines (pending adoption of the Regional Spatial and Economic Strategy); and having inspected the site and conducted a meeting, I would agree with the

prospective applicant that the proposed development does not satisfy any of the three criteria set out in s. 37A(2) of the Act.

- 9.8. Having regard to the relatively limited scale of the proposed 100MW BESS and the tail-fed nature of the proposed connection to the existing Cahir substation, I do not consider that the proposed development is of strategic economic or social importance to the State or the Region or that it would contribute substantially to the fulfilment of any of the objectives in the NPF or RPGs. Neither do I consider that it would have a significant effect on the area of more than one planning authority, being contained wholly within County Tipperary.

10.0 Recommendation

- 10.1. I recommend that Bord Gáis Energy be informed that the proposed 110kV underground cable and associated works required to facilitate the connection of a proposed Battery Energy Storage System on lands at Kilcommon More (North), Co. Tipperary to the national transmission grid at the existing 110kV substation at Ballyhenebery, Cahir, Co. Tipperary, as set out in the plans and particulars received by An Bord Pleanála on the 5th April 2018 and at the pre-application consultation meeting held on the 28th August 2019, 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 Tipperary County Council.

Niall Haverty
Senior Planning Inspector

3rd October 2019