



An  
Bord  
Pleanála

## Inspector's Report ABP-306908-20

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<b>Development</b>	110kV control room at the existing Trien 220/110kV Electricity Substation.
<b>Location</b>	Trienearagh, Co. Kerry
<b>Prospective Applicant</b>	EirGrid PLC
<b>Planning Authority</b>	Kerry County Council
<b>Type of Application</b>	Pre-Application Consultation under s.182E of the Planning and Development Act 2000, as amended
<b>Inspector</b>	Niall Haverty

## **1.0 Pre-Application Consultation**

1.1. The Board received a request on 10<sup>th</sup> March 2020 from EirGrid PLC 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 Trienearagh, Co. Kerry.

## **2.0 Site location**

2.1. The site in question is located in the townland of Trienearagh, c. 5km south east of Listowel, Co. Kerry. The site is located on the southern side of the R555 Regional Road, from which it is accessed. On the other three sides the site is bounded by agricultural grassland.

2.2. The existing Trien 220/110kV Electricity Substation is located on the site and there are existing overhead line connections to the substation, with electrical towers and masts approaching the site. There are also stated to be underground cable connections to the substation.

2.3. The site is not located within or in the immediate vicinity of any European Sites. I note that the River Feale is located c. 1.8km north of the site, with the Smearlagh River (a tributary of the River Feale) c. 1km to the north west of the site. Both the River Feale and the Smearlagh River form part of the Lower River Shannon SAC (Site Code 002165).

## **3.0 Proposed Development**

3.1. The proposed development includes the construction of a new 110kV control building at the existing substation and all associated electrical and civil works. It also includes the following associated development:

- Local extension to the existing substation compound, including palisade fencing and associated civil works.
- Reconfiguration of the existing vehicular entrance onto the R555, including a laydown area within the landholding.

- Landscaping and site boundary improvement works to facilitate the reconfigured entrance and provide screening to the proposed control building.
- 3.2. All of the proposed development is located to the north of the existing substation compound, on lands owned by the Electricity Supply Board (ESB).
- 3.3. The letter submitted by the prospective applicant states that they, EirGrid PLC, are the Transmission System Operator for Ireland, while the ESB is the licensed Transmission Asset Owner for Ireland. The letter states that the proposed transmission infrastructure will be constructed by the ESB pursuant to its statutory powers, and that EirGrid PLC does not have a beneficial interest in any lands.
- 3.4. The prospective applicant's letter also states that it is their preliminary view that neither an Appropriate Assessment nor an Environmental Impact Assessment will be required to accompany the application for consent, however they note that this is ultimately a matter for the consenting authority.

## **4.0 Planning History**

- 4.1. I am not aware of any recent relevant planning history on the subject site.
- 4.2. I note that the Board granted a 10-year permission for a solar PV farm development (Ref: ABP-300174-17) on lands c. 900m to the north of the subject site in 2018. The Inspector's Report associated with that case states that the solar farm will connect, via an overhead or underground cable, to the National Grid at Smearla 38kV substation (i.e. not to the Trien 110kV substation).

## **5.0 Applicant's Case**

- 5.1. The prospective applicant's case can be summarised as follows:
- While of considerable benefit to the transmission network, from a planning perspective, the proposed development is essentially a local enhancement of the existing substation infrastructure.
  - The proposed development would not be of a form or appearance entirely incongruous to the established substation infrastructure.

- The development would not be of strategic economic or social importance to the State or the region in which it would be situated.
- The Board has previously determined that additional equipment which is an extension or enhancement to established transmission infrastructure (substations and their compounds) did not fall within the scope of section 182A and did not comprise strategic infrastructure. The following cases are relevant: VC0040, VC0055, VC0061, VC0070, VC0101, VC0109, VC0110, 300928, 301174 and 303148.
- A most obvious precedent is Ref. VC0109, for a new reactor at the existing Knockanure 220kV substation in Co. Kerry. This included an extension to the substation and was considered not to fall within the scope of section 182A.
- Given the nature, scale and function of the proposed development and critically its relationship in terms of function, design and proximity to the existing substation, it is not of itself strategic infrastructure, having regard to section 182A. Nor does it meet any other provisions for Strategic Infrastructure Development set out in Section 37A(2).

