



An
Bord
Pleanála

Inspector's Report

ABP-305517-19

Development

Proposed alterations to permitted electrical substation and associated 110kV and MV infrastructure required to connect ground-mounted solar PV generation to the electricity transmission and all associated ancillary site development works (Case Reference ABP-302731-18).

Location

Rosspile, Clongeen, Co. Wexford

Planning Authority

Wexford County Council

Requester

Highland Solar Limited

Type of Application

Application under Section 146B of the Planning & Development Act 2000 (as amended)

Date of Site Inspection

Non Required

Inspector

Mary Crowley

Contents

1.0 Introduction.....	3
2.0 Parent Permission	3
3.0 Proposed Changes	5
4.0 Requester Submission.....	5
5.0 Legislative Provisions	6
6.0 Assessment.....	7
6.1. Consideration of materiality.....	Error! Bookmark not defined.
6.8. Environmental Impact Assessment.....	10
6.9. Appropriate Assessment	10
7.0 Recommendation.....	11

1.0 Introduction

- 1.1. The requester is seeking to alter the permitted development from 25 years to 35 years and is submitting this request to An Bord Pleanála, pursuant to section 146B of the Planning & Development Act 2000 (as amended), for alterations to the terms of that permission.

2.0 Parent Permission

- 2.1. The requester (Highfield Solar Limited) was granted permission, under ABP-302731-18, for an electrical substation and associated 110kV and MV infrastructure required to connect ground-mounted solar PV generation to the electricity transmission and all associated ancillary site development works at Rosspile, Clongeen, Co. Wexford subject to 16 no conditions.

- 2.2. Condition No 4(a) states as follows:

*The permission shall be for a period of **25 years** from the date of the commissioning of the Rosspile Solar Array (An Bord Pleanála Reference 302475-18 (Wexford County Council Planning Reg Ref 20180837)). The substation and related ancillary structures shall then be removed unless, prior to the end of the period, planning permission shall have been granted for their retention for a further period. (Emphasis added).*

Reason: *To enable the planning authority to review the operation of the solar farm over the stated time period, having regard to the circumstances then prevailing, and in the interest of orderly development.*

- 2.3. This permitted substation and associated infrastructure will serve the adjoining solar farm located within the townlands of Raheenduff, Haresmead, Rosspile, Coolcliffe, Horetown North, Clongeen, Co Wexford granted permission on appeal by An Bord Pleanála (ABP Ref 302475-18 (Reg Ref 20180837) refers). Condition No 4(a) of this decision also granted permission for a period of 25 years from the date of the commissioning of the solar array.
- 2.4. In a separate planning application (Reg Ref 20191353) to Wexford County Council, the requester also sought permission to amend the operational lifespan of the approved solar farm development (152.8 hectares) from 25 years to 35 years (ABP

Ref 302475-18 (Reg Ref 20180837) refers). The application was accompanied by a Natura Impact Statement. Wexford County Council refused permission on the 22nd November 2019 for the following reason:

The planning authority considers that the material change of the land for a period of 35 years would be excessively long in order for the planning authority to carry out an appropriate review of the temporarily permitted land use of energy production. Therefore, the proposed extension of the period of the development would be contrary to the proper planning and sustainable development of the area.

2.5. The Case Planner in recommending a refusal of planning permission set out the following position:

- *It is considered that 25 years is a reasonable time in order that such a development can be assessed. There may be alternative means of producing energy after 25 years and there may be much more pressing demands on food production, which may necessitate the lands returning to agricultural use. At this juncture, it is not possible to be any way definitive about the prevailing circumstances and out energy needs (food or electricity) in 25 years.*
- *The planning authorities (local, regional and national) and the democratically elected policy makers need to be able to review the operation of these developments within a reasonable time frame and it is considered that 25 years is a suitable period for this review. This new technology has yet to be constructed in the Republic of Ireland and it is considered prudent to maintain control to enable a review to occur 25 year after construction.*
- *The financial mechanisms being sought for the financing of energy developments should not be allowed to interfere with land use planning policy and the proper planning and sustainable development of the area.*
- *As many of the permissions issued by An Bord Pleanála are for a 10 year construction period, this could result in a review of this present application – if permitted for 35 years – in 2065. Within any planning policy framework this could not be considered an appropriate or reasonable timeframe in order to undertake a review of a temporary land use.*

2.6. The decision was appealed by the first party on 11th December 2019 (APB-306129-19) and is due to be decided on 23rd April 2020.

