



An
Bord
Pleanála

Inspector's Report ABP 306263-19

Development	Retention of existing electricity substation and permission for the construction of an extension to the existing substation.
Location	Curraglass, Kealkill, Co. Cork.
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	19/519
Applicant	Redfaze Ltd.
Type of Application	Retention Permission and Permission
Planning Authority Decision	Refuse
Type of Appeal	1 st Party v. Refusal
Appellant	Redfaze Ltd.
Observers	1. Ian Collins 2. Nigel de Haas
Date of Site Inspection	03/03/20
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

The site is in the townland of Curraglass within the boundary of a decommissioned windfarm developed under ref. 00/6590 (PL04.127297) which, itself, is within a commercial forestry. The 10 no. wind turbines on the lands have been removed.

The site is accessed via a forestry track and is set back c. 1.5 km to the west of the R584. The regional road in the vicinity of the access is known as The Pass of Keimaneigh. The site is approx. 8km to the north of Kealkill, 7km to the south-west of Ballingearry and c. 3.5km to the south of Gougane Barra. The forestry track rises steeply from the public road. There are panoramic views from the substation site south-westwards to the coast.

Large tracts of the commercial plantation have been felled although the areas in the vicinity of the substation remain planted.

The 38kV substation which served the windfarm is enclosed by a palisade fence and is served by a control building. A 38kV overhead power line from the substation travels southwards. It was subject of a separate permission under ref. 03/3773.

2.0 Proposed Development

The application was lodged with the planning authority on the **07/08/19** with further plans and details received **29/10/19** following a request for further information dated **27/09/19**. Revised public notices were submitted on **01/11/19**.

The proposal seeks to retain the substation and to extend same to provide for 4 no. battery storage units. The extension will require palisade fencing, bunded concrete plinths, associated electrical equipment, transformers and ancillary site works.

The permission governing the windfarm of which the substation formed part required the removal of the structures after 20 years (Board's decision was in October 2003). The turbines were removed in 2018. The substation remains on site, continues to form part of the national grid network and is fully energised. With the turbines decommissioned no electricity is being exported through the substation to the electricity grid.

The purpose of the battery storage element is to provide electricity balancing and grid operation services to the national grid network. With this addition the energised substation will be used to support the Irish electricity grid by charging when there is surplus electricity on the grid and discharging at peak hours when there is high demand for electricity or when the grid needs added support. In summary, the existing substation will facilitate the installation of electricity storage which provides critical electricity reserve for the Irish electricity grid.

The operational lifespan of the facility is anticipated as being a minimum of 30 years.

The application is accompanied by an AA-Screening Report.

Letter of consent from landowners to make the application provided. Consent also submitted to allow for works at site entrance to achieve the necessary sightlines.

3.0 Planning Authority Decision

3.1. Decision

Permission for the above described development refused for two reasons which can be summarised as follows:

1. The proposal would lead to inappropriate development and would lead to a semi-industrialisation of an otherwise unspoilt mountain. In the absence of any compelling justification for the proposal it would contravene materially development plan objectives GI6-1, TO2-1 and CS 4-4 d), would be premature and would set an undesirable precedent.
2. The proposal would contravene materially condition 4 of permission ref. PL04.127297.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The **1st Executive Planner's** report dated **26/09/19** notes:

- Should a windfarm be granted at some time in the future, the removal of valuable, costly infrastructure in terms of the existing substation and the 38kV line to then put it back through reconstruction may not be the most rational or

logical decision on both economic and environmental grounds. However, this view has to be set against the concern as to whether the development is inappropriate, stand alone, project splitting, premature and/or precedent orientated.

- The developer could argue that the substation and 38kV line need not be removed until May 2022. Conversely there is the argument that since the wind turbines have been removed and the site decommissioned the substation should be removed. In the absence of evidence of compliance with condition 8 (payment of bond) the removal of the substation may be time barred.
- The visual impact of the battery units would be minimal.
- Development Plan Objective CS 4-4(d) and (j) is relevant. The proposal should be assessed against the inappropriate development concept.

A request for further information recommended.

The **1st Senior Executive Planner's** report dated **26/09/19** endorses the Executive Planner's recommendation.

