



An
Bord
Pleanála

Inspector's Report ABP-311034-21

Development

Section 146B application for amendments to An Bord Pleanála case reference ABP-306204-19 for an approved windfarm grid connection comprising a new 110kV electrical substation and underground 110kV electrical cables from Mountphilips substation to previously permitted Upperchurch Windfarm.

Location

Mountphilips, Co. Tipperary

Planning Authority

Tipperary County Council

Requester

Ecopower Developments Limited

Type of Application

Application under Section 146B of the Planning and Development Act, 2000 (as amended) to alter previously approved Strategic Infrastructure Development.

Date of Site Inspection

20th May 2021

Inspector

Donal Donnelly

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1.0 Introduction

- 1.1. The Board decided on 8th February 2021 to approve an application by Ecopower Developments Limited under Section 182A(1) of the Planning and Development Act, 2000 (as amended) for a 110kV electrical substation, underground 110kV cabling and ancillary works for the purposes of connecting the consented Upperchurch Windfarm to an existing 110kV overhead line at Mountphilips, Co. Tipperary.
- 1.2. Pursuant to Section 146B of the Planning and Development Act, 2000 (as amended), Ecopower Developments Limited now requests that the Board alter the terms of this strategic infrastructure development approved under ABP-306204-19.

2.0 Site Location and Description

- 2.1. The approved grid connection extends from the 110kV electrical substation in the townland of Mountphilips over a distance of approximately 30.5km to the permitted substation at the Upperchurch Windfarm. The approved substation at Mountphilips will be located to the east of the existing Killonan to Nenagh 110kV overhead line. Access to the substation will be through a number of agricultural fields from a new access on a local road. The cable route for the most part will continue along the R503 Regional Road.
- 2.2. The area surrounding the proposed grid connection is characterised mainly by upland rolling hills and valleys forming part of the Slieve Felim Mountains to the south and Slivermines Mountains to the north. The main land uses along the route of the grid connection are hill farming and forestry. The R503 is the main road connecting Thurles to the east to Newport and on to Limerick City in the west.

3.0 Planning History

Tipperary County Council Reg. Ref: 13/510003 (PL22.243040)

- 3.1.1. Ecopower Development Ltd. was granted a ten-year permission in August 2014 for 22 wind turbines up to 126.6m in height, 2 no. meteorological masts with wind measuring equipment attached, access roads, electrical substation compound, control buildings and ancillary works.

An Bord Pleanála Ref: ABP-301959-18

- 3.1.2. On 17th December 2018, the Board refused to approve an 110kV electrical substation and 110kV underground electrical cabling from the proposed substation to an already consented windfarm 110kV electrical substation and all ancillary works between the townland of Mountphilips, near Newport, and the townland of Knockcurraghbola, near Upperchurch. The grid connection was to continue mostly off road through lands to the north of, and roughly parallel to the R503.

Tipperary County Council Reg. Ref: 20/1048

- 3.1.3. Permission granted in December 2020 for amendments to Upperchurch Windfarm electrical substation, authorised under Reg. Ref: 13/510003 (PL22.243040). The amendments consist of a) increase in size of the substation compound yard; b) change to the layout of electrical equipment in the substation compound yard; c) change in size, design and increase in height of the two control buildings; and d) ancillary works.

An Bord Pleanála Ref: ABP-306204-19

- 3.1.4. On 8th February 2021, the Board approved a new 110kV substation, underground 110kV cabling and ancillary works to connect the already consented Upperchurch windfarm substation (PL22.243040), to the existing 110kV overhead line.

Tipperary County Council Reg. Ref: 18/600913 (ABP-303634-19)

- 3.1.5. The Board granted permission to Ecopower Developments Limited on 8th February 2021 for Upperchurch Windfarm related works to include 17.9km of internal windfarm cabling; haul route works; 18m high telecoms relay pole; realignment of windfarm roads; change of use of agricultural access to agricultural and forestry; and ancillary works.

An Bord Pleanála Ref: ABP-310171-21

- 3.1.6. Application currently with the Board for amendments to the previously authorised Upperchurch windfarm (PL22.243040) to increase the size of the wind turbines and amend the height and design of the meteorological mast.

4.0 Proposed Alteration

4.1. The proposed alteration, as set out in the requester's cover letter and drawings received by the Board on 4th August 2021, comprises the following:

- Change of location and interior layout and removal of windows from substation control building within compound,
- Rearrangement of outdoor electrical equipment and apparatus within compound,
- Rearrangement of cabling connecting into and out of compound to suit the new control building and equipment/ apparatus layout.

5.0 Requester's Submission

5.1. The requester's submission also provides Schedule 7A information that includes details on the requested alterations in the context of the description and physical characteristics of the approved development and requested alterations; the location and geographical environmental sensitivity; and the significance of the approved grid connection impact on the various aspects of the environment.

