



An  
Bord  
Pleanála

## Inspector's Report ABP-303194-18

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<b>Development</b>	110kV Electricity Substation.
<b>Location</b>	Knockardagur, Co. Laois
<b>Prospective Applicant</b>	Pinewood Wind Limited
<b>Planning Authority</b>	Laois County Council
<b>Type of Application</b>	Pre-Application Consultation under s.182E of the Planning and Development Act 2000, as amended
<b>Date of Site Inspection</b>	12 <sup>th</sup> June 2019
<b>Inspector</b>	Niall Haverty

## **1.0 Pre-Application Consultation**

- 1.1. The Board received a request on 3<sup>rd</sup> December 2018 from Galetch Energy Services on behalf of Pinewood Wind Limited 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 Knockardagur, Co. Laois.
- 1.2. The Board's representatives met with the prospective applicant and their agent on the 13<sup>th</sup> June 2019. Subsequently, the prospective applicant formally requested closure of the pre-application consultation process in a letter received on the 27<sup>th</sup> June 2019.

## **2.0 Site location**

- 2.1. The site in question is located in the townland of Knockardagur, Co. Laois, c. 1.4km from the border with County Kilkenny. The site is located within an elevated rural area which is sparsely populated. The closest settlements are Ballinakill, which is c. 4km to the south west, and Abbeyleix, which is c. 7km to the north west.
- 2.2. Planning applications were made on adjoining lands to the east and south (on either side of the Laois/Kilkenny border) for a wind farm and associated development, and these are currently the subject of first party appeals to the Board (see Section 4.0).
- 2.3. The site of the proposed substation development is currently in agricultural use and it is set back from the public road, with access via a laneway which leads to a house and farmyard c. 120m east of the site. A recorded archaeological site (Ref. LA01577) is located in the same field, a short distance to the north of the proposed substation. This is described as part of a large subcircular enclosure visible on aerial photographs, albeit with no visible surface remains.
- 2.4. The alignment of the permitted Laois-Kilkenny 110kV transmission line (Ref. PL11.VA0015 and PL11.VM0012) runs in a north/south direction immediately to the west of the proposed substation site. Construction of this transmission line, which will connect the permitted Coolnabacky 400/110kV substation in Co. Laois and the permitted Ballyragget 110kV substation in Co. Kilkenny, has not yet been completed.

2.5. The site is not located within or in the immediate vicinity of a European Site. The Owenbeg River, which is within the River Barrow and River Nore SAC (Site Code 002162) is, however, located c. 1.3km to the west. A stream or watercourse which runs along the southern boundary of the proposed substation site drains to the Owenbeg River.

### **3.0 Proposed Development**

3.1. The proposed development comprises a 110kV substation and associated development to facilitate the connection of a proposed wind farm (see Section 4.0) to the grid.

3.2. The proposed development is stated as generally comprising a switchroom, control building and substation compound enclosing 110kV electric plant together with two single circuit strain towers which will connect to the immediately adjacent 110kV Laois-Kilkenny transmission line which is permitted but not yet completed.

### **4.0 Planning History**

4.1. Due to the location of the site close to the border between Counties Laois and Kilkenny, the proposed wind farm development that would be connected to the national grid by the proposed substation development was the subject of two separate planning applications to the respective planning authorities. Notifications of decisions to refuse permission issued in respect of both planning applications, and they are both the subject of current first party appeals to the Board:

- **PL10.248392 (Kilkenny Co. Co. Reg. Ref. 17/62):** 2km of site access tracks, underground electricity and communications cabling and site drainage works in the townland of Crutt, Co. Kilkenny.
- **PL11.248518 (Laois Co. Co. Reg. Ref. 16/260):** 11 No. wind turbines, electricity substation, switch room, equipment compound, site access tracks, 7 No. site entrances, meteorological mast and upgrade of road junction in the townlands of Knockardugar, Boleybawn, Garrintaggart, Ironmills, Co. Laois.

