



An
Bord
Pleanála

Inspector's Report ABP 308511-20

Question

Whether the proposed renewing and altering of existing Kilbarry-Knockraha No.2 110kV overhead transmission line is or is not development and, if development, is or is not exempted development.

Location

Townlands of Ballincolly, Ballyvolane, Arderrow, Ballyharoon, Banduff, Poulacurry North, Poulacurry South and Ballinglanna Co. Cork.

Declaration

Planning Authority	Cork City Council
Planning Authority Reg. Ref.	R606/20
Applicant for Declaration	Eirgrid Plc
Planning Authority Decision	None

Referral

Referred by	Cork City Council
Observer(s)	None

Date of Site Inspection

18/02/21

Inspector

Pauline Fitzpatrick

1.0 Site Location and Description

The existing Kilbarry- Knockraha No.2 110kV overhead line (OHL) is located on the northern outskirts of Cork City traversing a mix of urban, semi-rural and agricultural lands between the Kilbarry and Knockraha substations. It has an overall length of 12.5km. The line straddles the administrative boundaries of Cork City Council and Cork County Council. The extent of the line within the Cork City functional area is stated to be c. 7.1km in length extending from End Mast at Kilbarry 110kV substation to Angle Mast 45 in Ballinglanna townland. The line comprises of a mix of steel pylon and wooden polesets.

2.0 The Question

Whether the proposed renewing and altering of the existing Kilbarry-Knockraha No.2 110kV overhead transmission line in the townlands of Ballincolly, Ballyvolane, Arderrow, Ballyharoon, Banduff, Poulacurry North, Poulacurry South and Ballinglanna Co. Cork, is or is not development, and if development, is or is not exempted development. The subject works constitute:

- Paint/corrosion treatment of steel towers
- Replacement of wooden polesets
- Replacement of existing steel intermediate towers with wooden intermediate polesets
- Replacement of insulators and hardware
- Civil works on Tower Shear Blocks
- Ancillary works

3.0 Planning Authority Declaration

3.1. Declaration

The Planning Authority did not issue a declaration and the question was referred directly by the Planning Authority to the Board for a decision under the provisions of Section 5 (4) of the Planning and Development Act 2000, as amended.

3.2. Planning Reports

None

3.2.1. Other Technical Reports

None

4.0 Planning History

I am not aware of any previous planning applications relevant to the route of the OHL.

5.0 Policy Context

5.1. Development Plan

Cork City Development Plan, 2015.

Section 12.23 -12.25 address Electricity Provision and Generation. It notes that regional and national policy promotes the protection and development of the Grid and development proposals in Cork City should not compromise plans for same.

5.2. Natural Heritage Designations

The nearest site to the OHL is Cork Harbour SPA c. 430 metres to the south.

6.0 The Referral

6.1. Referrer's Case

The referral is made by Cork City Council seeking the Board to determine whether the matter arising is or is not development and is or is not exempted development. It contends that the proposal amounts to works/development but works that fall under section 4(1)(g) of the Act – repairing, renewing and altering of existing transmission line. It is not considered that the works would be de-exempted due to the need for EIA or AA

The referral is accompanied by a copy of the application for a Section 5 declaration made by MKO consultants on behalf of Eirgrid Plc which is accompanied by:

- Section 5 Declaration Report
- AA- Screening Report
- EIA – Screening Report
- Plans and drawings.

It is the opinion therein that the proposed works are development and are exempted development under the provisions of Sections 4(1)(g) and 4(1)(h) of the Act.

The case made can be summarised as follows:

- The works are intended to maintain and ultimately safeguard the operational functionality of the line.
- The works will not result in any material changes to the appearance or functionality of the line. All works are within the development envelope of the existing equipment. The replacement of the wooden polesets will be located immediately adjacent to the locations of the in-situ structures on the same alignment and will not be materially different in the context of the overall alignment of the OHL. It does not include for an extension nor an alteration to the functionality of the line in the context of the wider transmission system (eg. no increase in the voltage of the line from the existing 110kV).
- Precedent set under file refs. RL3080 and RL3228.