3.0 Proposed Changes

3.1. The changes as part of this request are as follows:

- Alteration of the terms of the development to references an appropriate period of 35 years.

4.0 Requester Submission

4.1. The requesters submission to the Board may be summarised as follows:

- Condition No 4(a), as set out above, of the Boards grant of planning permission (ABP Ref 302475-18 (Reg Ref 20180837)) requested that permission be for a period of 25 years from the date of the commissioning. The requester seeks the alteration of the terms of the development to references an appropriate period of 35 years.
- The requester notes that the substation and connecting infrastructure is similar to other assets recently consented by the Board which service similar energy projects. These include substation servicing projects at the following:
 - a) Barnadivane, Co. Cork (PL04.248152)
 - b) Shehy More, Co. Cork (PL88.301563)
 - c) Harlockstown, Co. Meath (PL17.303878)
 - d) Gillinstown, Co. Meath (PL17.303568)
- The applicant notes that no condition in relation to restricting the operational lifetime is apparent on these grants of permission. Similarly no condition in relation to restricting the operational lifetime is apparent on energy storage facilities at:
 - a) Flagford, Co. Roscommon (ABP-301965-18)
 - b) Purcells Inch, Co. Kilkenny (ABP-301797-18)
 - c) Clonmainam, Co. Laois (PL11.247663)

- As noted within the original application, considerable policy support is apparent for decarbonising the electricity system to 2050 and beyond.
- The requester notes the High Level Design published by the Department of Communications, Climate Action and Environment (July 2018) following public consultation (Renewable Electricity Support Scheme or RESS). At the core of its design is the requirement for cost effectiveness and value for money delivery to the consumer. Detailed sections in support of the “cost effective framework” are quoted in the submission.
- It is submitted that the capital investment required to provide for the generation asset and associated substation is significant and it is prudent to maximise use of these assets.
- Since the original application, it is apparent that longer periods are eminently feasible and analogues consenting periods have the impacts of significantly reducing the cost of capital funding the construction of this and similar developments. This ultimately results in projects similar to that associated with this development bidding into the Renewable Electricity Support Scheme auction at a much lower out-turn price, with the net effect of reducing costs for the electricity consumer.
- The requester notes the nature of the development and in particular the operational period. During the operational period, operational traffic is extremely light and indeed has been considered “negligible” in 12.1 of the Inspectors Report of 9th April 2019. Due to the minimal operational traffic and general environmental impacts involved, the requester submits that the requested alteration would not constitute a material alteration. However, if the alteration is deemed a material alteration, the applicant notes that it is not an alteration likely to have significant effects on the environment.

5.0 Legislative Provisions

- 5.1. Section 146B of the Act provides for the alteration by the Board of a strategic infrastructure development in response to a request made of it.
- 5.2. Initially under the terms of section 146B(2)(a) the Board must decide as soon as practicable after the making of such a request, whether or not the making of a

proposed alteration would constitute *“the making of a material alteration of the terms of the development concerned”*.

- 5.3. Section 146B(2)(b) provides that *“before making a decision under this subsection, the Board may invite submissions in relation to the matter to be made to it by such person or class of person as the Board considers appropriate (which class may comprise the public if, in the particular case, the Board determines that it shall do so); the Board shall have regard to any submissions made to it on foot of that invitation”*.
- 5.4. Alteration not a material alteration - Section 146B(3)(a) states that *“if the Board decides that the making of the alteration would not constitute the making of a material alteration of the terms of the development concerned, it shall alter the planning permission, approval or other consent accordingly and notify the person who made the request under this section, and the planning authority or each planning authority for the area or areas concerned, of the alteration”*.
- 5.5. Alteration is a material alteration - If the Board decides that the alteration is material the provisions of Section 146(3)(b) and Sections 146(4)-146(8) apply.

6.0 **Assessment**

- 6.1. The principle consideration in this case is to determine if the making of the alteration would constitute the making of a material alteration to the planning permission granted for the electrical substation and associated 110kV and MV infrastructure required to connect ground-mounted solar PV generation to the electricity transmission and all associated ancillary site development works.
- 6.2. The key issues in this case are as follows:
- Planning Issues
 - Environmental Impact Assessment
 - Appropriate Assessment
- 6.3. **Planning Issues**
- 6.3.1. As set out above the requester (Highfield Solar Limited) was granted permission, in July 2019, under ABP-302731-18, for an electrical substation and associated 110kV and MV infrastructure required to connect ground-mounted solar PV generation to the

electricity transmission and all associated ancillary site development works at Rosspile, Clongeen, Co. Wexford subject to 16 no conditions.