## 5.0 Applicant's Case

5.1. The prospective applicant's case is principally set out in their submission to the Board dated 24<sup>th</sup> July 2018, which they submitted in response to a section 137 notice issued by the Board on 27<sup>th</sup> June 2018 in relation to appeal reference PL11.248518. A copy of this submission was enclosed with the prospective applicant's request to enter into s182E pre-application consultation and it can be summarised as follows:

- Electricity generated from the proposed wind farm will be transported to the substation via underground cables operating at 20kV or 33kV, where it will be transformed to 110kV for connection to the adjacent permitted transmission line.
- The proposed wind farm with 11 No. turbines does not meet either of the Seventh Schedule criteria (>25 turbines or >50MW). Accordingly, it does not qualify as SID.
- While s. 37B provides for pre-application consultation in respect of development falling within the Seventh Schedule, a similar provision is not provided in s. 182E of the Act in respect of electricity transmission lines. The applicant therefore elected to apply for planning permission for the substation as part of the overall proposed development via s. 34.
- While the proposed substation is to be comprised, wholly or mainly of electric plant, it is not to be used for the transmission of electricity by high voltage electric lines for one of the four specific purposes identified in the definition of 'transmission' set out in s. 2(1) of the Electricity Regulation Act 1999.
- The proposed substation does not, therefore, fall within the meaning of s. 2(1) of the 1999 Act.
- While the proposed substation will incorporate high voltage 110kV cables as part of its internal functioning, these cables are ancillary to its whole or main purpose as 'electric plant', as defined in the 1999 Act.
- The applicant is satisfied that what is proposed is wholly or mainly 'electric plant' (i.e. the substation) and not an 'electric line'.

- There is no reference in the supplementary definition for ‘transmission’ set out in s. 182A(9) of the 2000 Act to electric plant nor any kilovolt threshold provided for electric plant. It relates exclusively to high voltage electric lines only and does not reference either electric plant (i.e. the substation) or the purposes for which the electricity is being transmitted.
- S. 182A(9) cannot be read so as to bring all planning applications for development that includes 110kV cables, even where ancillary, within the ambit of s182A(9) and SID. That would have the *contra legem* effect of rendering a proposed development that the legislature clearly intended to proceed via s34 of the Act within SID.
- The 110kV cables associated with the electric plant are located entirely at the substation and are not used for the ‘transport’ of electricity in any meaningful sense.
- The presence of 110kV cables is not sufficient to bring the substation within the terms of section 2(1) of the 1999 Act.
- It is acknowledged that the legislation in respect of this matter is unsatisfactorily imprecise. Accordingly, if the Board were to determine that the proposed substation falls within s. 182A, the applicant remains of the view that it is not SID.
- With reference to the long title of the 2006 Act, it is not of strategic importance to the State and does not meet the criteria set out in s. 37A(2). There are numerous precedents for this view relating to substations associated with windfarms (e.g. VC0100, VC0103, VC0104, VC0112, VC0105).
- It is noted that in several recent instances the Board has determined that substations associated with wind farms did constitute SID (e.g. VC0049, VC0062, VC0098). The distinguishing feature in those cases was whether the substation was primarily intended to provide a ‘node’ within the transmission system.
- A ‘node’ is defined as a “connecting point at which several circuits meet”. The proposed development is intended to exclusively serve the wind farm and is

not intended to provide a means of connection to the national grid for any other proposed development.

- It is noted that the Board has made two very recent determinations in respect of 'loop in/loop out' substations (VC0111 and 300167). While the proposed substation in this case will involve a similar substation format, this is entirely as a technical and engineering consequence of the fact that the applicant is proposing to tie into the adjacent permitted 110kV transmission line.

5.2. At the pre-application consultation meeting, the prospective applicant stated that, notwithstanding their position as outlined above, they noted recent Board decisions relating to similar loop in/loop out substations, which were deemed to constitute Strategic Infrastructure.

## **6.0 Eirgrid Correspondence**

6.1. The Board, in an email dated 6<sup>th</sup> February 2019, requested that the prospective applicant 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 responding to these matters on the 5<sup>th</sup> March 2019 (Eirgrid letter dated 1<sup>st</sup> March 2019), 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.
- Pinewood Wind Ltd. has not applied to Eirgrid for a grid connection agreement. Accordingly, a grid connection agreement offer has not yet been made.

