



An  
Bord  
Pleanála

## Inspector's Report

### ABP-309291-21

#### Development

Section 146B application for alterations to An Bord Pleanála Case Reference ABP-303568-19 for a proposed electrical substation and associated 110kV and MV infrastructure required to connect ground mounted solar PV generation to the electricity transmission system

#### Location

Gillinstown, Duleek, Co. Meath

#### Planning Authority

Meath County Council

#### Applicant

Highfield Solar Limited

#### Type of Application

Section 146B: Request to alter previously approved Strategic Infrastructure project

#### Inspector

Niall Haverty

## **1.0 Introduction**

- 1.1. Highfield Solar Limited ('the requester') has requested that the Board exercise its powers under section 146B of the Planning and Development Act 2000, as amended ('the Act'), to alter the terms of approval for the development of a new 110kV GIS substation and associated development at Gillinstown, Duleek, Co. Meath which was approved by the Board following an application under the provisions of section 182A of the Act (Ref. ABP-303568-19).

## **2.0 Planning History**

### **2.1. Substation Approval (ABP-303568-19)**

- 2.1.1. The requester was granted approval by the Board on 22<sup>nd</sup> July 2019 for development consisting of:

- an electrical substation and associated 110kV and MV infrastructure required to connect the permitted ground-mounted solar PV generation to the electricity transmission system;
- lightning protection masts (17.6m high);
- perimeter security fencing (palisade fencing with a height of 2.4-2.6m);
- CCTV cameras (5m max. height);
- access tracks;
- 110kV end masts;
- underground cabling;
- temporary construction compound;
- drainage infrastructure and all associated ancillary site development work.

### **2.2. Previous Section 146B Alteration (ABP-308620-20)**

- 2.2.1. On the 24<sup>th</sup> December 2020 the Board decided that proposed alterations to the footprint dimensions of the approved GIS substation building and associated compound would not result in a material alteration to the terms of the development

and therefore altered the decision so that the approved development was altered in accordance with the plans and particulars submitted.

**2.3. Associated Solar Farm Permission (ABP Ref. PL17.248146; Reg. Ref. LB/160898)**

- 2.3.1. The substation development to which this section 146B request relates is associated with a permitted solar farm.
- 2.3.2. Permission was originally sought to construct a Solar PV Energy development with a total site area of c. 150 hectares, to include two electrical substation buildings and associated compounds, electrical transformer and inverter station modules, storage modules, Solar PV panels ground mounted on support structures, access roads and internal access tracks, spare parts storage container, fencing, electrical cabling and ducting, including undergrounding of existing electrical cabling, CCTV and other ancillary infrastructure, additional landscaping and habitat enhancement as required and associated site development works at Garballagh, Thomastown, Gillinstown and Downestown, Duleek, Co. Meath.
- 2.3.3. Following a third party appeal, the Board issued a split decision on 8<sup>th</sup> March 2019, granting permission for the western solar array and associated development in the townlands of Garballagh, Thomastown and Gillinstown (referred to as Site 1) and refusing permission for the eastern solar array and associated development in the townland of Downestown (referred to as Site 2).
- 2.3.4. Condition 3(a) of the Board's Order stated that the 110kV substation shall be omitted and shall form part of a separate planning application to the planning authority or the Board as appropriate. As noted above, the 110kV substation development was subsequently approved following an application under s182A (Ref. ABP-303568-19).

**3.0 Proposed Alteration**

- 3.1. The proposed alteration, as set out in the requester's cover letter dated 22<sup>nd</sup> January 2021, comprises the replacement of an existing steel angle tower with a new Line Cable Interface Mast to facilitate the connection of underground cables from the approved substation to the overhead lines.

3.2. The request was accompanied by a cover letter and 2 No. drawings. These comprise a Site Layout Plan, and an ESB drawing of a 'Single Circuit L/C Interface Tower with Shieldwire'.

