



An  
Bord  
Pleanála

## Inspector's Report ABP-316205-23

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<b>Development</b>	Proposed new line bay and associated underground cabling.
<b>Location</b>	Kellis 220kV substation, lands in the townland of Kellistown East, Co. Carlow.
<b>Planning Authority</b>	Carlow County Council
<b>Prospective Applicant</b>	Garreenleen Solar Farm Limited
<b>Type of Application</b>	Pre-Application consultation under Section 182E of the Planning and Development Act, 2000, as amended
<b>Date of Site Inspection</b>	24 <sup>th</sup> May, 2023
<b>Inspector</b>	Robert Speer



## 1.0 Introduction

- 1.1. The Board received a request on 4<sup>th</sup> April, 2023 from the prospective applicant, Garreenleen Solar Farm Limited, to enter into pre-application consultations under Section 182E of the Planning and Development Act, 2000, as amended, in relation to the proposed development of a new line bay and associated underground cabling at the existing Kellis 220kV substation that will serve to complete the connection of the permitted Garreenleen Solar Farm to the national grid.
- 1.2. A single meeting was held remotely with the prospective applicant and its representatives on 25<sup>th</sup> May, 2023. Closure of the pre-application consultation was requested by letter dated 20<sup>th</sup> June, 2023.

## 2.0 Site Location and Description

- 2.1. The proposed development site is located at the existing Kellis 220kV substation in the rural townland of Kellistown East, Co. Carlow, approximately 8.5km southeast of Carlow town and 1.0km west of the village of Rathoe, where it occupies a position along a narrow minor roadway (Local Road No. L-30535) that extends north-eastwards from Local Road No. L-1025 before terminating in a cul-de-sac. The surrounding area is primarily agricultural and is characterised by an undulating rural landscape interspersed with individual farmsteads and one-off rural housing.
- 2.2. The site itself has a stated site area of c. 6.25 hectares, is broadly rectangular in shape, and encompasses the Kellis 220kV substation as well as a short section of the adjacent roadway (Local Road No. L-30535). The substation compound includes a variety of electrical plant, equipment and buildings typical of infrastructure of this nature. It is enclosed by security fencing and benefits from screening provided by a combination of raised berms, established hedgerow and mature tree planting.

## 3.0 Proposed Development

- 3.1. The proposed development comprises a new line bay and associated 110kV underground cabling at the existing Kellis 220kV substation in order to complete the connection of the permitted Garreenleen Solar Farm to the national grid. In this regard, and by way of clarity, Phases 1 & 2 of the permitted solar farm will connect to



a new 110kV substation (with a 33kV customer compound) on adjacent lands via a 33kV interconnector cable while a 110kV underground interconnector cable will extend between that substation and the Kellis 220kV substation with the proposed development providing the final connection of the solar farm to the national transmission network.

- 3.2. The proposed underground 110kV cabling will extend from the public road to the north of the development site and will be trenched to a line-bay assigned by EirGrid within the substation. The final location of the line bay has yet to be confirmed and, therefore, 4 No. different options have been set out in the submitted particulars. The path and length of the cabling will be finalised with EirGrid as part of the detailed design process and will vary according to the location of the agreed line bay. It is anticipated that the cable run could range from between c. 66m and 196m. The line bay itself will include the installation of outdoor air-insulated equipment including, circuit breaker, disconnects and instrument transformers mounted on concrete plinths, and all ancillary site works.

#### **4.0 Relevant Planning History**

- 4.1. PA Ref. No. 20143 / ABP Ref. No. ABP-307891-20. Was granted on appeal on 28<sup>th</sup> September, 2021 permitting Terra Solar 11 Limited a 10-year permission for a solar farm (c.127 hectares) and all associated site development works at Garreenleen, Bendinstown, Tinnaclash and Ardbearn, Co. Carlow.
- 4.2. ABP Ref. No. ABP-313139-22. Was determined on 3<sup>rd</sup> November, 2022 under Section 182A of the Planning and Development Act, 2000, as amended, granting Garreenleen Solar Farm Limited approval for a 110kV AIS Single Bay Tail-Fed electricity substation to serve a solar farm, an underground grid connection to the existing Kellis 220kV substation, and all associated site development works. All at Bendinstown, Gilbertstown, Kellistown East, Kellistown West, Ballycurragh, Ardbearn, and Ballynunnery, Co. Carlow.
- 4.3. PA Ref. No. 22199. Was granted on 9<sup>th</sup> September, 2022 permitting Garreenleen Solar Farm Limited a 10-year permission for an underground electricity interconnector cable and all associated site development works (as a revision of PA Ref. No. 20143 / ABP Ref. No. ABP-307891-20) at Bendinstown, Co. Carlow.