The **2nd Executive Planner's** report dated **21/11/19** following further information notes:

- The site is within an area open for consideration for a windfarm.
- The development of a battery storage unit facility with an existing windfarm is a totally different development to a battery storage development with no windfarm in situ or permitted.
- The battery storage facility should be weighted on the fact there is no windfarm on site. Why build and semi-industrialise a mountainside when, in the past through planning conditions, a commitment was given by condition to return the lands to their original condition. The applicant has not made a compelling case.
- No new sustainable electricity would be generated and this would provide for the retention and exacerbation of a visually intrusive alien development on the otherwise unspoilt mountainside where no wind farm is operating.

- It would also act as a catalyst for other similar unjustified inappropriate development.

A refusal for 2 reasons recommended.

The **Senior Executive Planner** in a report dated **21/11/19** considers that the key issue is the applicant's justification for the substation and battery storage units in the absence of an operating windfarm. Although the substation remains fully energised no electricity is being exported to the national grid. In the absence of an operating windfarm to export electricity, the purpose and function of the existing substation on site is redundant. The proposal is considered inappropriate and premature. The recommendation to refuse permission endorsed.

Senior Planner in a report dated **25/11/19** endorses the refusal recommendation.

3.2.2. Other Technical Reports

1st Area Engineer's report dated **23/09/19** considers a battery storage facility on the site of a former wind farm would seem premature pending an application/permission for any further wind farm development on the site. Further information on same recommended. The applicant should get an undertaking from the landowners that the sight distances at the forestry entrance will be provided and maintained at a minimum of 120 metres in both directions. The **2nd Area Engineer's** report dated **05/11/19** following further information has no objection subject to conditions.

Environment Section in a report dated **26/09/19** has no objection subject to a condition.

Ecologist unable to report on time.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

Objections to the proposal received by the planning authority are on file for the Board's information. The issues raised are comparable to those set out in the observations received summarised in section 6 below.

4.0 Planning History

PL04.127297 (00/6590) – permission granted for windfarm comprising 10 no. turbines and 38kV substation.

03/3773 – permission granted for 38kV electricity overhead line.

PL04.209745 (03/6910) – permission refused for increase in hub height from 47 to 65 metres and resultant increase in tip height from 71 metres to 91 metres. The reason for refusal stated that the greater visibility would seriously injure the visual amenities of the sensitive scenic area which is not within a Strategic Search Area for windfarms as designated in the 2003 County Development Plan.

19/262 – application for battery storage units withdrawn.

5.0 Policy and Context

5.1. National Policy

National Planning Framework

Objective 8 – reinforce the distribution and transmission network to facilitate planned growth and distribution to a more renewables focussed source of energy across the major demand centres.

5.2. Development Plan

Cork County Development Plan 2014

The overall site of the previous windfarm and the remaining substation are not within a designated High Value Landscape.

Objective CS 4-4 West Cork Strategic Planning Area

(d) Recognise the international importance and the importance of the region's tourism economy, of the scenic and landscape qualities of the coastal and upland areas, particularly along the peninsulas in the southwest and to protect these landscapes from inappropriate development.

Objective ED 1-1 Energy:

Ensure that through sustainable development County Cork fulfils its optimum role in contributing to the diversity and security of energy supply and to harness the potential of the county to assist in meeting renewable energy targets.

Objective 6-1 Electricity Network:

Support and facilitate the sustainable development, upgrade and expansion of the electricity transmission grid, storage and distribution network infrastructure. Support the sustainable development of the grid including strategic energy corridors and distribution networks in the region to international standards.

Objective GI 6-1 in relation to landscape protection:

- a) Protect the visual and scenic amenities of County Cork's built and natural environment.
- b) Landscape issues will be an important factor in all land use proposals, ensuring that a proactive view of development is undertaken while maintaining respect for the environment and heritage generally in line with the principle of sustainability.
- c) Ensure that new development meets high standards of siting and design.
- d) Protect skylines and ridgelines from development.
- e) Discourage proposals necessitating the removal of extensive amounts of trees, hedgerows and historic walls or other distinctive boundary treatments.

5.3. Natural Heritage Designations

Derryclogher (Knockboy) Bog SAC (site code 001873) is c. 4.3 km to the west of the site.