Note: reference is made to the fact that a concurrent Section 5 Declaration was made to Cork County Council for the remainder of the line in that planning authority area.

7.0 Submissions/Observations

ESB was invited to make a submission

It agreed with the submission made by Eirgrid and requests the Board to issue a section 5 declaration confirming the proposed development constitutes exempted development.

8.0 Statutory Provisions

8.1. Planning and Development Act, 2000, as amended

Section 2(1)

works are defined as any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal...

statutory undertaker means a person, for the time being, authorised by or under any enactment or instrument under an enactment to—

(b) provide, or carry out works for the provision of, gas, electricity or telecommunications services, or

(c) provide services connected with, or carry out works for the purposes of the carrying on of the activities of, any public undertaking;

Section 3 (1) Development means, except where the context otherwise requires, the carrying out of works on, in, over or under land or the making of any material change in the use of any structure or other land.

Section 4 (1)(g) Development consisting of the carrying out by any local authority or statutory undertaker of any works for the purpose of inspecting, repairing, renewing, altering or removing any sewers, mains, pipes, cables, overhead wires, or other apparatus, including the excavation of any street or other land for that purpose.

Section 4(1)(h) Development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure.

Section 4 (4) - Notwithstanding paragraphs (a) , (i) , (ia) and (l) of subsection (1) and any regulations under subsection (2) , development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

9.0 Precedent

RL3080 – Whether the proposed renewing and altering of existing Maynooth - Ryebrook 110kV overhead line is or is not development or is or is not exempted development.

The Board determined that the works came within the scope of Section 4(1)(g) of the Act and were exempted development.

RL3328 – Whether a change in existing structure types (steel intermediate towers being replaced with wooden intermediate polesets) on the Arva-Shankhill 110kV circuit no.1 is or is not exempted development.

The Board determined that the works came within the scope of Section 4(1)(g) of the Act and were exempted development.

10.0 Assessment

10.1. Is or is not development

The proposal entails the renewing and altering of the existing Kilbarry-Knockraha No.2 110kV overhead transmission line in the townlands of Ballincolly, Ballyvolane, Arderrow, Ballyharoon, Banduff, Poulacurry North, Poulacurry South and Ballinglanna Co. Cork and will include:

- Paint/corrosion treatment of steel towers at 12 no. locations
- Replacement of wooden polesets at 14 no. locations which may result in an increase in height of up to 2 metres at certain points along the line dependent on local topographical variation.
- Replacement of existing steel intermediate towers with wooden intermediate polesets at 2 no. locations.
- Replacement of insulators and hardware.
- Civil works on Tower Shear Blocks.
- Ancillary works including replacement or rewiring of anti-climb guards.

I submit that the above constitute works as defined in section 2(1) and come within the definition of 'development' as set out in Section 3(1) of the Act.

10.2. Is or is not exempted development

The proposed works comprise the repairing, renewing and altering of structures and associated apparatus so as to maintain the operational functionality of the existing OHL. The works do not extend to the provision of new infrastructure, the extension of the line, alterations to its functionality, increase in voltage or entail works outside of the development envelope. The works are to be undertaken by Eirgrid which is a statutory undertaker as defined in section 2 of the Act. Therefore I consider that the exempted development provisions of Section 4(1)(g) of the Planning and Development Act, 2000, as amended, are applicable namely that the development consists of the carrying out by a statutory undertaker of works for the purpose of inspecting, repairing, renewing, altering of overhead wires or other apparatus.

Replacement of wooden polesets is proposed at 14 no. locations. In such cases the crossarm, insulators and hardware will either be reused or, alternatively, new crossarms and equipment will be installed. The final appearance of the newly installed polesets would be consistent with the existing structures. The said replacements may result in an increase in height of up to 2 metres at certain points along the line dependent on local topographical variation. Any increase of a wooden poleset as a consequence of the proposed works will be in proportion relative to other structures along the alignment. A typical wooden poleset range in height from 16m to 22 m. I submit that the marginal increase in the height of polesets as detailed above would be largely indiscernible and will not be of visual significance as to give rise to any material planning considerations.

