



An
Bord
Pleanála

Inspector's Report ABP-301705-18

Development	110kV substation and connection to the national grid to serve a proposed battery storage facility with a capacity of up to 100MW.
Location	Cashla, Athenry, Co. Galway
Planning Authority	Galway County Council
Applicant(s)	Engie Development Ireland Ltd.
Type of Application	Pre-application SID
Date of Site Inspection	None
Inspector	John Desmond

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1.0 Pre-Application Consultation

- 1.1. The Board received a request on 22nd May 2018 from Engie Development Ireland Ltd., to enter into pre-application consultation regarding a proposed development at a site with the given address of Cashla, Athenry, County Galway. No meeting has taken place between the Board's representatives and the applicant.

2.0 Site location

- 2.1. The site is located in the townland of Barrettspark, rather than the adjacent townland of Cashla adjacent to the north, c.13.8km east-northeast of Galway city, c.7.1km west of Athenry and c.600m north of the M6. The site is approximately 1.7ha in area, although the redline site boundary varies between the submitted drawings and excludes the lands required for the intended grid connection.
- 2.2. Cashla substation is located on the adjoining site to the north, within a surfaced compound of over 4ha, into which 7no. HV electricity lines (five 110kV and two 220kV) connect. Based on recent aerial photography, the site is bounded by stone quarried lands to the west and south, and by agricultural lands to the east up to the local county road. There is an industrial premises to the northeast, which appears to be in use for testing wind turbines.

3.0 Proposed Development

- 3.1. The proposed development to which this application relates comprises:
 - 110kV substation (transformer) and connection to the national grid (via Cashla Substation).

The wider proposed development is described as the installation of:

- 100MW capacity battery storage facility and associated infrastructure, including inverters, a 110kV substation, access road, site compound and fencing

3.2. Supporting documentation

- Cover letter providing details of proposed development and the applicant's rationale as to why the intended development does not constitute strategic infrastructure, prepared by McCarthy Keville O'Sullivan.
- Site layout Drawings – Cashla Option Plan, Figure 1-2a, 1-2b and 110kv connection line.

4.0 Applicant's Case

4.1. The applicant accepts that a portion of the development could be considered to fall within S.182A(1) of the Planning and Development Act 2000, as amended, based on the definition of electricity transmission, as it comprises HV power lines and electrical plant, but is of the opinion that the proposed development does not fall within the scope of section 182 and should not be considered strategic infrastructure development (SID) on the basis of the following:

- Battery storage projects are not a development type within the Planning and Development (Strategic Infrastructure) Act 2006 and would not therefore usually be considered strategic infrastructure under S.182 of the Act 2000;
- The Board has, in a number of cases, determined that such development did not constitute SID on the basis of the modest scale and nature of the development, for example where such development served a local distribution purpose, comprised the replacement or modification of existing infrastructure or where it was being provided for a standalone item of commercial infrastructure (e.g. an individual wind farm substation) and having regard to the intention of the Strategic Infrastructure Act as test criteria (e.g. VC0031, VC0048 and VC0097);
- In comparison, the proposed 110kV transformer and associated grid connection would serve a single battery storage development, and the development would not make a significant contribution to the delivery of the regional planning guidelines of the National Planning Framework and is located entirely within the catchment of a single planning authority;
- Having regard to the Board's previous decisions, the stated purpose of the 2006 Act, including the long title and general description of strategic infrastructure

development, the proposed development does not constitute SID within the meaning of S.182A of the 2000 Act as amended;

- Should the Board determine otherwise, this would necessitate two separate applications – a standard planning application to the planning authority and a SID application to the Board – resulting in the planning process becoming overly complex and unclear.

5.0 Further submission

5.1. The applicant made further submissions (17th August), indicating that:

- EirGrid will not provide an opinion re transmission / distribution if a project is not in the grid connection application process.
- The applicant cannot get a grid application as the ECP-1 grid process is closed to new connection applications until the current round is complete.
- The proposed development is almost identical to the Kellistown East proposal subject to pre-application SID ABP-301672-18 in which EirGrid has confirmed that the battery energy storage facility would not form part of the transmission network;
- Copy of letter dated 16/08/18 from EirGrid states '*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 networks and the project will be subject to future assessment when additional details become known*', and clarifies that an application for a grid connection agreement has not been made but has not yet been made subject of an offer.

6.0 Planning History

On site / within vicinity –

PL07.243026: Permission **GRANTED** by the Board (23/06/14) for retention of, inter alia, enlargement of testing compound for wind turbines, at factory premises in townland of Cashla, County Galway, c.300m to the northeast of the pre-application SID site.