## **4.0 Requester's Submission**

4.1. The requester's submission can be summarised as follows:

- The grid connection method requires the existing overhead line to be broken and routed through the GIS substation via buried cables. Two 110kV end masts, also known as Line Cable Interface Masts (LCIMs), are required to connect the buried cable to the overhead lines.
- The requester's intention was to modify an existing angle tower with the required equipment/structures to facilitate connection of the cable. However, analysis requested by Eirgrid, the Transmission System Operator (TSO), and undertaken by ESBI, has indicated that the tower is an older type that cannot be suitably modified in compliance with Eirgrid safety requirements.
- The TSO's required solution is replacement of the existing angle tower with a new LCIM.
- The LCIM will be located within the planning boundary, adjacent to the existing tower, which will be decommissioned and removed.
- This is essentially a like-for-like replacement of a tower of similar construction. There will be no change to the impacts from a planning perspective.
- The requester submits that the proposed amendment does not constitute a material amendment and requests confirmation of same from the Board.

4.1.1. The requester states that the amendments to building dimensions that were deemed non-material amendments under the recent section 146B application (ABP-308620-20) are included in the updated Site Layout Plan submitted.

## **5.0 Legislative Provisions**

5.1. Section 146B(1) of the Planning and Development Act 2000, as amended, provides that, subject to subsections (2) to (8) and section 146C, the Board may, on the

request of any person who is carrying out or intending to carry out a permitted strategic infrastructure development, alter the terms of the development.

**5.2. *Would the Alteration be a Material Alteration?***

- 5.2.1. Subsection (2)(a) states that as soon as practicable after the making of such a request, the Board shall make a decision as to whether the making of the alteration to which the request relates would constitute the making of a material alteration of the terms of the development concerned. Before making such a decision, subsection (2)(b) states that 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.

**5.3. *Alteration Would not be a Material Alteration***

- 5.3.1. Under subsection (3)(a), 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 accordingly and notify the person who made the request and the planning authority of the alteration.

**5.4. *Alteration Would be a Material Alteration***

- 5.4.1. Under subsection (3)(b), if the Board decides that the making of the alteration would constitute the making of such a material alteration, it shall:
- (i) require the requester to submit to the Board the information specified in Schedule 7A to the PDR 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.

5.4.2. Subsection (3A) provides 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 EIA Directive have been taken into account. Subsection (3B) also provides that said 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.

5.4.3. Subsection (4) requires that, before making a determination under subsection (3)(b)(ii), the Board shall determine whether the extent and character of the alteration requested, and any alternative alteration it is considering are such that the alteration, were it to be made, would be likely to have significant effects on the environment (and, for this purpose, the Board shall have reached a final decision as to what is the extent and character of any alternative alteration the making of which it is so considering).

5.4.4. Subsections (4A)(a) – (c) relate to the timeframe within which the Board shall make its determination under subsection (4) unless exceptional circumstances apply.

5.4.5. Under subsection (5), if the Board determines that the making of either kind of alteration referred to in subsection (3)(b)(ii):

(a) is not likely to have significant effects on the environment, it shall proceed to make a determination under subsection (3)(b)(ii), or

(b) is likely to have such effects, the provisions of section 146C shall apply.

- 5.4.6. Under subsection (6) if, in a case to which subsection (5)(a) applies, the Board makes a determination to make an alteration of either kind referred to in subsection (3)(b)(ii), 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, of the alteration.
- 5.4.7. Subsection (7) sets out the matters that the Board shall have regard to in making a determination under subsection (4), while subsection (8) sets out provisions for the making of submissions or observations before a determination under subsection (3)(b)(ii) or (4) is made.

## **6.0 Board Correspondence**

- 6.1. The Board informed Meath County Council of the request received in a letter dated 28<sup>th</sup> January 2021. A copy of the request was enclosed for their information, asking that it be made available for public inspection.
- 6.2. The Planning Authority was not invited to make a submission at this stage.

## **7.0 Assessment**

- 7.1. There are two stages to be considered in assessing a request under section 146B. The first stage is whether the proposed alteration would constitute a material alteration of the terms of the development concerned? If the Board decides that it would not constitute a material alteration, it shall alter the planning permission/approval accordingly. If, however, the Board decides that it would constitute a material alteration, then the second stage applies and the Act sets out the procedure to be followed in determining if the proposed alteration would have significant effects on the environment and other related matters.
- 7.2. **Consideration of Materiality**
- 7.2.1. The proposed alteration relates to the replacement of an existing angle tower with a new angle tower (of a type referred to as a Line Cable Interface Mast) to facilitate the connection of the approved 110kV GIS substation (ABP-303568-19) by means of underground cable to the overhead 110kV powerlines.

