



An
Bord
Pleanála

Inspector's Report ABP-314361-22

Development	Proposed 299MW Open Cycle Gas Turbine (OCGT) Facility and associated grid connections.
Location	Land to the east of existing Dublin Bay Power Station, Pigeon House Road, Dublin 4
Planning Authority	Dublin City Council
Prospective Applicant(s)	ESB
Type of Application	SID Pre-Application Consultation under S.182E and 37B(1)
Date of Consultation Meeting	19/10/2022
Inspector	Conor McGrath SPI

1.0 Introduction

- 1.1. The Board received a request from the Electricity Supply Board (ESB) on 22/07/2022 to enter into a pre-application consultation in relation to the development of a proposed 299MW Open Cycle Gas Turbine (OCGT) facility and associated grid connections on lands to the east of the existing Dublin Bay Power Station, on Pigeon House Road, Dublin 4.

This report provides an overview of the proposed development, relevant precedents and legislative provisions and recommends that the proposed development would not constitute strategic infrastructure. A pre-application consultation meeting in respect of this request was held on 19th October 2022.

2.0 Site Location and Description

The site is located on the Poolbeg Peninsula and comprises part of a 12.6ha block of lands owned by ESB, used for energy generation and transmission. The site is bounded generally to the west by the existing Dublin Bay Power Plant and to the east by Irishtown 220kV substation and Dublin Waste to Energy Plant (Covanta). The subject lands and lands to the south are occupied by a number of NORA strategic oil storage tanks.

Lands to the south and southwest of the site have subject to grants of planning permission for (Flexgen) energy generation and BESS storage developments. There is also Gas Networks Ireland above ground installation (AGI) to the south. Access to the site is provided from Shellybanks Road via Pigeon House Road to the north. The submitted site plans indicate two areas for contractor's compounds / laydown areas to the north and south of the main development site.

The site is not located within any European Site; however, South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) and the South Dublin Bay SAC (Site Code 000210) are located between 200 and 300m south and southeast of the site.

3.0 Proposed Development

The proposed development comprises the following:

- A 299MW Open Cycle Gas Turbine (OCGT) generating unit and associated plant and equipment, including an emissions stack (45 – 55m TBC), to be subject to emissions monitoring.
- Ancillary extension to an existing gas Above Ground Installation (AGI) to deliver the required gas capacity for the OCGT (300MW).
- Electrical connection to the existing Irishtown 220kV substation.

The power generation unit will operate as a commercial project for which a capacity contract will be sought from the CRU. This flexible plant can quickly respond to energy demands at high levels of efficiency and will generate a maximum of 299MW when required. The key electrical components will be designed for a maximum export load of 297MW net output and will not be rated to exceed this output.

Electricity will be exported to the existing adjacent 220kV substation, via a proposed on-site switchgear building. A 220kV cable connection to the substation currently under construction from the permitted 90MW Flexgen plant is to be diverted through the subject site via the switchgear building. This will facilitate a combined connection with the proposed CCGT to the immediately adjacent 220kV substation.

Subsequent to the submission of the initial pre-application consultation request the prospective applicants advised of changes to the layout of the proposed development. This included relocation northwards and the omission of proposed on-site secondary fuel storage.

The prospective applicants are of the view that the electrical plant and associated grid infrastructure do not constitute transmission infrastructure, as it does not function as part of the national electricity grid, as the grid commences at the 220kV substation.

3.0 The Nature of the Request

The prospective applicants have requested the Board to advise as to whether or not the proposed development constitutes Strategic Infrastructure Development in

accordance with the provisions of both section 37A(1) and section 182A of the Planning and Development Act 2000, as amended or whether an application for permission should be made to the relevant planning authority in accordance with the provisions of s.34 of the Planning and Development Act, 2000, as amended.

4.0 Relevant Planning Cases

ABP-310334-21: Pre-application consultation request in respect of the proposed development of a 299MW Open Cycle Gas Turbine plant and ancillary connection infrastructure at Tynagh Power Station complex, Loughrea, Co. Galway. The Board determined that the proposed development would not fall within the scope of s.37A or s.182A and that a planning application should be made in the first instance to the relevant planning authority.