I would also concur with the referrer's view that the replacement of 2 no. steel intermediate towers with wooden polesets is not considered a material change to the OHL. They are to be erected adjacent to the locations of the towers and would be comparable to the other polesets along the route. I submit that the said polesets would be of less visual significance than the masts and, therefore, do not give rise to any material planning considerations.

I consider that the said works proposed would not materially affect the appearance of the structures so as to render their appearance inconsistent with the visual character of the OHL and, therefore, can be seen to accord with the provisions of Section 4(1)(h) of the Act.

10.3. Restrictions on exempted development

10.3.1. As per Section 4(4) of the Act the above exempted development provisions would not apply should an EIA or AA be required for the development.

Environmental Impact Assessment Screening

The existing OHL has a voltage of 110kV and will remain so following the improvement works. Therefore the proposed development does not fall within the range of projects set out in Parts 1 and 2 Schedule 5 of the Planning and Development Regulations 2001, as amended. The projects listed therein pertain to power lines with a voltage of 220 kilovolts or more.

I also submit that class 13(a) which relates to extensions and changes to development is not applicable in that the proposal will not result in an extension or alteration in the functionality of the OHL.

A sub threshold EIA Screening Report accompanies the referral.

Having regard to Schedule 7 of the Planning and Development Regulations, 2001, as amended, I submit:

- The size and design of the project is not significant. It comprises repair works to an existing OHL and will not result in any material changes to the overall appearance or functionality. The duration of the works will be short, therefore construction impacts eg. noise, water, air will be localised and temporary.
- It will not involve significant use of natural resources and does not have the potential to impact on the relative abundance, availability, quality or regenerative capacity of natural resources. Minimal excavation for replacement polesets will be required within the existing development envelope of the OHL.
- It does not have the potential to impact on the absorption capacity of the natural environment. The repair works entail minor alterations to the existing

OHL infrastructure within the existing development envelope. In terms of designated sites I refer the Board to the AA-Screening below

- It will not produce a significant amount of waste. The equipment to be replaced will be recycled or disposed of appropriately.
- It will not result in significant pollution or nuisance. Works will be confined to the development envelope of the existing OHL and will be carried out in accordance with best practice and internal standardised procedures (ESB/IFA Code of Practice)
- It will not result in a risk of major accidents and/or disasters.
- It will not result in any risks to human health.
- It will not have a significant impact when considered in cumulation with other existing and/or approved projects.

I conclude that impacts associated with the works to the existing OHL are not significant and that EIA is not required.

Appropriate Assessment Screening

The referral is accompanied by an AA-Screening report. The Stage 1 AA Screening Report was prepared in line with current best practice guidance and provides a description of the proposed development and identified European Sites within a possible zone of influence of the development.

The AA Screening Report concluded that it can be excluded on the basis of objective evidence, that there will be likely significant effects on European sites from the project alone or in combination with other plans or projects.

Screening for AA – Test of Likely Significant Effects

The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).

The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Area (SAC) and Special Protection Areas (SPA) to assess where it may give rise to significant effects on any European Site.

Description of Development

The development and development site are as described above and are set out in Section 2 of the AA-Screening Report.

The proposed works will entail:

- Access for heavy equipment.
- Ground excavation for replacement polesets. Poles to be installed to a minimum depth of 2.3 metres
- Removal of steel work from the towers to be replaced by polesets
- Paint/Corrosion treatment of steel towers will require an impervious sheet being laid on the ground under the mast to prevent from paint dripping to the soil.
- Pouring of concrete for raising of shear blocks of steel towers

Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:

- Construction related pollution
- Habitat/species disturbance

The development site is not located in or immediately adjacent to a European site. the closest site is the Cork Harbour SPA (site code 004030) c. 430 metres to the south at the nearest point.

A summary of European Sites that occur within 15km of the proposed development is presented in the table below.

The proposed works are small scale and are associated with existing OHL infrastructure. No instream or bankside works are required. There will be no loss of supporting habitat for SCI species and no potential for disturbance/displacement.

Mitigation Measures

No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

Screening Determination.

Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European Site Nos. 004030, 001058 or 002170 or any other European site, in view of the sites' Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

This determination is based on the distance of the proposed development from the European Site and demonstrated lack of any hydrological connections.

Summary Table of European Sites				
European Site	Distance to proposed development. Source, pathway, receptor	Possible Effects alone	In combination effects	Screening conclusions
Cork Harbour SPA (site code 004030) www.npws.ie/protected-sites/spa/004030	433 metres to south at nearest point. No direct surface water connectivity	Works are small in scale related to existing line infrastructure. No instream or bankside works required. No potential for significant effect as a result of disturbance/displacement	No effect	Screened out need for AA
Great Island Channel SAC (site code 001058) www.npws.ie/protected-sites/sac/001058	c.2.4km to south-east. No hydrological connection	Works are small in scale related to existing line infrastructure. No possibility of effects	No effect	Screened out need for AA
Blackwater River (Cork/Waterford) SAC (site code 002170) www.npws.ie/protected-sites/sac/002170	c. 9.1km to north. No hydrological connection	Works are small in scale related to existing line infrastructure. No possibility of effects	No effect	Screened out need for AA

10.4. Restrictions on Exempted Development - Conclusion

I submit that EIA and AA are not required for the development and that the restrictions on exempted development as set out in section 4(4) of the Act are not applicable.

11.0 Recommendation

11.1. I recommend that the Board should decide this referral in accordance with the following draft order.

WHEREAS a question has arisen as to whether the proposed renewing and altering of the existing Kilbarry-Knockraha No.2 110kV overhead transmission line in the townlands of Ballincolly, Ballyvolane, Arderrow, Ballyharoon, Banduff, Poulacurry North, Poulacurry South and Ballinglanna Co. Cork, is or is not development, and if development, is or is not exempted development. The subject works constitute -

- Paint/corrosion treatment of steel towers
- Replacement of wooden polesets
- Replacement of existing steel intermediate towers with wooden intermediate polesets
- Replacement of insulators and hardware
- Civil works on Tower Shear Blocks
- Ancillary works

AND WHEREAS Eirgrid PLC of The Oval, 160 Shelbourne Road, Ballsbridge, Dublin c/o MKO, Tuam Galway requested a declaration on the said question from Cork City on the 6th day of October, 2020;

AND WHEREAS Cork City Council referred this request for a declaration to An Bord Pleanála on the 22nd day of October, 2020:

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to –

- (a) sections 2(1), 3(1), 4(1)(g), 4(1)(h) and 4(4) of the Planning and Development Act, 2000, as amended,
- (b) the submissions made by the parties to the referral,
- (c) the nature, extent and scope of the works, and
- (d) the report of the planning inspector:

AND WHEREAS An Bord Pleanála has concluded that:

- (a) EirGrid PLC is a “statutory undertaker” within the meaning of the Planning and Development Act, 2000, as amended,
- (b) the change in structure types, comprising the replacement of steel towers with wooden polesets, in addition to replacement of wooden polesets, paint/corrosion treatment of steel tower, replacement of insulators and hardware and civil works on tower shear blocks constitute works as defined and is, therefore, “development” within the meaning of section 3 of the said Act,
- (c) the proposed works form part of the renewing and altering of the Kilbarry-Knockraha No. 2 110kV transmission line and are being undertaken as part of the statutory undertaker’s routine function associated with transmission infrastructure,
- (d) the proposed wooden polesets are considered to be of less visual significance than the 2 no. steel towers being replaced and do not give rise to any material adverse planning considerations,
- (e) the proposed replacement of wooden polesets which may result in an increase in height of up to 2 metres at certain points would not be

of visual significance and do not give rise to any material adverse planning considerations, and

- (f) the proposed works come within the scope of section 4(1)(g) of the said Act which facilitates, inter alia, the altering and renewing of apparatus by a statutory undertaker:

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (4) of the 2000 Act, as amended, hereby decides that the said proposed renewing and altering of the existing Kilbarry-Knockraha No.2 110kV overhead transmission line is development and is exempted development.

Pauline Fitzpatrick
Senior Planning Inspector

April, 2021