



An
Bord
Pleanála

Inspector's Report

ABP-317326-23

Development	Proposed alteration to GIS substation and associated transmission line connection development (ABP-312783-22)
Location	Kiltotan and Collinstown and Oldtown, Rochfortsbridge, County Westmeath
Planning Authority	Westmeath County Council
Applicant	Castlelost FlexGen Limited
Type of Application	Section 146B: Request to alter previously approved Strategic Infrastructure project
Date of Site Inspection	None
Inspector	Niall Haverty

1.0 Introduction

- 1.1. Castlelost FlexGen 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 220kV GIS substation and associated electrical transmission infrastructure in the townlands of Kiltotan and Collinstown and Oldtown, Rochfortbridge, Co. Westmeath, which was approved by the Board following an application under the provisions of section 182A of the Act (Ref. ABP-312783-22).

2.0 Planning History

2.1. 'Parent' Section 182A Approval (ABP-312783-22)

- 2.1.1. Approval was granted by the Board on 9th September 2022 for development consisting of:

- Installation of a two-storey GIS substation building, 17m in height with a gross floor area of c. 2034 sq m, within a fenced compound;
- Installation of 2 No. 220kV underground circuits which will run from the proposed 220kV GIS substation and connect to existing overhead 220kV transmission lines located north-east and west of the proposed GIS substation and within the development boundary;
- Each of the two circuits will terminate in a cable within 2 No. separate fenced mini-interface electrical compounds (each with an area of c. 604.5 sq m), which will provide the interface between the proposed underground transmission circuits and overhead transmission lines. Both mini compounds will contain air insulated electrical equipment including a 17m high overhead gantry with line traps, surge arrestors and cable sealing ends. The mini-interface electrical compounds will connect the transmission lines to 2 No. proposed single circuit 24m high pylons (located to the west and northeast of the GIS substation building) set on top of concrete foundations;
- Removal of 2 No. existing electricity pylons within the development boundary along with portion of associated overhead transmission lines;

- 36m high communications tower; and
- Construction of a main entrance, access roadway, foul and surface water management systems and all ancillary site development works.

2.1.2. The application was accompanied by an Environmental Impact Assessment Report (EIAR) and an Appropriate Assessment Screening Report. In granting approval, the Board carried out an Environmental Impact Assessment and made an AA screening determination, that the proposed development, either 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. I note that the EIAR submitted with the 'parent' application also related to the two associated projects identified in Section 2.2 below.

2.2. **Adjacent Electrical Infrastructure Development**

- 2.2.1. **Reg. Ref. 21/532:** Planning permission granted by Westmeath County Council in 2022 for the Castlelost Battery Energy Storage System development.
- 2.2.2. **Reg. Ref. 21/515:** Planning permission granted by Westmeath County Council in 2022 for the Castlelost FlexGen (gas-fired generator) development.

3.0 **Proposed Alteration**

- 3.1. The proposed alteration, as set out in the cover letter submitted on behalf of the requester by Halston Environmental and Planning Ltd., relates only to an existing electricity pylon/angle tower on the site (identified as tower 152). The development approved under ABP-312783-22 included the removal of this tower, but it is now proposed to retain¹ it in place. The proposed alteration is stated to have arisen as a result of detailed design work carried out by the appointed HV electrical designers (TLI Group).
- 3.2. The cover letter states that the substation development and adjacent FlexGen development are both currently under construction.

¹ For the avoidance of doubt, all references to 'retention' in this report relate to the keeping in place of an existing structure, not retention of unauthorised development.

3.3. The request was accompanied by a cover letter, a Technical Note and 3 No. drawings. These comprise a Site Location Map, and layout and elevations of the eastern interface mini tower compound and single circuit towers.

4.0 Requester's Submission

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

- The approved development included the removal of 2 No. existing electricity pylons (identified as towers 151 and 152) and their associated overhead transmission lines in order to facilitate the connection of the new substation to the transmission system.
- Following structural analysis, it was determined that the removal of existing tower 152 would have a negative impact on 3 No. adjoining towers. The resultant loading on these towers (identified as towers 153, 154, and 155) associated with the removal of tower 152 would result in these towers being unstable and deformed and not complying with pylon design standards and Eurocode 3.
- It is therefore proposed that tower 152 remains as it currently exists to ensure the integrity and safety of the existing overhead line and structures.
- The overhead electricity line will now route from tower 152 to the proposed [sic]² new in-line angle tower before connecting to the eastern mini-interface electrical compound, as consented under ABP-312783-22.
- The proposed alteration does not materially alter the findings of the EIAR and does not have any direct or indirect impacts on designated Natura 2000 sites when assessed on its own or when considered cumulatively with other developments.
- Based on the fact that tower 152 is an existing tower and the primary driver for the alteration is to protect the integrity and safety of the line and structures, the proposed alteration does not constitute the making of a material alteration.

² This would appear to refer to the approved new angle tower as shown on the submitted drawings.

4.2. The request was accompanied by a Technical Note, prepared by TLI Group, providing further details on the structural reasons for retaining tower 152 in place.