- 7.2.2. The existing 110kV powerline that it is intended to connect to is generally carried on wooden double pole-sets, with the existing steel angle tower located immediately north east of the approved substation compound where there is a change in direction of the powerline. The approved substation development includes the replacement of one of the wooden pole-sets with an angle tower (i.e. one of the two LCIMs), while the existing angle tower was to be used as the second LCIM.
- 7.2.3. The proposed alteration is stated to have resulted from analysis of the existing angle tower which indicated that it was not capable of being modified for use as an end mast/LCIM while complying with Eirgrid safety requirements. The requester states that the replacement of the angle tower is a required solution by the Transmission System Operator (i.e. Eirgrid).
- 7.2.4. The proposed LCIM would be located c. 13m west of the existing angle tower, within the 'red line' application site boundary for the substation development. The existing angle tower would be decommissioned and removed. The proposed LCIM is a lattice steel structure, similar in design and footprint to the existing angle tower, with a max. height of 21.5m. It features HV cable trunking and a platform located at roughly one third of its height where the cables are connected with associated capacitors, surge arrestors and cable sealing ends.
- 7.2.5. The drawing entitled 'Figure 2.5.2: 110kV GIS Station and IPP Compound Elevations', which was submitted with the substation application (ABP-303568-19), shows the existing 110kV angle tower and the approved 110kV angle tower which will replace a wooden double pole set. Although the heights of the angle towers are not dimensioned on that drawing, they scale as c. 22m.
- 7.2.6. With regard to potential impacts on residential or visual amenity, I note that there will be little or no increase in height or difference in appearance between the existing and proposed angle tower/LCIM. In that regard I would agree with the requester that it can be considered a 'like-for-like' replacement. Having regard to the substantial separation distances of the substation development from the nearest residential dwellings and public roads<sup>1</sup>, the relatively flat topography and the layers of screening

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<sup>1</sup> The Inspector's Report for ABP-303568-19 states at Section 3.1.3 that "The closest public roads to the application site are Downestown Road, which is c. 300m east of the site boundary (and c. 500m east of the substation location), and the R150 Regional Road, which is c. 900m to the south. The closest dwelling, which is located within the same landholding, is located c. 260m north of the site, while the closest 'non-involved'



provided by existing mature hedgerows and treelines, I do not consider that the c. 13m westward movement of the angle tower will be readily discernible from outside of the solar farm site and therefore no material visual impact will arise. Some additional excavations will be required for the foundations for the replacement angle tower, however these will be close to the substation compound where similar excavations and construction works will be undertaken at the same time. The nature and scale of these additional works is not of a level that I would consider to result in additional noise, dust or air emissions of a material nature. Consequently, and having regard to the significant separation distances to the nearest residential receptors, I do not consider that the proposed alteration would result in any material impacts on residential amenity.

- 7.2.7. The construction of a new angle tower and the removal of the existing angle tower is likely to result in some additional HGV trip generation during the construction phase due to the additional construction materials required and additional excavation works. Having regard to the scale of the proposed alteration relative to the approved substation development and the associated permitted solar farm, I do not consider that the additional traffic movements will be material in nature. I note in this regard that Condition 6 of ABP-303568-19 requires the submission of a Construction Management Plan to include construction traffic management measures. During the operational phase, the proposed alteration would not result in any additional traffic movements.
- 7.2.8. With regard to surface water management, the proposed angle tower is an open lattice structure, which will not collect rainwater. As the existing angle tower will be removed, it appears that there will be no net increase in hard surfaces at the site and therefore no material impacts on surface water are likely to arise. With regard to flood risk, as outlined in Section 8.5 of the Inspector's Report in case ABP-303568-19, the substation site is located outside of any area identified as being subject to flood risk and the proposed alteration would not, therefore, result in any material change to flood risk.

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dwelling is located on the Downestown Road at a minimum distance of c. 400m from the proposed substation location."