6.0 The Appeal

6.1. Grounds of Appeal

The submission by MKO Planning and Environmental Consultants on behalf of the applicant against the planning authority's notification of decision to refuse permission can be summarised as follows:

6.1.1. Overview

- BESS technology provides key grid stabilising services which can be readily implemented in overcoming the challenges of transitioning to renewable technologies and facilitating significant increases in renewable energy generation and the harnessing of same. This would be in accordance with international, national and regional policies and objectives in terms of renewal energy.
- The proposal accords with development plan objective ED 1-1 which seeks, through sustainable development, to fulfil its optimum role in contributing to the diversity and security of energy supply and to harness the potential of the county to assist in meeting renewal energy targets.
- The proposed development is considered consistent in principle with the type and nature of development already established in the surrounding environment.
- An application is being prepared for a wind energy development at this location. Should a favourable decision result the development will utilise the infrastructure.
- The proposal is not an EIA project.

6.1.2. Reason for Refusal No.1

- The proposed development comprises 'standalone' grid infrastructure which has full operational capacity independent of proximate wind infrastructure. The planning authority's assessment and reliance on the presence of wind energy infrastructure and associated wind farm policy and guidance in justifying the need for the BESS facility is considered inappropriate with regard to assessing the specific merits of the proposed development.
- A BESS facility is neither necessary to, nor does it form an intrinsic part of any renewable energy project. Energy storage is an adaptable technology which can be deployed under a number of operational scenarios with wind farms only being one example.
- The site is recognised of being of local importance and is not within a High Value Landscape.

- The existing 38kV substation and proposed BESS facility and ancillary components are of a minor scale relative to other types of utility infrastructure.
- Due to the undulating topography of the Shehy Mountains and presence of significant coniferous forestry plantations the application site is practically indistinguishable from its general setting. The proposal will only be visible in proximity. The colour of the battery modules and transformers will align with the natural colours in the landscape and will ultimately be absorbed into the landscape.
- The fact that the area is open to consideration for windfarm development points to a landscape being robust and capable of accommodating renewable energy and its associated infrastructure.
- It does not contravene development plan objective GI 6-1.
- In term of objectives CS 4-4 d) and j) and TO 2-1 the site is not located along a peninsula nor located within the immediate vicinity of any settlement and the lands immediately adjacent to the site do not form or contribute to an existing tourism asset.
- Examples provided of battery storage developments that were permitted on rural sites not associated with any specific renewable energy development but located in proximity to established substations and grid infrastructure.

6.1.3. Reason for Refusal No.2

- The planning authority's grounds for refusal is considered a strict interpretation of condition 4 of the permission PL04.127297.
- The strict interpretation of the condition is acknowledged hence the application to retain the substation.
- ESB/Eirgrid which are the statutory undertakers responsible for operating and maintaining the national grid and its individual assets, do not construct, operate and ultimately invest in grid infrastructure on a temporary basis.
- The permission was 'of its day' and did not acknowledge that the substation element of a wind farm development becomes part of the national grid

infrastructure, which is now commonly provided as a permanent feature within contemporary wind farm applications.

- As acknowledged in the planning authority reports there are economic and environmental advantages in retaining the substation in the context of the site's designation as 'Open to Consideration' for wind energy development.
- The retention of the existing 38kV substation would maximise the use of existing infrastructure while also eliminating the need for unnecessary development and this can be seen as sustainable development.

6.2. Planning Authority Response

None received.

6.3. Observations

Observations received from

- Ian Collins
- Nigel de Haas

The submissions can be summarised as follows:

- The existing 38kV substation and ancillary control building was previously used for the sole purpose of connecting the windfarm to the Eirgrid/ESB substation at Ballylickey. The substation performs no function on the national grid network. It should have been removed at the same time as the wind turbines.
- It is not only inappropriate to locate battery storage units in isolation on a mountainside, it is electrically inefficient to place it at the end of a spur line that serves no other purpose now that the wind farm has been dismantled.
- Condition 4 attached to the permission for the windfarm states that a structure of this type is not acceptable in this location on a permanent basis.
- The proposal is a private development that will remain in private ownership once constructed. This cannot be construed to constitute grid infrastructure as the installation will not be owned by either TSO or DSO.