ABP-314003-22: Pre-application consultation request in respect of the proposed development of a 297MW Open Cycle Gas Turbine plant and ancillary connection infrastructure at Aghada ESB Power Station, Co. Cork. In August 2022, the Board determined that the proposed development does not fall within the scope of section 37A or section 182A, and that a planning application should be made in the first instance to Cork County Council

ABP-310026-21: Pre-application consultation request under section 182E in respect of a proposed 110 KV substation, underground cable and associated infrastructure, at the site of permitted Dennistown Solar Energy Development, Co. Wexford. The Board determined that the proposed development would fall within the scope of section 182A of the Planning and Development Act 2000, as amended, and that a planning application should be made directly to the Board.

ABP-311032-21: Pre-application consultation request in respect of proposed new tail fed 110kV substation in Fieldstown to connect to Finglas substation via 110kV underground cables, in the townland of Fieldstown, Co. Dublin. In July 2022, the Board determined that the proposed development would fall within the scope of section 182A of the Planning and Development Act 2000, as amended, and that a planning application should be made directly to the Board.

ABP-310846-21: The Board decided that a 110kV substation to feed into the existing Athlone 220/110kV substation at Monksland, Co. Roscommon, including

underground tail fed cable connection to serve an extended solar park, to replace a permitted 38kV substation, would fall within the scope of Section 182A of the Planning and Development Act, 2000 (as amended).

The inspectors report in this case noted that “the SID Board reviewed recent cases with respect to Section 182A(9), which is outlined above and the definition of transmission (section 2(1) of the Electricity Regulation Act, 1999 outlined above) which would provide that new 110kV infrastructure comprising electric plant and high voltage lines, which comprises transmission must be considered SID.”

ABP-311403-21: Pre-application consultation request in respect of proposed 110kV infrastructure comprising 110kV substation and associated plant and equipment and connection to the Derryiron substation at Clonin, Rhode, Co. Offaly. The Board determined that the development would fall within the scope of section 182A and that a planning application should be made directly to the Board.

The inspector noted that “Recently, the SID Board reviewed cases with respect to Section 182A (9), and the definition of transmission under Section 2(1) of the Electricity Regulation Act, 1999. The SID Board considered that new 110kV infrastructure comprising electric plant and high voltage lines for transmission must be considered SID notwithstanding whether or not these connections are looped-in or tail-fed”

ABP-307080-20: Pre-application consultation request in respect of a proposed transformer compound, modular structures containing control, electrical and building services equipment and a 400m 220kV underground cable connection to the existing Irishtown 220kV Substation. The development was required to facilitate a separate proposed 75MW Flexible Thermal Generation Facility (FlexGen) and a 30MW Battery Energy Storage System (BESS), (PA ref. 3646/20 and 3647/20) on land to the south of the subject site.

The Board determined that the proposed development did not fall within the scope of section 182A and that a planning application should be made in the first instance to Dublin City Council.

ABP-307081-20: Pre-application consultation request in respect of electrical and ancillary development approx. 1km east of the subject site comprising a transformer compound, modular structures containing control, electrical and building services

equipment and a 300m 220kV underground cable connection to the existing Poolbeg 220kV Substation. The development was required to connect a separate proposed FlexGen and BESS developments to the national electricity grid at the existing Poolbeg 220kV Substation.

The Board determined that the proposed development did not fall within the scope of section 182A and that a planning application should be made in the first instance to Dublin City Council.

ABP-301236-18: The Board determined in March 2018 that electrical and grid connection development associated with a Battery Energy Storage System on lands north of the South Bank Road, Poolbeg, would not comprise Strategic Infrastructure Development. The Board's Direction stated that while it wasn't clear to the Board that the line would constitute 'distribution' infrastructure, the Board agreed with the final page of the inspector's assessment.

ABP-307228-20: The Board determined on the 25th June 2020 that proposed development comprising a new Gas Insulated Switchgear (GIS) building and associated development at the existing Ringsend 110kV Substation did not fall within the scope of section 182A of the Act, and that a planning application should be made to Dublin City Council in the first instance.

ABP-310076-21: The Board decided that a 110kV AIS substation and associated loop-in infrastructure to tie into the existing 110kV (Mullingar-Corduff) overhead transmission line to serve a proposed solar farm development on, would fall within the scope of Section 182A of the Planning and Development Act, 2000 (as amended).