- 4.4. PA Ref. No. 22163. Was granted on 22<sup>nd</sup> March, 2023 permitting Garreenleen Solar Farm Limited a 10-year permission for a solar farm (c. 128 hectares) and associated site development works (including minor amendments to PA Ref. No. 20143 / ABP Ref. No. ABP-307891-20 to facilitate future grid connection) at Ballintrane Ballybrommell, Bendinstown, Clonmacshane, Garreenleen, Graiguealug, Tinnaclash & Templepeter, Co. Carlow.

## 5.0 Precedent Cases

### 5.1. Referenced in the Pre-Application Consultation:

- 5.1.1. ABP Ref. No. VC0031. Was determined on 29<sup>th</sup> August, 2008 with the Board deciding that the provision of a line bay within an existing 110kV station to facilitate connection of a permitted windfarm, all at Corderry, Co. Leitrim, was not strategic infrastructure development within the meaning of Section 182A of the Act.
- 5.1.2. ABP Ref. No. VC0048. Was determined on 27<sup>th</sup> September, 2010 with the Board deciding that the provision of 2 No. 110kV overhead electricity lines linking the Thornsberry – Cushaling 110kV overhead line with a proposed 110kV substation at Ballynakill (upper Philipstown), Co. Offaly, was not strategic infrastructure development within the meaning of Section 182A of the Act.
- 5.1.3. ABP Ref. No. VC0097. Was determined on 20<sup>th</sup> October, 2016 with the Board deciding that the substitution of 2 No. 110kV substations for 1 No. 110kV substation to serve two permitted windfarm developments, in addition to underground cabling connecting to a substation at Clogher near Barnsmore, Co. Donegal, was not strategic infrastructure development within the meaning of Section 182A of the Act.

### 5.2. Other Relevant Cases:

- 5.2.1. ABP Ref. No. VC24.VC0112. Was determined on 10<sup>th</sup> November, 2017 with the Board deciding that the provision of underground 110kV cabling and ancillary works to connect the permitted Knocknamona Windfarm substation to the existing Woodhouse Transmission System 110kV station at Knocknamona and Keereen Upper, Co. Waterford, was not strategic infrastructure development within the meaning of Section 182A of the Act.





- 5.2.2. ABP Ref. No. ABP-304856-19. Was determined on 23<sup>rd</sup> October, 2019 with the Board deciding that the provision of a line bay extension within the existing Cushaling 110kV substation, Co. Offaly, was not strategic infrastructure development within the meaning of Section 182A of the Act.
- 5.2.3. ABP Ref. No. ABP-307022-20. Was determined on 23<sup>rd</sup> July, 2020 with the Board deciding that the proposed development of a 110kV underground cable and associated works to facilitate the connection of a proposed wind farm at Dernacart to the national grid at the proposed 110kV substation at Bracklone substation in Portarlinton, Co. Laois, was not strategic infrastructure development within the meaning of Section 182A of the Act.
- 5.2.4. ABP Ref. No. VC05.VC0056. Was determined on 18<sup>th</sup> March, 2011 with the Board deciding that the realignment of an existing 110kV line bay from A1 side of busbar to A2 side of busbar at the existing electricity station at Cathaleen's Fall, Ballyshannon, Co. Donegal, was not strategic infrastructure development within the meaning of Section 182A of the Act.

## 6.0 Prospective Applicant's Case

- Section 182A of the Planning and Development Act, 2000, as amended, does not include criteria to test the strategic importance of electricity transmission developments, however, the Planning and Development (Strategic Infrastructure) Act, 2006 includes the following guiding criteria to determine if a project qualifies as strategic infrastructure development:
  - *'The development would be of strategic economic or social importance to the State or the region in which it would be situate;*
  - *The development would contribute substantially to the fulfilment of any of the objectives in the National Spatial Strategy or in any regional spatial and economic strategy in force in respect of the area or areas in which it would be situate;*
  - *The development would have a significant effect on the area of more than one planning authority'.*



Based on a review of the Board's previous determination of similar cases, it is submitted that the subject works do not meet the definition of strategic infrastructure development.

