



An
Bord
Pleanála

Inspector's Report

ABP-307073-20

Development	Alterations to a permitted double circuit 110kV electricity transmission line development between substations
Location	Located at Darndale and Belcamp, Dublin 17.
Planning Authority	Fingal County Council
Applicant(s)	Amazon Data Services Ireland Ltd.
Type of Application	Section 146B Alteration Request
Inspector	Ciara Kellett

1.0 Introduction

- 1.1. Amazon Data Services Ireland Limited was granted permission for an electrical transmission development in August 2019 under ABP Ref. 303687. The development comprised of a double circuit 110kV underground transmission line between the Belcamp 220kV/110kV substation and the Darndale 110kV substation covering a distance of c.2km. The applicant has now submitted a Section 146B request seeking alterations to the alignment of the permitted underground transmission line between joint bay 3 and the existing Belcamp substation.

2.0 Site Location and Description

- 2.1. The permitted underground double circuit 110kV transmission cable runs along a route that crosses over the administrative areas of Dublin City Council and Fingal County Council. It commences at the existing 220kV/110kV Belcamp Substation which is located to the north of the R139 road (formerly the N32 road). The R139 road links the M50/M1 motorways to the Malahide Road (R107) to the east, and serves as the administrative boundary between both Councils in this location.
- 2.2. The Belcamp substation is located within the administrative area of Fingal County Council. To the south of the R139 road, within the Dublin City Council administrative area, lies the residential area of Darndale. The Clonshaugh Business & Technology Park is located to the west of this residential area. The applicant's data centres are located within this Business Park and to the south of the Darndale substation.
- 2.3. The nearest European Designated sites are the Baldoyle Bay SAC (Site Code 000199) and the Baldoyle Bay SPA (Site Code 004016) c.4km to the east. The Mayne River which runs parallel to the R139 feeds into the bay.

3.0 Proposed Amendment

- 3.1. The applicant is seeking alterations summarised in the documentation as follows:
 - Alterations to the alignment of the permitted underground transmission line between permitted joint bay 3 and the existing Belcamp substation.

- Associated alterations to adjacent access paths, joint bays, and tie into the existing Belcamp substation.
- Overall the route alignment will be altered by c.2 - 5m to the south where it runs parallel to the Mayne River and c.6 - 7m eastwards where it crosses the Mayne River.
- The distance from the cable trench to the water body is c.7 – 11m where the route runs parallel to the Mayne River.

3.2. The application is accompanied by a Planning and Environmental Report as well as drawings illustrating the change.

3.3. The portion of the route to which alterations are proposed is located north of the R139 road. Works are ongoing on the implementation of the remaining portion of the overall route, but the portion of the transmission line to which the alterations relate has not been commenced.

4.0 Planning History

- **ABP Ref. 303687:** Following the Board's decision that the proposed development was strategic infrastructure (Pre-Application Ref. 300793) permission was granted in August 2019 for the subject development.
- **ABP Ref. VA0014:** The Belcamp 220kV/110kV substation was approved by the Board on the 12th February 2013. The proposal related to electricity transmission infrastructure including 220kV and 110kV substation buildings and associated works within a site of 2.7Ha off the R139 Road.

5.0 The Applicant's Submission

- Note amendments to a previously permitted SID development should be sought under S.146B of the Act.
- It is submitted that proposed alterations are not material and unlikely to have significant effects on the environment, given the limited size and scale of alterations proposed, the location and based on relevant precedents.

- If Board considers alterations are material refer Board to the relevant section of the Planning and Environmental Report. The topics in the original EIAR are reviewed in the context of the proposed alterations.
- Considers that the alterations could not reasonably be expected to have significant effects on the environment or result in an impact on any European site.
- The minor alterations proposed are on foot of detailed design of the cable post planning and on foot of engagement with ESB/EirGrid.
- The proposed alterations do not result in any material change to the function, construction methodology, or design of the development and will not result in any change to the conclusions or mitigation measures already provided within the EIAR and AA Screening/ NIS.
- Relevant precedents include ABP Ref. VM0009 and VM0006.
- Table 5.1 provides a summary of Appendix 1 of the Report which assesses the changes against the topics previously outlined in the EIAR. Concludes that the changes are unlikely to have significant effects and no new considerations arise which were not assessed for the original application.
- Concludes that there is no change to the findings or conclusion of the NIS.