Adjoining lands:

PA ref. 3646/20: Permission granted for a 30 MW capacity battery energy storage system (BESS) facility within a secured compound and associated plant and buildings and ancillary works on lands to the south and west of the proposed development site.

PA ref. 3647/20: Permission granted to the south and west of the subject site for a 75 MW (electrical output) aero derivative gas fired turbine for the generation of

electricity with a c. 30 m high stack, with ancillary buildings and industrial/electrical plant, and connections to site services including telecommunications, gas, electrical, liquid fuel on lands to the south and west of the proposed development site.

5.0 Planning Policy

5.1. Project Ireland 2040: National Planning Framework

Shared Goals – Our National Strategic Outcome

Transition to a Low Carbon and Climate Resilient Society - The National Climate Policy Position establishes the national objective of achieving transition to a competitive, low carbon, climate-resilient and environmentally sustainable economy by 2050. New energy systems and transmission grids will be necessary for a more distributed, renewables-focused energy generation system, harnessing the on-shore and off-shore potential from energy sources such as wind, wave and solar and connecting the richest sources of that energy to the major sources of demand.

National Policy Objective 42: To support, within the context of the Offshore Renewable Energy Development Plan, the progressive development of Ireland's offshore renewable energy potential, including domestic and international grid connectivity enhancements.

National Policy Objective 55: Promote renewable energy use and generation at appropriate locations within the built and natural environment to meet national objectives towards achieving a low carbon economy by 2050.

7.2. Regional Spatial and Economic Strategy for the Eastern and Midlands Region

RPO 10.20: Support and facilitate the development of enhanced electricity and gas supplies, and associated networks, to serve the existing and future needs of the Region and facilitate new transmission infrastructure projects that might be brought forward in the lifetime of this Strategy. Including the delivery of the necessary integration of transmission network requirements to facilitate linkages of renewable energy proposals to the electricity and gas transmission grid in a sustainable and

timely manner subject to appropriate environmental assessment and the planning process.

RPO 10.22: Support the reinforcement and strengthening of the electricity transmission and distribution network to facilitate planned growth and transmission/distribution of a renewable energy focused generation across the major demand centres to support an island population of 8 million people...

RPO 10.23: Support EirGrid's Implementation Plan 2017 –2022 and Transmission Development Plan (TDP) 2016 and any subsequent plans prepared during the lifetime of the RSES that facilitate the timely delivery of major investment projects subject to appropriate environmental assessment and the outcome of the planning process, in particular: ...

Support the installation of additional transformer capacity and increased circuit capacity to meet Dublin demand growth to strengthen the network for all electricity users and improve the security and quality of supply ...

6.0 Legislative Provisions

Section 2(1) of the Planning and Development Act 2000, as amended defines 'strategic infrastructure' as including, inter alia:

- (a) any proposed development in respect of which a notice has been served under section 37B(4)(a),
- (d) any proposed development referred to in section 182A(1),

S. 37A provides as follows;

- (1) An application for permission for any development specified in the Seventh Schedule shall, if the following condition is satisfied, be made to the Board under section 37E and not to a planning authority.
- (2) That condition is that, following consultations under section 37B, the Board serves on the prospective applicant a notice in writing under that section stating that, in the opinion of the Board, the proposed development would, if carried out, fall within one or more of the following paragraphs, namely—

- (a) the development would be of strategic economic or social importance to the State or the region in which it would be situate,
- (b) the development would contribute substantially to the fulfilment of any of the objectives in the National Planning Framework or in any regional spatial and economic strategy in force in respect of the area or areas in which it would be situate,
- (c) the development would have a significant effect on the area of more than one planning authority.

Seventh Schedule - Infrastructure Developments for the purposes of s.37a & 37b
Energy Infrastructure (includes)

1.—Development comprising or for the purposes of any of the following (including):

- A thermal power station or other combustion installation with a total energy output of 300 megawatts or more.
- An industrial installation for the production of electricity, steam or hot water with a heat output of 300 megawatts or more.
- An industrial installation for carrying gas, steam or hot water with a potential heat output of 300 megawatts or more, or transmission of electrical energy by overhead cables, where the voltage would be 220 kilovolts or more, but excluding any proposed development referred to in *section 182A(1)*.
- An installation for the surface storage of oil or coal, where the storage capacity would exceed 100,000 tonnes.