### **7.3. Conclusion**

- 7.3.1. In conclusion, I consider that no new or materially different considerations arise from the proposed alteration which were not considered in the assessment undertaken in the s182A application for approval of the substation development (ABP-303568-19).
- 7.3.2. I am of the opinion, having fully considered the proposed alteration and the development as approved under ABP-303568-19, that the Board would not have determined the proposal differently had the replacement of the existing angle tower with a new angle tower as proposed in the alteration formed part of said application. In that regard, I consider it reasonable to conclude that the making of the alteration that is the subject of this request would not constitute the making of a material alteration of the development as approved under ABP-303568-19.
- 7.3.3. Finally, I have considered the provisions of s146B(2)(b) which provides for the invitation of submissions from persons, including the public, at the Board's discretion. Having considered the nature, scale and extent of the proposed alteration, the information on file and the nature, scale and extent of the development approved under ABP-303568-19 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 determining the matter.

### **8.0 Appropriate Assessment**

- 8.1. The application for the substation development (ABP-303568-19) was accompanied by a Natura Impact Statement. Notwithstanding this, the Board completed an Appropriate Assessment Screening exercise and concluded that the substation development, 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, and that a Stage 2 Appropriate Assessment was not, therefore, required. In coming to that conclusion, the Board considered, inter alia, the submitted Appropriate Assessment Screening Report, which related to both the substation development and the permitted solar farm development (ABP Ref. PL17.248146; Reg. Ref. LB/160898). Similarly, in the consideration of the earlier solar farm proposal, an Appropriate Assessment screening determination was made, with the same conclusion.

- 8.2. Having considered the Board's determination on Appropriate Assessment in case ABP-303568-19, and having regard to the nature and limited scale and extent of the proposed alteration relative to the development that was approved under ABP-303568-19, the nature of the receiving environment together with the distance to the nearest European sites, no additional Appropriate Assessment issues arise and it is not considered that the proposed alteration to the approved development would be likely to have a significant effect individually or in combination with other plans or projects on any European sites.

## **9.0 Recommendation**

- 9.1. I recommend that the Board decides that the making of the alteration that is the subject of this request does not constitute the making of a material alteration of the terms of the development that was approved by the Board under reference number ABP-303568-19.
- 9.2. A Draft Order for the Board's consideration is provided overleaf.

## **DRAFT ORDER**

**REQUEST** received by An Bord Pleanála on the 26<sup>th</sup> day of January 2021 from Highfield Solar Limited under section 146B of the Planning and Development Act, 2000, as amended, to alter the terms of a strategic infrastructure development comprising a proposed electrical substation and associated 110kV and MV infrastructure required to connect ground mounted solar PV generation to the electricity transmission system and associated development at Gillinstown, Duleek, Co. Meath, which was the subject of an approval under An Bord Pleanála reference number ABP-303568-19.

**WHEREAS** the Board made a decision to approve, subject to conditions, the above-mentioned development by order dated the 22<sup>nd</sup> day of July 2019,

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

**AND WHEREAS** the proposed alteration is described as follows:

- Construction of a new Line Cable Interface Mast to replace an existing angle tower, which will be decommissioned and removed, in order to facilitate the connection of the approved substation development to the 110kV overhead lines.

**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 approval,

**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 abovementioned decision so that the approved development shall be altered in accordance with the plans and particulars received by An Bord Pleanála on the 26<sup>th</sup> day of January 2021 for the reasons and considerations set out below.

### **MATTERS CONSIDERED**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard.

### **REASONS AND CONSIDERATIONS**

Having regard to:

- (i) the nature and scale of the substation and associated development approved by An Bord Pleanála under Reference Number ABP-303568-19 for this site,
- (ii) the examination of the environmental impact, including in relation to European Sites, carried out in the course of that application,
- (iii) the limited nature and scale of the proposed alteration when considered in relation to the overall approved development,
- (iv) the absence of any significant new or additional environmental concerns (including in relation to European Sites) arising as a result of the proposed alteration, and
- (v) the report of the Board's Inspector, which is adopted,

It is considered that the proposed alteration would not be material. In accordance with section 146B(3)(a) of the Planning & Development Act, as amended, the Board hereby makes the said alteration.

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Niall Haverty  
Senior Planning Inspector  
12<sup>th</sup> February 2021