5.0 **Legislative Provisions**

5.1. Section 146B(1) of the Act 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 Westmeath County Council of the request received in a letter dated 29th June 2023. 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 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 retention in place of an existing angle tower (tower 152), whose removal was approved under ABP-312783-22.
- 7.2.2. Tower 152 was to be replaced by a new tower, located c. 20m west, at which point the overhead lines would be severed and diverted southward to a line/cable interface compound to enable connection of the substation to the transmission system.
- 7.2.3. The approved development would have resulted in a longer span between towers, and the proposed alteration is stated to have arisen as a result of structural analysis of the existing angle towers further to the east, which indicated that they would be structurally compromised by the additional loading.
- 7.2.4. With regard to potential planning and environmental impacts, since the proposed alteration relates solely to the retention in situ of an existing tower, there will be marginally less construction work and construction traffic required and I consider that the only potential additional impacts relate to residential and visual amenity.
- 7.2.5. With regard to the potential impacts on residential amenity, I note that there is a considerable separation distance of c. 200m to the nearest dwellings, located to the north east. The Board will also note that no third party observations were made in respect of the 'parent' substation application. While the proposed alteration would result in there being 2 No. towers located within c. 20m of each other, I do not consider that this will result in any material impacts on residential amenity given the substantial separation distances from any dwellings.
- 7.2.6. With regard to visual amenities, I note that the existing tower 152 is similar in design, scale and function to the approved tower, which was to replace it. Tower 152 is part of an existing high voltage transmission line running through the area and permission has been granted by the Board and Westmeath County Council for considerable electrical infrastructure development on the surrounding lands, including the FlexGen gas-fired generator, the battery energy storage system and the substation and associated line/cable interface compounds. Given the extent of existing and permitted electrical development on the site and surrounding lands and noting the

proximity of the site to other large-scale infrastructure such as the M6 Motorway immediately to the south and the considerable separation distances from the nearest sensitive receptors, I do not consider that any material impact on the visual amenities of the area would arise from the retention in situ of tower 152.

7.3. Appropriate Assessment

- 7.3.1. The 'parent' application for the substation development (ABP-312783-22) was accompanied by an Appropriate Assessment Screening Report. In approving the development, the Board completed an Appropriate Assessment Screening exercise and determined 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.
- 7.3.2. As noted above, the proposed alteration will result in a marginal reduction in the extent of construction works required for the substation development, due to the retention in situ of the existing angle tower 152.
- 7.3.3. Having considered the Board's determination on Appropriate Assessment in case ABP-312783-22, and having regard to: the nature and limited scale and extent of the proposed alteration relative to the approved development; the nature of the receiving environment together with the distance to the nearest European sites, I am satisfied that no additional Appropriate Assessment issues arise and I do not consider 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.

7.4. Conclusion

- 7.4.1. In conclusion, I consider that no new or materially different considerations arise from the proposed alteration beyond those considered in the assessment undertaken in the s.182A application for approval of the substation and associated development (ABP-312783-22).
- 7.4.2. I am of the opinion, having fully considered the proposed alteration and the development as approved under ABP-312783-22, that the Board would have had no

substantive reason to determine the proposal differently had the retention of the existing tower 152 as proposed in the alteration formed part of said application. Consequently, 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-312783-22.

- 7.4.3. Finally, I have considered the provisions of s.146B(2)(b) which provides for the invitation of submissions from persons, including the public, at the Board's discretion. Having considered the limited nature, scale and extent of the proposed alteration, the information on file and the nature, scale and extent of the development approved under ABP-312783-22, 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 Recommendation

- 8.1. 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-312783-22.
- 8.2. 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.
- 8.3. A Draft Order for the Board's consideration is provided overleaf.

DRAFT ORDER

REQUEST received by An Bord Pleanála on the 13th day of June 2023 from Castlelost FlexGen Limited under section 146B of the Planning and Development Act, 2000, as amended, (“the Act”) to alter the terms of a strategic infrastructure development comprising a proposed 220kV GIS substation and associated electrical transmission infrastructure in the townlands of Kiltotan and Collinstown and Oldtown, Rochfortbridge, Co. Westmeath, which was the subject of an approval under An Bord Pleanála reference number ABP-312783-22.

WHEREAS the Board made a decision to approve, subject to conditions, the above-mentioned development by order dated the 9th day of September 2022,

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:

- Retention in place of an existing electricity pylon (identified as tower 152) whose removal had previously been approved as part of the development approved under An Bord Pleanála reference number ABP-312783-22).

AND WHEREAS the Board decided, in accordance with section 146B(2)(b) of the Act, 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 Act, 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 Act, 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 13th day of June 2023 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 development approved by An Bord Pleanála under Reference Number ABP-312783-22,
- (ii) the examination of the environmental impacts, 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 new or additional environmental concerns of a material nature (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 2000, as amended, the Board hereby makes the said alteration.

Niall Haverty
Senior Planning Inspector
27th July 2023