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Bord  
Pleanála

## **Inspector's Report**

### **ABP-321201-24**

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#### **Development**

Proposed development of an 'Under the Fence' ('UTF') Transformer Compound

#### **Location**

Located in the townlands of Windgates and Taghadoo, County Kildare

#### **Planning Authority**

Kildare County Council

#### **Type of Application**

Pre-application consultation under section 182E of the Planning and Development Act 2000, as amended

#### **Prospective Applicant**

Windgate Solar Limited

#### **Inspector**

Adrian Ormsby

## 1.0 Introduction

- 1.1. The Board received a request on 01<sup>st</sup> of November 2024 from Windgate Solar Limited to enter into pre-application consultations under Section 182E of the Planning and Development Act, 2000, as amended ('2000 Act'), in relation to the proposed development of an 'Under the Fence' ('UTF') Transformer Compound in the townlands of Windgates and Taghadoo, County Kildare.
- 1.2. The primary purpose of the pre-application consultation is to address the issue of whether or not the proposed development constitutes strategic infrastructure for the purposes of the Planning and Development Act 2000, as amended.
- 1.3. A record of the written consultations undertaken is on file.
- 1.4. This report provides an overview of the proposed development, as well as details of legislative provisions, and relevant precedents. My recommendation is that the proposed development **does not** constitute Strategic Infrastructure Development.

## 2.0 Site Location & Description

- 2.1. The proposed UTF Transformer Compound is located in the townlands of Windgates and Taghadoo, Co. Kildare, c. 2.5km south of Maynooth in County Kildare. The site is located on the western side of the R406 regional road linking Maynooth to Straffan.
- 2.2. The subject site is located on a nearby site c. 300m to the south of the existing Maynooth 220 kV electricity substation. The substation is accessed off the L5037 local road to the north of the subject site.
- 2.3. Lands to the west and further south of the site appear to be in agricultural use. There appears to be four residential properties c. 300m to the west of the site. A business known as the 'Leinster Driving Campus' is located c. 700m southwest of the site.

## 3.0 Proposed Development

- 3.1. The proposed development is for-
  - the construction of a new 'Under the Fence' transformer compound with a connection to the existing Maynooth 220-110kV substation

- the proposal will serve as an Independent Power Producer ('IPP') facility

### 3.2. The proposal comprises<sup>1</sup>-

- A transformer compound (measuring c. 51.5m x 63.7m) enclosed by 2m high palisade security fence
- A control room structure (approx. 10 x 3.5m) with associated 33kV underground cabling
- installation of a 33/110kV power transformer (with ancillary equipment)
- under the fence cabling
- A shared access track with the nearby solar farm<sup>2</sup>
- Welfare facilities will discharge to a holding tank to be maintained by licensed waste contractor and
- access from a local road of the R406 regional road.

## 4.0 Prospective Applicant's Case

### 4.1. The prospective applicant's case, as outlined in the cover letter submitted can be summarised as follows:

- The proposed UTF Transformer Compound is for the purpose of enabling the connection of a future solar PV and battery energy storage system ('BESS') development to the national grid. It will allow power to be exported onto the grid network
- The proposal is a small-scale Independent Power Producer ('IPP') facility intended to facilitate an UTF electrical connection to Eirgrid's existing Maynooth 220-110 kV substation.
- The proposal will not form part of the national transmission grid and will not be a node on the grid. It will instead connect to an existing node on the grid.

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<sup>1</sup> See sections 1.2.4, 2.1 and 2.1.1 - 2.1.4 of the submitted 'Consultation Document'.

<sup>2</sup> The consultation document on file details the facility will connect via underground cable to a proposed future solar farm and BESS development, for which Windgate Solar Ltd. will be seeking planning consent from Kildare County Council.

- The Proposed Development does not meet the definition of electricity transmission under Section 2(1) of the Electricity Regulation Act 1999. It is considered that it does not fall within Section 182A of the Planning and Development Act 2000 as amended.
- The Proposal is contained fully within the administrative boundary of Kildare County Council. There will be no significant effects on other local authorities.
- It is considered that the Proposed Development does not fall within the definition of strategic development as set out in Section 37A(2) of the Planning and Development Act 2000, as amended.