5.2. The main points raised under each of the above criteria set out in the requester's submission can be summarised as follows:

- Altered substation footprint will remain the same in plan area as the approved compound. There will be no residues, extra emissions, additional waste streams, increase in land take or additional loss of terrestrial habitat.
- No changes are required to the remainder of the grid connection development as approved, or to the remainder of the windfarm development.
- Requested alterations relate to the redesign or the layout of the substation compound and the realignment of the underground cabling immediately adjacent to the eastern and western boundaries of the compound.
- There have been no changes to the circumstances of the location of the substation since the Board assessed the suitability of the site in 2020.
- There are no residents in close proximity to Mountphilips substation – nearest dwelling is 385m from the compound.

- Mountphilips substation is not within an environmentally sensitive area.
- National policy to encourage the development of renewable electricity has been strengthened further since planning was granted by the Board in February 2021 – The Climate Action and Low Carbon (Amendment) Bill 2021 was approved by Government on 23rd March 2021.
- No change to Tipperary County Council policy since the Board granted permission in February 2021.
- Requested alterations will not change the impact of the approved development on population or human health, biodiversity, water, land, soils, air, climate, material assets, cultural heritage and the landscape. Separation distances will remain the same and there will be no changes to access, boundaries, drainage, storage of construction materials, or footprint, scale and nature of development.
- No changes to the vulnerability of Mountphilips substation to major accidents, natural disasters or climate change.
- Requested alterations do not require any changes to the end masts or works in close proximity to the Killonan-Nenagh 110kV overhead line – potential for cumulative impacts can be excluded.
- Requested alterations would be consistent with the pattern, form, scale and nature of the approved substation compound.
- Significance of impacts on the various aspects of the environment of the grid connection incorporating the requested alterations will not be different to the effects of the grid connection as approved.

6.0 Legislative Provisions

- 6.1. Under Section 146B(1) of the Planning and Development Act, 2000 (as amended), the Board may alter the terms of a permission for a strategic infrastructure development on request of the person intending to carry out the development.
- 6.2. Section 146B(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.” Section 146B(2)(b) provides for the Board to invite submissions and the Board shall have regard to any submission made.

6.3. Under Section 146(3)(a), the Board shall alter the planning approval if it decides that the making of the alteration would not constitute the making of a material alteration in the terms of the development concerned. If the Board decides under Section 143(3)(b) that the making of the alteration would be material, it shall (i) require the requester to submit to the Board the information specified in Schedule 7A or an EIAR, and (ii) 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.

6.4. Section 146B(3A) allows for the submission of further relevant information on the characteristics of the alteration in addition to the Schedule 7A information/ EIAR under subsection 3(b)(i). The further relevant information may also 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 [Section 146B(3B)].

6.5. Section 146B(4) states that before it makes its decision to alter/ alter differently/ refuse to alter, the Board shall determine whether the extent and character of alteration or any alternative alteration are such that the alteration, were it to be made, would be likely to have significant effects on the environment.

6.6. Subsections 146B(4A)(a) – (c) relate to the timeframe within which the Board shall make a determination under subsection (4) unless exceptional circumstances apply.

6.7. Under Section 146B(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 (preparation of an EIAR).

- 6.8. Under Section 146B(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 or each planning authority for the area or areas concerned, of the alteration.”*
- 6.9. Section 146B(7) sets out the criteria 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.

7.0 **Assessment**

- 7.1. The requester is seeking to alter the terms of a strategic infrastructure development (ABP-306204-19) approved by the Board under Section 182A(1) of the Planning and Development Act, 2000 (as amended) and comprising a 110kV electrical substation, underground 110kV cabling and ancillary works for the purposes of connecting a permitted windfarm substation to an existing 110kV overhead line at Mountphilips, Co. Tipperary. The proposed alteration comprises the change of location and interior layout and removal of windows from substation control building within compound; rearrangement of outdoor electrical equipment and apparatus; and rearrangement of cabling connecting into and out of compound to suit the new control building and equipment/ apparatus layout.
- 7.2. The first consideration to assess is whether the proposed alteration would constitute a material alteration of the terms of the strategic infrastructure development approved under ABP-306204-19. Should the Board decide that the proposed alteration is not material, it shall alter the approved development accordingly. However, if it is decided that the proposed alteration is material, the Board shall consider the proposed alteration in terms of the significant effects on the environment and other related matters.

7.3. Whether the proposed alteration is or is not material

- 7.4. The strategic infrastructure development (SID) approved under ABP-306204-19 provides for a new 110kV substation, underground 110kV cabling over a distance of 30.5km and ancillary works. The approved substation element of the SID included an electrical substation compound (98m x 105m); a control building (25m x 15m & 8m in height); associated electrical apparatus, plant and equipment; overhead and underground electrical and communications cabling and ancillary works; 2 no. end masts measuring up to 16m in height; and access, drainage systems and ancillary works.
- 7.5. The proposed alterations sought under Section 146B of the Planning and Development Act, 2000 (as amended) relate to works affecting the substation and compound only. No alterations are proposed to the 110kV underground grid connection to the windfarm, to the end masts at the 110kV overhead line or to the access to the substation compound. The altered compound footprint will remain the same in plan area as the approved compound.
- 7.6. The proposed alterations are necessary to comply with ESB's latest specifications for the layout and arrangement of ESB Network's 110kV loop-in substation compounds. The layout of the substation compound is therefore required to be redesigned and it will be necessary to realign the 110kV cabling in the immediate vicinity of the eastern and western boundaries of the compound to suit the new layout.
- 7.7. The requester has submitted Schedule 7A information with the request, which allows for an assessment as to whether or not the proposed alterations have the potential to have significant effects on the environment. Factors that are considered include population and human health; biodiversity; water; land, soil, air and climate; material assets; and cultural heritage and the landscape.
- 7.8. In terms of population and human health, the nearest dwelling to the substation compound is at a distance of 385m and there will be no alteration to the location or access to the substation. There will also be no change in terms of impact to biodiversity; separation distances from surrounding field boundaries/ hedgerow, nesting sites and the nearest watercourses will remain as previously approved.