## 6.0 Legislative Provisions

### 6.1. Planning and Development Act 2000, as Amended

- 6.1.1. 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)"

- 6.1.2. 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.”

6.1.3. 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.

6.1.4. 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.”

## 6.2. **Electricity Regulation Act 1999, as Amended**

6.2.1. 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.”

- **‘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,

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

- (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.”

## **7.0 Planning Policy**

### **7.1. Project Ireland 2040: National Planning Framework**

#### **7.1.1. National Policy Objective 47:**

“In co-operation with relevant Departments in Northern Ireland, strengthen all-island energy infrastructure and interconnection capacity, including distribution and transmission networks to enhance security of electricity supply.”

#### **7.1.2. 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.”

### **7.2. Regional Spatial and Economic Strategy for the Southern Region**

#### **7.2.1. Regional Policy Objective 96:**

“It is an objective to support the sustainable development, maintenance and upgrading of electricity and gas network grid infrastructure to integrate a renewable energy sources and ensure our national and regional energy system remains safe, secure and ready to meet increased demand as the regional economy grows.”

## 8.0 Assessment

- 8.1. 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 of the Planning and Development Act 2000, as amended, involving amendments, additions and expansion of electricity substation infrastructure.
- 8.2. The prospective applicant contends that the proposed development is similar to a number of previous proposals in other locations where the Board determined that the development did not fall within the scope of section 182A of the Act. In addition to the cases referenced by the prospective applicant (see Section 5.1 above), I also note the following more recent cases which also related to development proposals at existing substations:
- ABP-306383-20: 220kV shunt reactor and associated equipment within the existing Ballyvouskill 220/110kV substation. Co. Cork.
  - ABP-304856-19: Proposed line bay extension within existing 110kV substation, Co. Offaly.
  - ABP-303838-19: Proposed 110kV bay to connect to the existing busbar at Dunmanway 110kV substation, Co. Cork.
- 8.3. While the cases listed above are somewhat comparable, I consider that the Board's determination in case 29S.VC0101 is of particular relevance. The proposed development in that case was a new gas insulated switchgear room and a new control room at an existing 220kV substation in Inchicore, Dublin 8. The Board decided that the proposal did not constitute strategic infrastructure development.
- 8.4. In each of the cases referenced by the prospective applicant and listed above, the Board has exercised some discretion due to the lack of clarity in the formulation and interpretation of section 182A. The Board therefore 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 section 37A(2) criteria do not explicitly apply to cases falling within the scope of section 182A rather than the Seventh Schedule of the Act.

- 8.5. In this case the prospective applicant contends that, given the nature, scale and function of the proposed development and its relationship to the existing substation, the proposed development does not constitute strategic infrastructure under Section 182A and does not meet the criteria contained in section 37A(2).
- 8.6. With reference to the s. 37A(2) criteria, I do not consider the addition of a control room and associated development at the existing Trien substation to be of strategic economic or social importance to the State or Southern Region or that it would contribute substantially to the fulfilment of any objectives of the National Planning Framework or the Regional Spatial and Economic Strategy for the Southern Region. 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 Kerry.
- 8.7. In conclusion, having regard to: the nature and limited scale and extent of the proposed development, which relates to local enhancement of an existing substation; the stated purpose of the 2006 Act, as set out in its long title; and to the criteria for strategic infrastructure development set out in section 37A(2), I conclude that the proposed development does not fall within the scope of section 182A of the Planning and Development Act 2000, as amended, necessitating the making of an application directly to the Board.

## **9.0 Recommendation**

- 9.1. I recommend that EirGrid PLC be informed that the proposed 110kV control room and associated development at the existing Trien 220/110kV electricity substation in the townland of Trienearagh, Co. Kerry, as set out in the plans and particulars received by An Bord Pleanála on the 10<sup>th</sup> March 2020, 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 Kerry County Council.

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**Niall Haverty**

**Senior Planning Inspector**

**12<sup>th</sup> June 2020**