- The appeal submission conflates the facilities on the site that are owned by Eirgrid/ESB and those that are owned by the wind farm operator, as no submission during the application process has identified the point of custody transfer between the supplier (wind farm) and the national grid (Eirgrid/ESB).
- The examples of other permitted battery storage facilities are adjacent to 110kV transmission substations and not at the end of a 12km 38kV spur line to a decommissioned wind farm.
- It would appear that the development of an battery energy storage system is part of a bigger development that will comprise a wind farm and therefore should be subject to EIA.
- The planning authority has provided a substantive explanation of why developments in this location constitute 'inappropriate development'.
- It is not appropriate to propose an industrialised energy storage facility that has no direct linkage to a windfarm on a mountainside rather than in an urban industrial estate with easy access for servicing and maintenance.
- The location does not comply with development plan objective ZU 3-7 as the site is not zoned for industrial use.
- The site is in proximity to NHAs at Gougane Barra and Conigar Bog. There are a number of scenic routes in the area.
- There is a fire risk associated with battery storage units.
- No decommissioning strategy for the battery storage units has been provided.

6.4. Section 131 Notice

The Commission for Regulation of Utilities was invited to make a submission on the appeal.

No response received.

7.0 Assessment

I consider that the issues arising in the case can be assessed under the following headings:

1. Nature and Extent of Development
2. Suitability of Location
3. Section 37(2)(b) Planning and Development Act, 2000, as amended
4. Other Issues

7.1. Nature and Extent of Development

The 38kV substation on site which is to be retained was developed as part of a windfarm development comprising of ten turbines granted permission under ref. PL04.127297. The substation's function and that of the 38kV overhead line which was subject of a separate permission under 03/3773 was to transfer power generated by the windfarm to the 110kV substation at Ballylickey north of Bantry. Whilst an integral component, its purpose would have been considered as ancillary to the main development, namely the windfarm.

Condition 4 attached to the parent permission required the structures to be removed 20 years from the date of commissioning of the development. The reason for the condition stated that structures of this type are not acceptable in this location on a permanent basis. As noted on day of inspection the turbines have been decommissioned and removed from the site although their bases and access tracks remain.

The agent for the applicant is of the view that the said decision and condition 4 attached to same were of 'their day', and did not acknowledge that the substation element of a wind farm development becomes part of the national grid infrastructure. In this regard I note that the substation with a voltage of 38kV served the windfarm, only, and is not a node on the transmission network. In addition, as per the details provided by the agent, whilst energised it currently does not have a function in that no power is being fed into it which is then transferred on. On this basis, therefore, it is not entirely clear as to the function and role the substation currently serves on the distribution network, if any.

Notwithstanding, I submit that the decommissioning of the site as required by the condition would have referred to all of the structures on the site including the substation. I also submit that the fact the windfarm has been decommissioned approx. 4 years ahead of the 20 year period specified, is not of relevance. Selective removal of elements of the overall development is not a reasonable interpretation of what is meant by decommissioning.

It is apparent from the details provided by the agent for the applicant that it is proposing to seek permission for a new windfarm development on the site. In view of the advancements in wind energy since the original application it is not unreasonable to suggest that the turbines to be proposed will be materially larger with a greater energy output. The knock-on impact of this output being fed into the grid and whether an upgrading of the substation will be required is a moot point.

Notwithstanding, this is not before the Board for comment. The agent for the applicant, whilst noting that any future windfarm development, if permitted, would avail of the existing infrastructure on the site, states that the development subject of the application and now this appeal comprises 'standalone' grid infrastructure which has full operational capacity independent of proximate wind infrastructure. I would therefore concur with the view that the planning authority's assessment and reliance on the presence of wind energy infrastructure in justifying the need for the battery storage facility is inappropriate. However, the corollary is that no reliance can be had to the fact that the substation formed an ancillary role in a wind farm on the site which no longer exists. Appropriately, the substation should have been removed from the site when the development was decommissioned. I am also of the view that the current development plan provisions for wind farm development including the subject site being within an area open to consideration cannot infer that a substation, which is small in scale, could be favourably considered.

On this basis I submit that the application must be assessed from first principles and on its own merit, namely whether the site is appropriate for the development sought.

7.2. Suitability of Location

As noted previously it is stated that the prime facilitator for the location of the proposed development is the presence of the existing energised substation.

