



An
Bord
Pleanála

Inspector's Report ABP-301392-18

Development	Laying of a 110kV cable and connection to existing substation from a 100MW Open-Cycle Gas Turbine / Battery Energy Storage System
Location	Purcellsinch, Co. Kilkenny
Prospective Applicant	Bord Gáis Energy
Planning Authority	Kilkenny County Council
Type of Application	Pre-Application Consultation under s.182E of the Planning and Development Act 2000, as amended
Date of Site Inspection	12 th June 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 Purcellsinch, Co. Kilkenny.
- 1.2. The Board's representatives met with the prospective applicant and their agent on the 24th June 2019. Subsequently, the prospective applicant formally requested closure of the pre-application consultation process in an email received on the 1st July 2019.

2.0 Site location

- 2.1. The site in question is located in the townland of Purcellsinch, Co. Kilkenny, c. 2km east of Kilkenny City. The site is bounded by Sion Road to the south, agricultural lands to the east, Purcellsinch IDA Business Park to the north, and a wastewater treatment plant to the west. Lands on the southern side of Sion Road, opposite the site, fall towards the River Nore, which is c. 150m from the site.
- 2.2. Planning permission has been granted on the site for both a 100MW Battery Energy Storage System (Ref. ABP-301797-18) and a 100MW Open Cycle Gas Turbine power plant (Ref. PL10.242247, subsequently extended). Further details of these permitted developments are provided in Section 4.0 below.
- 2.3. The proposed 110kV cable route would extend through the IDA Business Park, under a railway line, and along the R712 Regional Road to the existing Kilkenny 110kV substation, located c. 3km to the east.
- 2.4. The site is not located within a European Site, however the boundary of the River Barrow and River Nore SAC (Site Code 002162) is located a minimum distance of 75m to the west and the River Nore SPA (Site Code 004233) is located a minimum distance of c. 150m to the south.

3.0 Proposed Development

- 3.1. The proposed development comprises c. 4km of 110kV underground cable, an additional 110kV bay at an existing 110kV substation and associated development. It is required in order to facilitate the connection of a permitted Battery Energy Storage System (BESS) or a permitted Open Cycle Gas Turbine (OCGT) at Purcellsinch to the national transmission grid at the existing Kilkenny 110kV substation at Scart, c. 3km to the east.
- 3.2. The prospective applicant submitted a presentation at the meeting held on the 24th June 2019 which provided further details of the proposed cable route and the nature of the proposed development. The prospective applicant stated that, due to the scale of the permitted BESS and OCGT developments, only one or the other can be implemented on the site. They also indicated at the meeting that the BESS was currently the preferred development option for the site, but that the OCGT remained an option under consideration. They indicated that the nature of the 110kV cable connection would be the same regardless of the option ultimately chosen, and that it would be a single cable and would constitute a 'tail-fed' connection rather than a 'loop-in' connection.

4.0 Planning History

- 4.1. **ABP-301797-18 (Kilkenny Co. Co. Reg. Ref. 17/818):** Permission granted in March 2019 for the construction of a 100MW Battery Energy Storage System with associated plant, equipment and buildings including; a BESS building; 2 no. firewater storage tanks; an underground surface water attenuation tank; an underground firewater retention tank; a 110KV electrical substation and control building; an access and circulation road with new junction onto an existing IDA private road; footpath, 8 no. car parking spaces; landscaped berm wall and planting, paladin security fence; and all other associated site development works.
- 4.2. **PL10.242247 (Kilkenny Co. Co. Reg. Ref. 12/472):** Permission granted in December 2013 for the construction of a 100MW Open Cycle Gas Turbine Power Station with associated plant, equipment and buildings. The duration of this permission was subsequently extended to 2023.

5.0 Applicant's Case

5.1. The prospective applicant's case can be summarised as follows:

- Two alternative technologies are being considered on the same site, an Open Cycle Gas Turbine (OCGT) and a Battery Energy Storage System (BESS).
- Permission has been granted for the OCGT (I note that permission has also been granted for the BESS, subsequent to receipt of the prospective applicant's request to enter into consultations).
- Either form of development will require 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 Kilkenny substation, located c. 3km to the east.
- 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 of the Act.
- The proposed development 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 Kilkenny 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:

- Clarification as to 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.

- Has 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 situate,

(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 situate,

(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’:**

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

“...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—

(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, an additional 110kV bay at the existing Kilkenny 110kv Substation and associated development intended to facilitate the connection of either a permitted 100MW Battery Energy Storage System (BESS) or a permitted 100MW Open Cycle Gas Turbine (OCGT) power plant on a site at Purcellsinch, Co. Kilkenny to the national grid. Neither the BESS facility nor the OCGT plant form part of this consultation, and an on-site substation was permitted as part of both developments.

- 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 option, which the prospective applicant has indicated is their preferred option, 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-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 Kilkenny substation is proposed.
- 9.5. With regard to the OCGT power plant option, I consider that a recent comparable case is ABP-301420-18, which related to a tail-fed 110kV substation and 110kV underground cable required to facilitate the connection of a solar farm in Co. Laois to the national grid. In that case the Board also determined that the substation and cabling would not constitute Strategic Infrastructure.
- 9.6. 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.

- 9.7. 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 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 Kilkenny County Council administrative area.
- 9.8. Having reviewed: the information submitted by the prospective applicant regarding the proposed development; the permitted BESS and OCGT developments; 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 3 No. criteria set out in s. 37A(2) of the Act.
- 9.9. Having regard to the relatively limited scale of the permitted 100MW BESS and OCGT and the single-cable, tail-fed nature of the proposed connection to the existing Kilkenny 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 Kilkenny.

10.0 Recommendation

10.1. I recommend that Bord Gáis Energy be informed that the proposed 110kV underground cable and associated 110kV infrastructure required to facilitate the connection of either a permitted Battery Energy Storage System or a permitted Open Cycle Gas Turbine on lands at Purcellsinch, Co. Kilkenny to the national transmission grid at the existing 110kV substation at Scart, Co. Kilkenny, 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 24th June 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 Kilkenny County Council.

Niall Haverty
Senior Planning Inspector

9th July 2019