



An
Bord
Pleanála

Inspector's Report ABP-309446-21

Development	Upgrading of the existing 110V circuit between the Binbane to Cathaleen's Falls 110kV substations.
Location	Tullinlough, Glenties to Ballyshannon, County Donegal.
Planning Authority	Donegal County Council
Prospective Applicant	Eirgrid plc.
Type of Request	Section 182E request for SID Preapplication consultation – whether project is or is not strategic infrastructure development.
Inspector	Karla Mc Bride
Date of site inspection:	24 th April 2021

1.0 Introduction

- 1.1. Eirgrid plc. requested Pre-Application Consultations under Section 182E of the Planning and Development Act, 2000, as amended, for the proposed upgrading of the existing 110kV circuit between Binbane 110kV substation at Tullinlough and Cathleen's Falls 110kV substation at Ballyshannon, Co. Donegal. Pre-Application Consultations took virtually place between An Bord Pleanála (the Board) and the prospective applicant on 25th May 2021(see appended signed Record).
- 1.2. The primary purpose of the meeting was to address the issue of whether or not the proposed development constitutes strategic infrastructure for the purposes of the 2000 Act, as amended by the Planning and Development (Strategic Infrastructure) Act, 2006, and to consider matters relating to the proper planning and sustainable development of the area or the environment which may have a bearing on the Board's decision, and procedures involved in making the any future application.
- 1.3. This Report provides an overview of the proposed project, a summary of the meeting and the advice provided by the Board and the legislative provisions.

2.0 Site Location

- 2.1. The Cathleen's Falls 110kV substation is located on the outskirts of Ballyshannon town and the Binbane 110kV substation occupies an elevated peatland location in Tullinlough to the S of Glenties in County Donegal. The existing 110kV circuit traverses a rural area, the SE section between Ballyshannon and Donegal town mainly shadows the N15, whilst the NW section from Donegal town to Tullinlough travels cross country. The route travels close to or traverses several European sites (incl. Donegal Bay SPA & SAC, Lough Eske & Ardnamona Wood SAC, Meenaguse/Ardbane Bog SAC, and Lough Nillan Bog SPA). It also crosses designated sensitive landscapes and there are several features of archaeological and cultural heritage interest in the vicinity. There are several dispersed agricultural buildings and dwelling houses along the route.

3.0 Proposed development.

The proposed development would comprise upgrading the existing 110kV circuit between the Binbane and Cathleen's Falls 110kV substations over a distance of c.45km. The prospective applicant stated that the current network in the NW region does not have the necessary capacity to accommodate future needs and it is proposed to replace the older apparatus with modern fit for purpose equipment.

The proposed upgrade would include:

- Replacing the existing conductor (from 200mm² to 430mm² ACRS)
- Replace existing towers at 19 x locations.
- Replace existing pole-sets at 106 x locations.
- Additional works (incl. stays, suspension clamps & strain assemblies).
- Associated site works

4.0 Prospective applicants' case

- 4.1. The works are of a relatively routine nature comprising the upgrading of an existing line and not the construction of a new line. The applicants are of the opinion, therefore, that the works proposed would not constitute strategic infrastructure development.
- 4.2. It is further considered that the proposed works would generally constitute exempted development pursuant to section 4(1)(g), Planning and Development Act 2000 (as amended) but for the applicants' appropriate assessment screening that has concluded that Stage 2 Appropriate Assessment is required. As such a planning application, including a Natura Impact Statement, will be submitted to the relevant competent authority as directed by An Bord Pleanála.
- 4.3. The general scope of the proposed works is described in the applicants' submission.
- 4.4. The prospective applicant submits that the proposed development should not be deemed a SID.

5.0 Pre-Application Consultations

- 5.1. One Consultation meeting was held virtually via MS Teams on 25th May 2021.
- 5.2. The prospective applicant described the site and surroundings, identified the need for the proposed development and outlined the main elements of the proposed works. The Board representatives identified several areas of concern (incl. potential impacts on the landscape, ecology and freshwater pearl mussel) and the relationship to European sites.
- 5.3. The Board's advice to the prospective applicant during the pre-application consultation meetings is summarised below:
 - (a) Consult with the NPWS and IFI in relation to potential impacts on the European sites that may have an aquatic or mobile connection to the site.
 - (b) A comprehensive and detailed NIS should be prepared having regard to the presence of European sites in the surrounding area.
 - (c) Give consideration to the effects of the excavations on water quality relative to the Freshwater pearl mussel catchment around Lough Eske.

6.0 Legislative provisions

- 6.1. Under section 182A(1) of the 2000 Act (inserted by section 4 of the 2006 Act) where a person (hereafter referred to as the 'undertaker') intends to carry out development comprising or for the purposes of electricity transmission (hereafter referred to in this section and section 182B as 'proposed development'), the undertaker shall prepare, or cause to be prepared, an application for approval of development under section 182B and shall apply to the Board for such approval accordingly.

Subsection (9) states:

In this section '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.*

In section 2(1) of the Electricity Regulation Act, 1999, “transmission” is defined in relation to electricity as meaning:

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 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.

7.0 Assessment

- 7.1. While not explicitly stated in the pre-application documentation the Binbane to Cathaleens Falls 110kV circuit, by reference to the statutory definition set out at Section 3.1 above, is clearly part of the transmission network for the purposes of the Planning Act.
- 7.2. The Board will note, in making decisions on strategic infrastructure pre-application consultation requests under section 182E in relation to works to electricity transmission infrastructure of a relatively minor nature, and in the context of the lack of clarity in the interpretation of section 182A, that it has exercised some discretion. Specifically, it has referenced the broad definition of the Strategic Infrastructure Act, *developments of strategic importance to the State*, and the criteria contained in section 37(A)(2) to determine such matters (noting that these criteria are not expressly cited for cases coming forward under s.182A).
- 7.3. The decision in case Ref. 10.VC0108, June 2018, is of particular relevance. The proposed development in this case was the refurbishment of the Great Island (County Wexford) – Kilkenny City 110kV line. It involved both an uprate of the line

and extensive works, including largescale replacement of both steel towers and wooden pole sets. The Board decided that it did not constitute strategic infrastructure development. The Inspectors Report in the case also documents previous relevant decisions – Refs. VC0071; VC0077; VC0079; VC0080; and VC0086. All of these involved line uprates and in cases the Board decided that the proposed development was not strategic infrastructure.

- 7.4. The 2017 and 2019 decisions under case Ref. VC106 and ABP-305276-19 are also relevant. In these cases, no uprate was involved but extensive refurbishment works were to be undertaken. Again, the Board decided that they were not strategic infrastructure.
- 7.5. In the current case the prospective applicants have indicated their opinion that the proposed development does not constitute strategic infrastructure under s.182A given that the proposed works are of a minor routine nature.
- 7.6. Having regard to the stated purpose of the 2006 Act as set out in the long title and to the general description and scale of strategic infrastructure development set out in section 37A (2), I consider that the proposed development as described would not constitute strategic infrastructure. I conclude, therefore, that it 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.

8.0 Recommendation

- 8.1. I recommend that Eirgrid plc. be informed that the proposed development, consisting of uprating the existing Binbane to Cathaleen's Falls 110kV circuit, as set out in the plans and particulars received by An Bord Pleanála on the 16th February 2021, 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 Donegal County Council.

Karla Mc Bride
Senior Planning Inspector
4th June 2021