The site is in a remote location c. 1.5 km from the regional road accessed via a forestry track. Large tracts of the commercial forestry have been felled although the area immediately adjoining the substation remains.

Whilst the site is not within an area designated as being of scenic value it has an innate visual quality heightened by its remoteness. Such a site cannot be considered as an appropriate location for a stand-alone substation with battery storage. On this basis, therefore, I would concur that the proposal would be contrary to objective CS 4-4 (d) of the County Development Plan in that the proposal would constitute inappropriate development in an upland area. The fact that the visual impact would be limited is not a material consideration in this regard and contrary to the applicant's contention the provisions of the objective do not pertain to the coastal and upland areas of the peninsulas, only. The fact that it may be considered to be in accordance with objective 6-1 which seeks to support and facilitate the sustainable development, upgrade and expansion of the electricity transmission grid, storage and distribution network infrastructure, is not sufficient basis to warrant a development in what is an inappropriate location. I would also express concern as to the precedent a favourable decision would set. Whilst the cases cited by the applicant are adjacent to substations not associated with any specific renewal energy development, I am not entirely convinced that they are comparable in that they appear to be adjacent to 110kV substations and not at the end of a 38kV spur line.

I consider that, in fact, the suitability of the site for such purposes could only be countenanced where it would form part of, and is ancillary to a wind farm proposal. The area is open for consideration for such purposes. Any such proposal would be assessed against the current development plan policies and objectives having regard to national policy and guidance as applicable.

7.3. Section 37(2)(b) Planning and Development Act, 2000, as amended

As the planning authority decided to refuse permission on the grounds that the development materially contravenes objectives of the current County development plan, I consider that the provisions of Section 37(2)(b) apply which restricts the Board's from granting permission save where certain criteria are met. In terms of the said criteria I submit:

(i) the proposal for a retention of a 38kV substation and installation of 4 no. battery storage units is small in scale and cannot be considered to be of strategic or national importance,

(ii) I consider that the development plan objectives in terms of landscape protection are clearly stated, insofar as the proposed development is concerned,

(iii) there are no overriding provisions in the current regional spatial and economic strategy for the area, guidelines under section 28 and policy directives under section 29 pertaining to such type development, and

(iv) There are no permissions granted in the area which are comparable to the proposed development.

I therefore conclude that the Board is precluded from granting permission in this instance.

7.4. **Other Issues**

Environmental Impact Assessment

The development is not of a type listed in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations, 2001, as amended. As such EIA is not required.

Any potential windfarm proposal in excess of the relevant thresholds would be required to be accompanied by an EIAR and would appropriately provide for a cumulative assessment.

Fire Hazard

I am not aware of any documentary evidence of battery storage units being susceptible to fire hazard as contended by observers.

Appropriate Assessment – Screening

The applicant is accompanied by a screening report.

Project Description and Characteristics

The proposal is for the retention of a substation and installation of battery storage units.

Natura 2000 Sites, Qualifying Interests and Conservation Objectives

The nearest designated site is Derryclogher (Knockboy) Bog SAC (site code 001873) c. 4.3km to the west. The qualifying interest is Blanket Bogs. Detailed conservation objectives have been prepared, the overall objective being to restore the favourable condition of Blanket Bog.

Assessment of Likely Effects

The site is not within or adjacent to any designated site. Therefore, no direct impact would arise.

In view of the separation distance and lack of hydrologic connection to Derryclogher (Knockboy) SAC there is no potential for the designated site to be indirectly affected by the proposed development.

In terms of cumulative effects, I am not aware of any permitted or proposed development in the vicinity. Reference is made to an application being prepared for a windfarm development on the subject lands. It will be subject to AA-Screening in its own right.

Screening Statement and Conclusions

It is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effects on European Site 001873 in view of the site's conservation objectives and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

Having regard to the foregoing I recommend that permission for the above described development be refused for the following reasons and considerations.

9.0 Reasons and Considerations

Having regard to the remote, upland location of the site it is considered that the proposed development for the retention of a substation and provision of battery storage units, which are not linked to a renewable energy development, would constitute an inappropriate form of development and would contravene materially objective CS 4-4 (d) of the Cork County Development Plan in relation to the protection of the scenic and landscape qualities of uplands areas from inappropriate development. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

Pauline Fitzpatrick
Senior Planning Inspector

April, 2020