6.3.2. Condition No 4(a) of that permission states as follows:

*The permission shall be for a period of **25 years** from the date of the commissioning of the Rosspile Solar Array (An Bord Pleanála Reference 302475-18 (Wexford County Council Planning Reg Ref 20180837)). The substation and related ancillary structures shall then be removed unless, prior to the end of the period, planning permission shall have been granted for their retention for a further period. (Emphasis added).*

6.3.3. Section 10.22 of the Inspectors Report on ABP-302731-18 set out the following:

Operational Life - *An operational period of 30 years is requested for the Solar Farm development. An equivalent minimum period is therefore required for the SID Works infrastructure. However, an operational life of 25 years is considered reasonable having regarded the scale and nature of the scheme and it is recommended that a suitably worded condition be attached re same.*

6.3.4. The same condition was attached to both permissions (solar farm and substation). As noted above the reason for this condition was specifically to enable the planning authority to review the operation of the **solar farm** over the stated time period, having regard to the circumstances then prevailing. (Emphasis added).

6.3.5. It is my view that the primary concern in determining the operational period of the overall development (solar farm and substation) was the solar farm itself and that it made sense that should the solar farm have a set operational time frame (as set out in the application) that the substation would have the same. It is important to emphasise that the determination of this case should not be taken as a precedent in the consideration of the solar farm currently under appeal. Particularly as it remains that notwithstanding the outcome of this alteration to Condition 4(a); Condition 4(c) would still apply as follows:

On full or partial decommissioning of the Rosspile Solar Farm, or if the solar farm ceases operation for a period of more than one year, the substation and all related ancillary structures and equipment, shall be dismantled and removed permanently from the site. The site shall be restored in accordance with this

plan and all decommissioned structures shall be removed within three months of decommissioning.

- 6.3.6. In my view the alteration to the permitted development from 25 years to 35 years does not result in impacts arising in addition to those previously assessed under ABP-302731-18 in terms of principle / policy consideration, landscape and visual amenity, residential amenity, noise impact, flooding, use of CCTV, waste water treatment, construction impact and decommissioning and site reinstatement. There are no changes to the location or boundary of the project or physical alterations to the works proposed. The alteration does not result in the expansion of the footprint of the project as granted or any other reconfiguration of the same.
- 6.3.7. I am of the opinion, having considered the alterations proposed and having considered the proposal as granted under ABP-302731-18, that the Board would not have considered ABP-302731-18 differently had an operational period of 35 years been sought instead of 30 (as indicated for the solar farm) formed part of ABP-302731-18, at that application stage. I do not consider that the Board would have considered the relevant planning issues differently to any material extent or considered that any other planning issues would arise had the proposed alterations formed part of the original development at application stage.
- 6.3.8. It follows therefore, that the Board would not have determined the parent permission differently. I consider it reasonable to conclude that the proposed alterations from 25 years as permitted to 35 years, subject of this request does not constitute the making of a material alteration of the development as granted under ABP-302731-18.
- 6.3.9. Therefore I consider that the Board can determine under Section 146B(3)(a) that the making of the alteration would not constitute the making of a material alteration of the terms of the development concerned and it shall alter the planning permission, approval or other consent accordingly and notify the person who made the request under this section, and the planning authority or each planning authority for the area or areas concerned, of the alteration.
- 6.3.10. I have considered the provisions of s.146B(2)(b) which provides for, at the Board's discretion, the inviting of submissions from persons, including the public. Having considered the nature, scale and extent of the alteration; the information on file; the nature, scale and extent of the development granted under ABP-302731-18, and the

information on ABP-302731-18 including the submissions from the public, I am of the opinion that the inviting of submissions from the public in this instance is not necessary and is not required for the purposes of the Board determining the matter.

6.4. Environmental Impact Assessment

- 6.4.1. As outlined above, I consider that the proposed alteration does not constitute the making of a material alteration of the development concerned and in this regard therefore the provisions of Section 146B(3)(a) apply wherein there is no requirement for EIA screening.