- 7.9. Approved mitigation measures relating to excavated material and its removal and reuse will not change as a result of the proposed alterations. Excavations will have a slightly different profile; however, there will be no material differences in volumes compared to the approved compound.
- 7.10. The requested alterations will also have no different impacts in relation to air and climate, material assets, cultural heritage and the landscape. There will be no changes to the intensity or duration of construction works and the altered substation will control renewable energy from the windfarm in a similar manner. No changes to the location, layout or design of approved development are required where it occurs in close proximity to built services and there will be no difference in impact with respect to unknown subsurface sites, townland boundaries or recorded sites.
- 7.11. With respect to visual impact, the previously evaluated Mountphilips substation is well screened, and while the visual profile of the substation will change slightly, the pattern, form, scale and nature of the development will remain unchanged. There is no potential for cumulative impacts with other elements of the overall windfarm project given the separation distances involved.

7.12. Appropriate Assessment

- 7.13. The Board completed an Appropriate Assessment Screening exercise under ABP-306204-19 in relation to 23 European Sites. Nineteen of these sites were screened out and the Board then undertook Appropriate Assessment for the following European Sites in view of the conservation objectives of those sites:

- Slieve Felim to Silvermines Mountains SPA (Site code: 004165)
- Lower River Shannon SAC (Site code:002165)
- Lower River Suir SAC (Site code: 002137)
- Clare Glen SAC (Site code: 000930)

- 7.14. In completing the Appropriate Assessment, the Board considered, in particular, the following:

- (a) the likely direct and indirect impacts arising from the development and the proposed development, both individually, when taken together and in combination with other plans or projects,

- (b) the mitigation measures, which are included as part of the current proposal,
- (c) the submissions from the planning authority, the observers and prescribed bodies in the course of the application, and
- (d) the Conservation Objectives for the European sites.

7.15. In overall conclusion, the Board was satisfied that the development proposed under ABP-306204-19, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the sites' Conservation Objectives and there is no reasonable scientific doubt as to the absence of such effects.

7.16. Having considered the Board's determination on Appropriate Assessment in case ABP-306204-19, and having regard to the nature and limited scale and extent of the proposed alterations relative to the development that was approved under ABP-306204-19, 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.

7.17. **Conclusion**

7.17.1. Having considered the proposed alteration and the development as approved under ABP-306204-19, I am of the opinion that the Board would not have determined the proposal differently had the proposed alterations formed part of the original application. Furthermore, there are no changes in circumstances and no new or materially different considerations arising from the proposed alteration that were not assessed under ABP-306204-19.

7.17.2. Having regard to the above, I consider it reasonable to conclude that the making of the alteration comprising change of location and interior layout and removal of windows from the substation control building; rearrangement of outdoor electrical equipment and apparatus within the substation compound; and rearrangement of cabling connecting into and out of the compound would not constitute the making of a material alteration of the development as approved under ABP-306204-19.

7.17.3. I have considered the provisions of S.146B(2)(b) which provides for, at the Board's discretion, the invitation of submissions from persons, including the public. Having considered the nature, scale and extent of the alteration, the information on file and the nature, scale and extent of the development approved under ABP-306204-19, 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 the Board in determining the matter.

8.0 Recommendation

8.1. I recommend that the Board decides that the making of the alterations the subject of this request do not constitute the making of a material alteration of the terms of the development as approved under ABP-306204-19.

9.0 Draft Order

REQUEST received by An Bord Pleanála on the 4th August 2021 from Ecopower Developments Limited under section 146B of the Planning and Development Act 2000, (as amended) to alter the terms of a strategic infrastructure development described as the proposed 110kV electrical substation underground, 110kV cabling and ancillary works to connect the already consented Upperchurch windfarm substation to the existing 110kV overhead line at Mountphilips, Co. Tipperary the subject of an approval under An Bord Pleanála reference number ABP-306204-19,

WHEREAS the Board made a decision to approve, subject to conditions, the above-mentioned development by order dated the 8th February 2021,

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: • Change of location and interior layout and removal of windows from substation control building within compound; rearrangement of outdoor electrical equipment and apparatus within compound; and rearrangement of cabling connecting into and out of compound to suit the new control building and equipment/ apparatus layout.

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 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 4th day of August 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-306204-19 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.

Donal Donnelly
Senior Planning Inspector

6th October 2021