182A.— (1) Where a person ... intends to carry out development comprising or for the purposes of electricity transmission, the undertaker shall prepare, or cause to be prepared, an application for approval of the development under section 182B and shall apply to the Board for such approval accordingly

Subsection 182A(9) states that "... '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.”

Section 2(1) of the *Electricity Regulation Act 1999*, as amended sets out the following definitions:

Transmission: “...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.”

‘Electric plant’: “.....any plant, apparatus or appliance used for, or for the purposes connected with, the generation, transmission, distribution or supply of electricity”

7.0 Case made by Prospective Applicant

The Prospective Applicant makes the following points in their submission:

- The maximum electrical energy output of the OCGT will be limited to 299MW, which is below the 300MW threshold in the Seventh Schedule.
- There is no heat output in the form of steam or hot water and the other categories of development set out in the seventh schedule are not applicable to this development.
- Any cabling is ancillary to the OCGT, occurring within the redline boundary of the site and will extend a short-distance to the existing substation.
- Secondary fuel storage will comprise 5,120 tonnes / 6,000m³ made up of 2,400m³ of new storage tanks and use of existing spare capacity within the existing NORA managed tank farm.
- The remainder of storage capacity in the NORA facility is utilised by existing generation units at Ringsend.

- Total storage capacity is below the Seventh Schedule threshold and no storage of gas is proposed.
- The development will not increase the capacity of the existing Dublin Bay Power Station and will operate and connect to the existing substation independently.
- The development would not be of a nature and scale that would constitute Strategic Infrastructure if assessed against the criteria of s.37A(2).
- The development will likely only operate on an intermittent basis, as a peaking plant. While it will facilitate the integration of renewables and will not contribute substantially to the fulfilment of national and regional planning objectives.
- It is not of a scale or function which is of strategic economic or social importance to the state or region, and will not have an effect on the area of more than one planning authority.
- Similar plant has previously been determined by the Board not to constitute SID under ref. ABP-310334-21.
- The grid connection is purely ancillary to the OCGT.
- Connection to the substation will replace an existing cable, all within the site of the existing Dublin Bay Power Station.
- The proposal does not function as part of the national electricity grid as the grid commences at the 220kV substation.
- No new transmission infrastructure is being created and the proposal will not create a new node on the network.
- It will not comprise transmission within the meaning of the act and will not constitute strategic infrastructure in accordance with s.182A.

Following the pre-application consultation meeting, the prospective submitted additional information to the Board, further describing and clarifying the nature of the proposed development. In concluding that the proposed development would not constitute strategic development, the following points were made:

- The development falls below the thresholds set out in the seventh schedule
- 7th Schedule clauses relating to heat production do not apply as the sole output is electricity. There is no heat production or ability to recover heat in this plant.
- There are no new gas transmission pipelines for the proposed power plant.

- Revised drawings clarifying the layout of development and proposed substation connections are provided.
- A copy of the *Poolbeg Land Management & Development Strategy* (2020) is submitted, which previously accompanied planning applications DCC Ref. 3647/20, 3646/20, 3624/20 and 3625/20.
- This provides the context for the development of ESB lands on the peninsula.
- The definition of transmission and electrical plant in the Electricity Regulation Act refers to the transport of electricity over greater distances and to final users.
- The proposed development does not constitute transmission infrastructure or include any new or additional transmission grid connection infrastructure.
- The power plant will be connected to existing transmission infrastructure upstream of the existing 220 kV ESB Networks transmission substation.
- The transmission system commences at the 220 kV transmission substation and s.182A(9) applies from this point onwards.
- Electricity from the proposed plant will be transmitted over greater distances and to final users by the Transmission System Operator, only after the electricity is brought to the existing 220 kV transmission substation compounds.

8.0 Consultations

A pre-application consultation meeting was held on 19th October and a copy of the meeting record is appended to the file. The prospective applicant made a presentation in relation to the proposed development following by a general discussion.

The prospective applicants provided clarification in relation to aspects of the proposed development including the changes to proposal since the making of the original request and the manner of the grid connection. A discussion was had regarding the definition of “electric plant” in the legislation and there was discussion about the surrounding context for the proposed development and the nature of ESB operations thereon. Further details in response to items raised in the consultation meeting were submitted to the Board on 02/11/2022.