- The Board has consistently taken the view that the provision of new line bays in existing substations and associated cabling (underground and overground) do not fall within the meaning of Section 182A of the Act having regard to the minor nature of such works; the fact that such works take place principally within an existing substation; and a reasonable interpretation of the long title of the 2006 Act, namely that applications should only be made to the Board for projects of genuine strategic importance. In the subject instance:
  - The majority of the works will take place within the existing Kellis 220kV Substation.
  - The works are small in nature, comprising the provision of a new line bay and the laying of between c. 66m and 195m of underground cabling. The works and associated equipment are equivalent to that already installed within the substation.
  - The development is ancillary to the main works relating to electricity generation in this case, namely completing the connection of the Garreenleen Solar Farm and Bendinstown 110kV substation to the transmission network. The Bendinstown 110kV substation and associated 110kV underground cable connection to the Kellis 220kV substation have already been consented under SID provisions.
  - The works do not reasonably meet the scale of strategic infrastructure developments and associated tests as set out in Section 37A(2) of the Act.
- By way of precedent, the Board is referred to its determination of the following cases:
  - *ABP Ref. No. VC0031:*

Having regard to the nature and scale of the proposed development; the stated purpose of the 2006 Act as set out in the long title; and the general description and scale of strategic infrastructure development



set out in Section 37A(2) of the Act, the reporting inspector determined that the proposed development of a new line bay within the Corderry 110kV station would not fall within the meaning of Section 182A of the Act.

- *ABP Ref. No. VC0048:*

Having regard to the nature and scale of the proposed development; the stated purpose of the 2006 Act as set out in the long title; and the general description and scale of strategic infrastructure development set out in Section 37A(2) of the Act, the reporting inspector determined that the proposed 110kV overhead electricity lines in the townland of Ballynakill, (Upper Philipstown), Co. Offaly, would not fall within the meaning of Section 182A of the Act. This opinion also noted that the development would only serve the Mount Lucas wind farm; would not in itself make a significant contribution to the delivery of the objectives of the Regional Planning Guidelines or the National Spatial Strategy; and was entirely within the catchment of a single planning authority.

- *ABP Ref. No. VC0097:*

Having regard to the approach of the Board in its determination of ABP Ref. No. VC0048; the criteria listed under Section 37A(2) of the Act; and the stated purpose of the 2006 Act as set out in the long title, the reporting inspector determined that the proposed substitution of 2 No. 110kV substations for 1 No. 110kV substation to serve two permitted wind farms in addition to underground cabling connecting to a substation at Clogher near Barnsmore, Co. Donegal, would not fall within the meaning of Section 182A of the Act. This opinion also noted that the proposed cable would only serve the permitted wind farms; was not of strategic importance to the State; would not contribute substantially to the fulfilment of the National Spatial Strategy or the Regional Planning Guidelines; was within the catchment of a single planning authority; and could be considered ancillary to the main works relating to the electricity generation i.e. the permitted wind farms.



With respect to ABP Ref. No. VC0097, the Board is also requested to note that the length of the 110kV cabling in that instance was c. 32km, which is considerably greater than the subject proposal.

- The proposed new line bay and associated underground cabling does not fall within the scope of Section 182A of the Planning and Development Act, 2000, as amended, as follows:
  - The entirety of the works will take place within the existing Kellis 220kV substation compound.
  - The works are small in nature and equivalent to that already installed within the substation.
  - The works are ancillary only to the main works (in reference to the electricity generation in this instance) i.e. the completion of the connection of the Garreenleen Solar Farm and Bendinstown 110kV substation to the transmission network.
  - The works do not reasonably meet the scale of strategic infrastructure developments and associated tests, as set out in Section 37A(2) of the Act and as established by governing precedents.

## 7.0 Legislative Provisions

- 7.1. **Section 2(1) of the Planning and Development Act, 2000, as amended**, defines '*strategic infrastructure*' as including, inter alia: (d) any proposed development referred to in section 182A(1).
- 7.2. **Section 182A(1)** of the Act (inserted by section 4 of the 2006 Act) provides that where a person, (thereafter 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 the development under section 182B and shall apply to the Board for such approval accordingly.
- 7.3. **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.

7.4. **Section 2(1) of the Electricity Regulation Act, 1999, as amended**, includes the following definitions:

7.4.1. **“Transmission”**: is defined as:

‘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’.

7.4.2. **“Distribution”** is defined as:

‘The transport of electricity by means of a distribution system, that is to say, a system which consists of electric lines, electric plant, transformers and switch gear and which is used for conveying electricity to final customers’.