6.0 Legislative Provisions

- 6.1. 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. The European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018 (S.I. No. 296 of 2018) has provided for a number of amendments to Section 146B of the Act and these amendments are reflected in the following outline of the elements of the legislative provisions considered appropriate in the consideration of the subject request. Sections 146B(4)-(8) have not been outlined below.
- 6.2. 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*”. 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”.

- 6.3. 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”.*
- 6.4. Alteration is a material alteration - Section 146B(3)(b) provides that if the Board decides that the making of the alteration would constitute the making of such a material alteration, it shall - *“(i) by notice in writing served on the requester, require the requester to submit to the Board the information specified in Schedule 7A to the Planning and Development Regulations 2001 in respect of that alteration, or in respect of the alternative alteration being considered by it under subparagraph (ii)(II), unless the requester has already provided such information, or an environmental impact assessment report on such alteration or alternative alteration, as the case may be, to the Board, and*
(ii) following the receipt of such information or report, as the case may be, determine whether to —
- (I) make the alteration,*
 - (II) make an alteration of the terms of the development concerned, being an alteration that would be different from that to which the request relates (but which would not, in the opinion of the Board, represent, overall, a more significant change to the terms of the development than that which would be represented by the latter alteration), or*
 - (III) refuse to make the alteration”.*
- 6.5. In respect of Section 146B(3)(b)(i), the Act states at subsection 3(A), (as amended by European Union (Planning and Development) (Environmental Impact

Assessment) Regulations 2018 (S.I. No. 296 of 2018)), that “*where the requester is submitting to the Board the information referred to in subsection (3)(b)(i) , that information shall be accompanied by any further relevant information on the characteristics of the alteration under consideration and its likely significant effects on the environment including, where relevant, information on how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive have been taken into account*”. Subsection (3B) as amended by same, states that “*where the requester is submitting to the Board the information referred to in subsection (3)(b)(i) , that information may be accompanied by a description of the features, if any, of the alteration under consideration and the measures, if any, envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment of the alteration*”.

7.0 Assessment

7.1. Consideration of Materiality

- 7.1.1. As indicated in the preceding section outlining the legislative provisions, the first consideration in relation to this request to alter the terms of ABP Ref.303687-19 is to determine if the making of the alteration would constitute the making of a material alteration of the terms of the development as granted.
- 7.1.2. The original application was subject to an EIA and an AA and included the necessary documentation to enable the Board carry out those assessments. The original application was subject to a Further Information request which included a request to address concerns raised by Fingal County Council and Inland Fisheries Ireland with respect to the method of crossing the Mayne River. In response to that request the applicant clarified the method of river crossing and outlined why the proposed open cut method was the preferable method with an amendment to pipe the water rather than over-pump it. Fingal County Council confirmed they were satisfied with the revised approach subject to appropriate condition.
- 7.1.3. I note that in the revised location for the crossing of the river which is now located c.6 – 7m further east of the original proposal, there is no change proposed to the method of crossing the river. I also note that the proposed alteration in the location of the

underground cable is from the point where it crosses the road and is mainly in the lands parallel to the Mayne River. It is now proposed to run slightly further south of the river.

7.1.4. The applicant refers to other similar cases ABP Ref. VM0009 and ABP Ref. VM0006. I have considered both of those cases and summarise them herein. I consider that the alterations proposed in these cases are more significant than that requested in the subject case.