6.5. Appropriate Assessment

- 6.5.1. Under the parent permission ABP-302731-18 the Board completed an Appropriate Assessment Screening exercise in relation to 10 Natura 2000 sites which resulted in 5 of the sites being screened out. The Board then undertook an Appropriate Assessment in relation to the effects of the development proposed under ABP-302731-18 on the 5 sites that were not screened out as follows:

- Bannow Bay SAC (000697)
- Bannow Bay SPA (004033)
- Ballyteige Burrow SPA (004020)
- Keeragh Islands SPA (004118)
- Wexford Harbour & Slobbs SPA (004076)

- 6.5.2. An NIS was prepared and submitted as part of the application in relation to ABP-302731-18. The Board concluded that the proposed development, by itself, or in combination with other plans or projects, would not be likely to adversely affect the integrity of these European Sites in view of the sites' conservation objectives.

- 6.5.3. As documented above the requester made a separate planning application (Reg Ref 20191353) to Wexford County Council, also seeking permission to amend the operational lifespan of the approved solar farm development (152.8 hectares) from 25 years to 35 years (ABP Ref 302475-18 (Reg Ref 20180837) refers). The permitted substation and associated infrastructure, the subject of this alteration, will serve this adjoining solar farm. The planning application for amendments submitted to Wexford

County Council was accompanied by a Natura Impact Statement. The requester has not submitted an NIS or any other relevant information with the proposed alterations now before the Board.

- 6.5.4. I refer to Section 11.0 Appropriate Assessment of the Inspectors Report on ABP-302731-18. Any potential pathways for impacts of the permitted project have already been assessed under an Appropriate Assessment of that application and the proposed amendments do not give rise to any new or different issues or impact pathways that would now need to be assessed. It is considered that the possibility may be excluded that the proposed development will have significant effect on any European site.
- 6.5.5. Having considered the Board's determination on Appropriate Assessment on ABP-302731-18, Section 11.0 Appropriate Assessment of the Inspectors Report on ABP-302731-18, the nature, scale and extent of the alteration relative to the development subject of ABP-302731-18, I consider it reasonable to conclude that the alterations proposed, individually or in combination with other plans or projects, would not be likely to have a significant effect on any European sites in view of the sites' conservation objectives.

7.0 Recommendation

- 7.1. I recommend that the Board decides that the making of the alterations subject of this request do not constitute the making of a material alteration to the terms of the development as granted permission under ABP-302731-18.

REQUEST received by An Bord Pleanála on the 5th day of September 2019 from Highfield Solar Limited under section 146B of the Planning and Development Act, 2000, as amended, to alter the terms of the electrical substation and associated 110kV and MV infrastructure required to connect ground-mounted solar PV generation to the electricity transmission and all associated ancillary site development works at Rosspile, Clongeen, Co. Wexford, a strategic infrastructure development the subject of a permission granted under An Bord Pleanála reference number ABP-302731-18.

WHEREAS the Board made a decision to grant permission, subject to conditions, for the above-mentioned development by order dated the 5th day of July, 2019,

AND WHEREAS the Board has received a request to alter the terms of the development, the subject of the permission,

AND WHEREAS the proposed alteration is described as follows:

- Alteration of the terms of the development from 25 years to an appropriate period of 35 years

AND WHEREAS the Board decided, in accordance with section 146B(2)(b) of the Planning and Development Act 2000, as amended, not to invite submissions or observations from the public in relation to whether the proposed alteration would constitute the making of a material alteration to the terms of the development concerned,

AND WHEREAS the Board decided, in accordance with section 146B(2)(a) of the Planning and Development Act 2000, as amended, that the proposed alteration would not result in a material alteration to the terms of the development, the subject of the permission,

AND WHEREAS having considered all of the documents on file and the Inspector's report, the Board considered that the making of the proposed alteration would not be likely to have significant effects on the environment or on any European Site,

NOW THEREFORE in accordance with section 146B(3)(a) of the Planning and Development Act, 2000, as amended, the Board hereby alters the above-mentioned decision so that the permitted development shall be altered in accordance with the plans and particulars received by An Bord Pleanála on the 5th day of September 2019 for the reasons and considerations set out below

7.2. Reasons and Considerations

- 7.2.1. Having regard to the proposed alterations requested and the documents on file, and the proposed development as granted under case reference number ABP-302731-18, the Board was satisfied that it would not have considered the relevant planning issues differently to any material extent, or considered that any other planning issues would arise, had the alterations now proposed formed part of case reference number ABP-302731-18 at application stage. Furthermore, the Board was satisfied that the making of the proposed alterations would not be likely to have significant effects on the environment or on any European Site.

Mary Crowley

Senior Planning Inspector

6th January 2020