7.4.3. **“Electric plant”** is defined as:

‘any plant, apparatus or appliance used for, or for the purposes connected with, the generation, transmission, distribution or supply of electricity other than –

- a) An electric line.
- b) a meter used for ascertaining the quantity of electricity supplied to any premises, or
- c) an electrical appliance under the control of the consumer’.



## 8.0 Assessment

- 8.1. This pre-application consultation concerns the proposed development of a new line bay and associated 110kV underground cabling at the existing Kellis 220kV substation in order to complete the connection of the permitted Garreenleen Solar Farm (Phases 1 & 2) to the national grid. The final location of the line bay and pathway of the cabling has yet to be confirmed pending agreement with EirGrid and, therefore, 4 No. different options have been set out in the submitted particulars. It is anticipated that the cable run could range from between c. 66m and 196m.
- 8.2. In this case the prospective applicant has indicated its opinion that the proposed development does not constitute strategic infrastructure under Section 182A given that the entirety of the works will take place within the existing Kellis 220kV substation compound; the works and associated equipment are small in nature and equivalent to that already installed within the substation; the works are ancillary to the main works relating to electricity generation i.e. the completion of the connection of the Garreenleen Solar Farm and Bendinstown 110kV substation to the transmission network; and the works do not reasonably meet the scale of strategic infrastructure development and the associated tests set out in Section 37A(2) of the Act as established by way of precedent.
- 8.3. The prospective applicant has further contended that the proposed development is similar to a number of proposals in other locations when the Board determined that the development did not fall within the scope of section 182A of the Act as follows:
- A line bay within an existing 110kV station to facilitate the connection of a permitted windfarm, Corderry, Co. Leitrim (ABP Ref. No. VC0031)
  - 2 No. 110kV overhead lines linking a 110kV overhead line with a proposed 110kV substation, Ballynakill (upper Philipstown), Co. Offaly (VC0048)
  - The replacement of 2 No. 110kV substations associated with permitted wind farms thereby connecting a proposed wind energy development to an existing node on the national grid, Clogher, Co. Donegal (VC0097)
- 8.4. In its assessment of comparable cases, including those listed above, due to the lack of clarity in the interpretation of section 182A and its requirements in regard to development of such a nature, the Board has exercised some discretion and used



the broad definition of the 2006 Act, “*developments of strategic importance to the State*”, and the criteria contained in section 37A(2) to determine such matters (notwithstanding that those criteria do not specifically apply to cases falling within the scope of section 182A).

8.5. Section 37A(2) refers to 7<sup>th</sup> Schedule development but generally describes strategic infrastructure development as falling within one or more of the following:

- 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.

8.6. Having regard to the nature and scale of the proposed development, 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 conclude that the proposed development consisting of a new line bay and associated underground cabling at the Kellis 220kV substation on lands in the townland of Kellistown East, Co. Carlow, as set out in the plans and particulars received by An Bord Pleanála on 4<sup>th</sup> April, 2023, does not fall within the meaning of section 182A of the Planning and Development Act, 2000, as amended. In coming to this conclusion, I have had regard to the following:

- The Bendinstown 110kV substation and the associated 110kV underground cable connection to the Kellis 220kV substation have already received consent under Strategic Infrastructure Development provisions.
- The 110kV underground electricity interconnector cable approved under ABP Ref. No. ABP-313139-22 extends to the boundary of the Kellis 220kV substation while the majority of the subject works are to take place within the confines of the substation;



- The proposed works are intended to serve the permitted Gareenleen Solar Farm only;
- The small scale and nature of the proposed development are equivalent to that already installed within the substation;
- The proposed development is ancillary to the main works relating to electricity generation in this instance, namely the permitted Garreenleen Solar Farm; and
- The works do not reasonably meet the scale of strategic infrastructure development and the associated tests as set out in Section 37A(2) of the Act. They are not considered to be of strategic economic importance to the State, will not contribute substantially to the fulfilment of the NSS, NPF or the regional planning guidelines, and are within the catchment of a single planning authority.

## 9.0 Recommendation

- 9.1. It is recommended that the prospective applicant, Garreenleen Solar Farm Limited, be informed that the proposed development consisting of a new line bay and associated underground cabling at Kellis 220kV substation on lands in the townland of Kellistown East, Co. Carlow, as set out in the plans and particulars received by An Bord Pleanála on 4<sup>th</sup> April, 2023, 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 the relevant planning authority.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.



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Robert Speer  
Planning Inspector

23<sup>rd</sup> June, 2023