- **ABP Ref. VM0009:** In January 2016 the Board determined that alterations to the previously approved Clashavoon to Dunmanway 110kV overhead line were not a material alteration. In this case, the proposal included the alteration of 65 out of 227 structures (polesets and angle masts). The largest location move was a lateral alteration of c.16m.
- **ABP Ref. VM0006:** In June 2014 the Board determined that amendments to the previously approved North Kerry 220/110kV High Voltage Transmission System were not a material alteration. The alterations included the laying of a cable in the road over a bridge rather than being bolted to the downstream face of the bridge. It also included crossings being laid in a trench in the road rather than off road. In addition, 8 joint bays which would have been laid in the road would now be laid 6m from the edge of the road and outside the red line for approval.

7.1.5. I am of the opinion having regard to the proposed alterations requested and having considered the proposal as granted under ABP Ref. 303687, that the Board would not have determined ABP Ref. 303687 differently had the route layout drawings as now proposed in the alterations formed part of ABP Ref. 303687 at that application stage. I consider it reasonable to conclude that the proposal subject of the request does not constitute the making of a material alteration of the development as granted under ABP Ref. 303687. 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 in that 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.

7.1.6. 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 alterations; the information on file; the nature, scale and extent of the development granted under ABP Ref. 303687, 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.

7.2. Environmental Impact Assessment

7.2.1. As I outlined above, I consider that the proposed alterations do not constitute the making of a material alteration of the development concerned and in this regard the provisions of Section 146B(3)(a) apply. However if the Board are of the opinion that the proposed alterations would constitute a material alteration, the provisions of Section 146B(3)(b) apply which require that the requester submit to the Board the information specified in Schedule 7A of the Planning and Development Regulations 2001 as amended unless the information has already been provided. I note that the topics considered in the original EIAR have been reviewed in Section 5 and Appendix 1 of the applicant's report and conclude that there would be no additional or increase in the impacts identified. It is concluded that the proposed alterations would not have any significant effects on the environment. I would concur with this opinion. I consider the requester's review of the potential impact arising from the alterations proposed to be reasonable and robust.

8.0 Appropriate Assessment

8.1.1. Under ABP Ref. 303687 the Board completed an Appropriate Assessment Screening exercise in relation to 17 Natura 2000 sites within a 15 km radius of the application site which resulted in 15 of the sites being screened out. The Board then undertook an Appropriate Assessment in relation to the effects of the development proposed under ABP Ref. 303687 on the two sites that were not screened out: the Baldoyle Bay Special Area of Conservation (Site Code 000199), and the Baldoyle Bay Special Protection Area (Site Code 004016).

8.1.2. A NIS was prepared by the applicant and submitted as part of the application. 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. The applicant concludes that there is no change to the findings or conclusions of the NIS. I consider that 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.

- 8.1.3. Having considered the Board's determination on Appropriate Assessment of ABP Ref. 303687, the nature, scale and extent of the alteration relative to the development subject of ABP Ref. 303687, and the information on file (which I consider adequate to carry out AA Screening), 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 the European sites located within a 15 km radius in view of the sites' conservation objectives.

9.0 Recommendation

- 9.1. 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 Ref. 303687.

(Draft Order for the Board's consideration provided below)

DRAFT ORDER

Request received by An Bord Pleanála on the 16th April 2020 from Amazon Data Services Ireland Limited under Section 146B of the Planning and Development Act, 2000, as amended, to alter the terms of a permitted double circuit 110kV electricity transmission line development between substations located at Darndale and Belcamp, Dublin 17, the subject of a permission granted under An Bord Pleanála reference number ABP-303687-19.

WHEREAS the Board made a decision to grant permission, subject to conditions, for the above-mentioned development by order dated 8th August 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:

- Alterations to the alignment of the permitted underground transmission line between permitted joint bay 3 and the existing Belcamp substation.
- Associated alterations to adjacent access paths, joint bays, and tie into the existing Belcamp substation.
- Overall the route alignment will be altered by c.2 - 5m to the south where it runs parallel to the Mayne River and c.6 - 7m eastwards where it crosses the Mayne River.
- The distance from the cable trench to the water body is c.7 – 11m where the route runs parallel to the Mayne River.

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 16th April 2020.

Ciara Kellett
Senior Planning Inspector

29th May 2020