## 7.0 Legislative Provisions

- 7.1. Under subsection 182A(1) of the Planning and Development Act 2000, as amended, 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.
- 7.2. Subsection 182A(9) states that in this section ‘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.
- 7.3. 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 Board<sup>1</sup> 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.”

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

- **‘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 Assessment

- 8.1. The proposed development comprises the construction of a 110kV substation with 2 No. strain towers to connect to the immediately adjacent permitted 110kV Laois-Kilkenny transmission line. The proposed development is required to facilitate the connection of an adjacent proposed wind farm to the national grid. As noted above, the proposed wind farm and associated development is currently the subject of 2 No. first party appeals (PL10.248392 and PL11.248518 refer).
- 8.2. The proposed substation development includes a switchroom, control building, step-up transformer, cabling and associated electrical infrastructure within a fenced compound. The 2 No. strain towers would be located outside of the compound, within the line of the permitted Laois-Kilkenny transmission line.
- 8.3. Section 182A(9) of the Act sets a threshold of 110kV in order for a high voltage electricity transmission line to be considered strategic infrastructure, however no voltage threshold is set in respect of a substation.
- 8.4. I consider that the proposed substation constitutes electric plant as defined in Section 7.0 above, in that it is plant for purposes connected with the generation of electricity. The proposed development also includes high voltage lines, albeit of a very short length, for the purposes of connecting the substation to the adjacent Laois-Kilkenny transmission line.
- 8.5. The letter provided by Eirgrid to the applicant was non-committal with regard to the status of the proposed development, and stated that it 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.
- 8.6. Notwithstanding Eirgrid's position, I note that the permitted Laois-Kilkenny 110kV overhead power line is a transmission line and that the indicative substation drawing submitted by the prospective applicant includes both Eirgrid and IPP (i.e. Independent Power Producer) areas.
- 8.7. The proposed substation development entails a loop in/loop out connection to this transmission line, which will entail all power within the circuit being entirely diverted into the substation and back out again. Due to this connection arrangement, I

consider that the proposed substation will, in effect, become a new node on the 110kV transmission line.

8.8. 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. In each of the following cases, the Board determined that the provision of a new 110kV substation which is to be looped into the existing/permited transmission network constitutes Strategic Infrastructure:

- ABP-302516-18, Listowel, Co. Kerry.
- ABP-302247-18, Ballylaneen, Co. Waterford.
- ABP-301646-18, Harristown, Co. Meath.
- ABP-301601-18, Gillinstown, Co. Meath.
- ABP-301206-18, Mothel and Curraghduff, Co. Waterford.
- ABP-300167-17, Dunboyne, Co Meath.
- VC0111, Rosspile Co. Wexford.
- VC0098, Mountphillips, Co. Tipperary.

8.9. I consider that the subject case is directly comparable to the abovementioned cases, and therefore it is my opinion that the proposed substation development will form a node on the transmission network and thus will constitute Strategic Infrastructure.

## **9.0 Conclusion**

9.1. I consider that the proposed development as described in the submission and associated drawings constitutes Strategic Infrastructure coming within the scope of section 182A of the Planning and Development Act 2000, as amended, necessitating an application direct to the Board.

## **10.0 Recommendation**

10.1. I recommend that Pinewood Wind Limited be informed that the proposed development consisting of a 110kV substation and grid connection in the townland of Knockardagur, Co. Laois as set out in the plans and particulars received by An Bord

Pleanála on the 5<sup>th</sup> December 2018, falls within the scope of section 182A of the Planning and Development Act 2000, as amended, and that a planning application should be made directly to the Board.

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**Niall Haverty**  
**Senior Planning Inspector**

**4<sup>th</sup> July 2019**

## **Appendix 1**

The following is a schedule of prescribed bodies considered relevant in this instance for the purposes of Section 182A(4)(b) of the Act.

- Minister of Culture, Heritage and the Gaeltacht
- Minister for Communications, Climate Action and Environment
- Laois County Council
- Kilkenny County Council
- Transport Infrastructure Ireland
- Fáilte Ireland
- An Taisce
- Heritage Council
- Inland Fisheries Ireland
- Health Service Executive
- Commission for Regulation of Utilities
- Irish Water