Other relevant decisions -

ABP-301173-18: The Board decided (30/05/18) that the proposed development, at Caherdowney, Millstreet, County Cork, comprising up to 40 no. battery container units, a 110kV substation to Eirgrid specification and associated electrical equipment and an underground grid connection to Ballyvouskill substation, did not constitute Strategic Infrastructure, generally in accordance with the inspector's recommendation that the proposed battery storage comprising a 110kV electrical substation unit does not fall within the scope of sections 37A or 182A of the Planning and Development Act.

ABP-301174-18: The Board decided (17/04/18) that the proposed development, at Ballyvouskill 220/110kV substation, Co. Cork, at Ballynahulla 220/110kV substation, Co. Kerry and at Thurles 110kV, Co. Tipperary, of three (unrelated) STATCOM devices did not constitute Strategic Infrastructure Development within the scope of S.182A of the Act 2000, as amended.

ABP-301236-18: The Board decided (30/05/18) that the proposed development at Southbank Road, Poolbeg, Dublin, comprising electrical plant (a single 110kV bay compound and a separate IPP transformer with single-store control room) and grid connection (c.230m 110kV underground cable connection to the national grid at existing Ringsend 110kV substation) associated with a Battery Energy Storage System (BESS) does not comprise Strategic Infrastructure Development. Although it wasn't clear to the Board that the line would constitute 'distribution' (as opposed to transmission) infrastructure, the Board agreed with the Inspector that the development did not constitute Strategic Infrastructure having regard to the criteria under S.37(a)(2) of the Act of 2000.

VC0031: The Board decided(29/08/08) that the intended development, consisting of a line bay within the existing Corderry 110kv station compound to facilitate connection of the permitted windfarm at Garvagh Glebe, Co. Leitrim, is **NOT** strategic infrastructure development, generally in accordance with the inspector's recommendation, which, having regard to the nature and scale of the proposed development, to the stated purpose of the 2006 Act as set out in the long title and to the general description and scale of strategic infrastructure development set out in section 37A(2), conclude that the proposed development did not fall within the

meaning of section 182A of the Planning and Development Act 2000, as amended.

VC0048: The Board decided (27/09/10) that the intended development, comprising 110 kV overhead transmission line to connect the Cushaling – Thornsberry 110 kV transmission line (currently under construction) to the 110 kV substation within the adjacent wind farm, Ballynakill, Co. Offaly, is **NOT** strategic infrastructure development, generally in accordance with the inspector's recommendation, which, having regard to the nature and scale of the proposed development, to the stated purpose of the 2006 Act as set out in the long title and to the general description and scale of strategic infrastructure development set out in section 37A(2), conclude that the proposed development did not fall within the meaning of section 182A of the Planning and Development Act 2000, as amended.

VC0097: The Board decided (20/10/16) that the intended development, comprising 110kV substation and associated underground cable grid connection from permitted Drumnahough and Lenalea Wind Farms to Clogher Substation, County Donegal, is **NOT** strategic infrastructure development, generally in accordance with the inspector's recommendation, which, having regard to the nature and scale of the proposed development, to the stated purpose of the 2006 Act as set out in the long title and to the general description and scale of strategic infrastructure development set out in section 37A(2), having regard to the particular circumstances of this case, concluded that the proposed development did not fall within the scope of section 182A of the Planning and Development Act 2000, as amended.

Other relevant cases:

ABP-301672-18: Concurrent pre-application SID consultation, with Engie Development Ireland Ltd., concerning a similar development proposal associated with a proposed 100MW battery storage facility at Kellistown East, Co. Carlow.

ABP-301675-18: Pre-application SID consultation, with Kinbrace Ltd., concerning a similar development proposal associated with a proposed 100MW battery storage facility at Caherdowney, Millstreet, Co. Cork.

7.0 Natural Heritage Designations

Lough Corrib SAC site code no.000297 (c.0.3km to the northwest at nearest distance)

Galway Bay Complex SAC site code no.000268 (c.0.6km to the southeast at the nearest distance).

8.0 Legislative Provisions

Section 2(1) of the Act defines strategic infrastructure to include, inter alia:

'any proposed development referred to in section 182A(1).'

S.37A

(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 Spatial Strategy 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.'

Section 182A(1) of the Act refers to electricity transmission lines and requires that

where an undertaker intends to carry out development comprising or for the purposes of electricity transmission, an application for approval shall be made to the Board.

'Where a person ... 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 under section 182B and shall apply to the Board for such approval accordingly'.

Section 182A(9) clarifies 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.*

Section 2(1) Electricity Regulation Act, 1999 defines transmission as:

"transmission", subject to section 2A, in relation to electricity, means 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.

¹ The Electricity Supply Board.

9.0 Policy

Ireland 2040 - National Framework Plan

Climate Action and Planning – National Policy Objective 56

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 emission reductions.