9.0 Assessment

This request was made with reference to both S.182E and 37B(1) of the planning and Development Act, 2000, as amended. The prospective applicants argue that the proposed development does not meet the thresholds for strategic infrastructure development set out in the Seventh Schedule and does not satisfy the criteria under S.37A(2) for strategic infrastructure development. Furthermore, it is argued that the development does not meet the definition of transmission infrastructure for the purposes of s.182A of the act.

S.37A(1)

In terms of the thresholds for Energy Infrastructure set out in the Seventh Schedule, I note the following:

- The proposed development does not meet / exceed the threshold for a thermal power station of 300MW, having regard to the design capacity of the plant.
- It does not generate electricity, heat or steam with a heat output of more than 300MW.
- It is not an industrial installation for the carrying of gas, steam or hot water with a potential heat output of 300 megawatts or more.
- It does not provide for the transmission of electrical energy by overhead cables, where the voltage would be 220 kilovolts or more.
- It does not provide for storage of oil or coal in excess of the 100,000t threshold.

I conclude therefore that the proposed development would not meet the criteria for development set out in the seventh schedule and does not therefore constitute strategic infrastructure for the purposes of s.37A(1).

S.182A(9)

Subsection 182A(9) states that 'transmission', shall be construed in accordance with section 2(1) of the Electricity Regulation Act 1999 but shall also mean the transport of electricity by means of a high voltage line of 110kV or more.

The prospective applicants argue that the development does not comprise transmission within the meaning of the Act, noting that the proposal will use existing infrastructure to connect to the adjacent substation and that all cables are ancillary to

the development. It is further stated that the proposal does not function as part of the national electricity grid as the transmission grid commences at the 220kV substation.

With regard to the connection to the existing substation, I note that an existing / permitted connection from a 90MW Flexgen plant will be diverted through the subject site. It will be combined with a connection from the proposed power plant at the switchgear building, before connecting to the immediately adjacent substation. In this regard, I do not consider that the proposed development involves the provision of a new high voltage line for the purposes of the Act and conclude that this aspect of the development does not therefore constitute strategic infrastructure. I note previous determinations of the Board in relation to grid connections in this regard.

The definition of *transmission* in s.2(1) of the Electricity Regulation Act refers to the *transport of electricity by means of a transmission system*, which is then elaborated upon further. It is considered that reference to “*electric plant*” in this definition refers to such plant as is used for the conveyance / transport of electricity, rather than the broader definition of electric plant set out in this act.

The proposed OCGT comprises a power generation plant. The Planning and Development Act deals with such energy infrastructure under s.37A and the seventh schedule. While the proposed development might meet the broader definition of “*electric plant*” set out in the Electricity Regulation Act, it would not be appropriate to artificially extend the definition of *transmission* under that Act to incorporate such development, which is not used *for conveying electricity*. To do so would be to potentially include development which falls below the thresholds for energy infrastructure set out in the seventh schedule, and thereby negate the purpose of the thresholds set out therein. I do not consider therefore that the proposed CCGT plant constitutes transmission infrastructure for the purposes of the 2000 Act, as amended.

10.0 Conclusion

In conclusion, having regard to the nature and scale and extent of the proposed development; I conclude that the proposed development does not fall within the scope of section s.37A(1) of the Planning and Development Act 2000, and does not

fall within the scope of s.182A of the Act, having regard to the definition of transmission set out therein and in the Electricity Regulation Act 1999 (which refers to the transport of electricity). An application for permission should therefore be made to the relevant planning authority in accordance with the provisions of s.34 of the Planning and Development Act, 2000, as amended.

11.0 Recommendation

I recommend that the prospective applicant, the Electricity Supply Board (ESB), be informed that the proposed development, consisting of a proposed 299MW Open Cycle Gas Turbine (OCGT) Facility and associated grid connections on land to the east of existing Dublin Bay Power Station, Pigeon House Road, Dublin 4, as set out in the plans and particulars received by An Bord Pleanála on the 22/07/2022 and 02/11/2022, does not fall within the scope of section s.37A(1), or within the scope of section 182A(1) of the Planning and Development Act 2000, as amended, and that a planning application should therefore be made in the first instance to the relevant planning authority.

Conor McGrath
Senior Planning Inspector

09/11/2022