Energy Policy and Planning – National Policy Objective 57

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

Regional Planning Guidelines for the West Region 2010-2022

5.5.1 Energy Network - Objectives

IO49

Support the construction of new 110kV and higher lines across the region but particularly to the West Galway and North Mayo areas. Such proposals must take account of various EU designations and relevant environmental assessment in its design and construction and significant impacts on Natura 2000 sites must be avoided through the Habitats Directive 'Appropriate Assessment' process.

II050

Support the GRID 25 Proposals to upgrade approximately 700km of the existing transmission network and built new circuits across the region (Section 5.1.1 applies).

10.0 Assessment

- 10.1. This pre-application SID consultation concerns only a 110kV substation (transformer) and connection to the national grid (via Cashla Substation), intended to facilitate the connection of a 100MW battery energy storage facility (not forming part of this case)

to the national grid.

- 10.2. The applicant accepts that proposed HV power lines and electrical plant (transformer / substation) could be considered to fall within the scope of S.182A of the Planning and Development Act 2000, as amended, but on the basis that battery storage facility is not a development type within the Planning and Development (Strategic Infrastructure) Act 2006, and that battery storage facilities are not considered by EirGrid (based on EirGrid's submission to ABP-301672-18) to form part of the *transmission* network, the applicant submits that the proposed development would fall outside the scope of S.182 of the Act. However, I note the letter on file from EirGrid was non-committal (in letter received 17/08/18), stating that '*the proposed development is not at a stage of design where it is possible to determine whether or not if it becomes*
- 10.3. The applicant supports its position by referring to a number of decisions of the Board (VC0031, VC0048 and VC0097) in which it determined that development, similar to that subject of this case, did not constitute SID on the basis of the modest scale and nature of the development (e.g. where it served a local distribution purpose or was being provided for a standalone item of commercial infrastructure, such as an individual wind farm substation) and having regard to the intention of the Strategic Infrastructure Act as test criteria under S.37A(2) of the Act of 2000.
- 10.4. I note the provisions and wording under S.182A of the Act of 2000 concerning the definition of SID in relation to electricity infrastructure development, which effectively turns on the issue of whether or not such infrastructure is '*for purposes of electricity transmission*' (as opposed to distribution). Whilst EirGrid has stated (in letter attaching to similar concurrent case, ABP-301672-18, received 17/08/18) that a proposed development comprising a battery storage project '*would not form part of the existing transmission grid*', in its submission on this case EirGrid has indicated that it is unable to determine whether the subject proposed development would form part of the transmission network at this stage.
- 10.5. However, the Board will note previous decisions it has recently made on strategic infrastructure pre-application consultation requests in relation to provision of similar or related such development (ABP-301173-18, ABPABP-301174-18 and ABP-301236-18, most recently, but also cases VC0031, VC0048 and VC0097 referred to

by applicant). In these the Board, in addition to considering the provisions of S.182A, had regard to the purposes of the Strategic Infrastructure Act 2006, which concerns '*certain proposed developments of strategic importance to the State*', and the related criteria contained in s.37A(2) of the Act of 2000 (see s.8.0, above), to determine such matters, notwithstanding that the said section does not specifically apply to cases falling within the scope of s.182A, but to developments under the Seventh Schedule of the Act of 2000.

- 10.6. The applicant, noting the provisions under S.37A(2), submits that the proposed development is not strategic infrastructure in that it will serve only the battery energy storage facility; that the development is not of strategic importance to the state and would not contribute to the fulfilment of any of the objectives under the National Spatial Strategy or the current regional planning guidelines; and that the proposed development is within the catchment of a single planning authority.
- 10.6.1. Regarding the criteria under s.37A(2), I would agree that the proposed development (substation and grid connection) is not, in itself, of strategic economic or social importance to the State or the region; the proposed development would not, in itself, contribute substantially to the fulfilment of any of the objectives in the National Planning Framework (the NSS having been superseded) or in the regional planning guidelines for the West Region (pending the adoption of the regional spatial and economic strategy for the Northern and Western Region); and the proposed development would not have a significant effect on the area of more than one planning authority, being contained wholly within County Galway.
- 10.6.2. I consider that the proposed development as described in the submissions and drawings, and having regard to the stated purpose of the 2006 Act as set out in the long title and to the general description and scale of strategic infrastructure development set out in section 37A(2) would not constitute strategic infrastructure. I therefore conclude that the proposed development consisting of 110kV substation and connection to the national electricity grid via the existing Cashla substation, does not fall within the scope of section 182A of the Planning and Development Act 2000, as amended. Any application for such development should therefore be made to Galway County planning authority.

11.0 Recommendation

11.1. I recommend that Engie Development Ireland Ltd., be informed that the proposed development comprising provision of 110kV substation and grid connection in Cashla, County Galway, as set out in the plans and particulars received by An Bord Pleanála on the 22nd May 2018, 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 Galway County Council.

John Desmond
Senior Planning Inspector

19th October 2018