4.2. The following documents and drawings are stated as submitted in support of this pre-consultation application:

- A Consultation Document prepared by Malone O'Regan Environmental
- Landowner Consent
- Site Location Layout Plan (BESS IPP-SHEET 1\_A3\_V02) and Underground Cable Route Drawing (BESS IPP-SHEET 2\_A3\_V02)<sup>3</sup>

4.3. The Consultation Document includes reference to planning history in the immediate vicinity. This includes the following on adjoining sites

- 21/1444 and ABP-313757-22- **Grant** 05/10/2023 for Synchronous Compensator (Electricity Grid stabilisation) development. The location of this is indicated on the submitted drawings.
- 24/60494 and ABP-320789-24- **Not yet determined**, construction of two Gas Insulated Switchgear (GIS) buildings and all ancillary works including associated temporary works at construction stage. First party financial contribution appeal. This is the Maynooth substation site to the north.

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<sup>3</sup> I note the drawings submitted are not numbered as stated. The drawings do provide a general site location plan with other relevant information and a site layout plan with a section drawing through the site.

## 5.0 Relevant Precedents

- 5.1. The prospective applicant cites a number of cases where the Board determined that similar development comprised SID/Not SID under s182A. Those cases, and others that I consider to be of relevance, include:

ABP Ref. No.	Location	Development Description	Decision Date	Decision
ABP-319395-24	Kilkenny	Proposed development of a Transformer Compound enclosing a 110kV electricity transformer and an electrical control building, and approximately 30m of underground cables.	16/07/2024	Is not SID
ABP-319241-24	Cork	Proposed development of a Battery Energy Storage System (BESS) and connection to the adjacent 220kv Ballyvouskill Substation (This also included an IPP and UTF connection)	11/09/2024	Is not SID
ABP-319157-24	Donegal	Proposed development of an 'under the fence' (UTF) transformer compound associated with a proposed Energy Storage Facility	28/05/2024	Is not SID
ABP-316369-23	Limerick	Proposed development of a Generator Transformer Compound to the adjacent 110 kV substation	14/06/2023	Is not SID
ABP-315859-23	Cork	proposed grid stability service development comprising synchronous condenser compound and 110kV underground electricity connection cabling to Clashavoon 220kV substation	19/06/2023	Is not SID
ABP-312013-21	Longford	Transformer compound adjacent to the former Lough Ree Power Plant.	15/02/2022	Is not SID
ABP-309420-21	Galway	Development of a 110kV substation to feed into existing Cashla 220/110kV substation	02/06/2021	Is not SID

## 6.0 Legislative Provisions

### 6.1. Planning and Development Act 2000, as amended

- Section 2(1) defines 'strategic infrastructure' as including, *inter alia*:  
*"(d) any proposed development referred to in section 182A(1)"*
- Section 182A states-  
*"....where] a person (hereafter referred to in this section 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."*
- Section 182A(9) states-  
*"In this section 'transmission', in relation to electricity, shall be construed in accordance with section 2(1) of the Electricity Regulation Act 1999 but, for the purposes of this section, the foregoing expression, in relation to electricity, shall also be construed as meaning the transport of electricity by means of—*
  - (a) a high voltage line where the voltage would be 110 kilovolts or more, or*
  - (b) an interconnector, whether ownership of the interconnector will be vested in the undertaker or not."*
- Section 182E(1) states-  
*"A person ("a prospective applicant") who proposes to apply for approval under section 182B or 182D shall, before making the application, enter into consultations with the Board in relation to the proposed development."*

### 6.2. Electricity Regulation Act 1999, as amended

- Section 2(1) 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 line’:**

*“...has the meaning assigned to it by section 4(1) of the ESB (Electronic Communications Networks) Act 2014.”<sup>4</sup>*

○ **‘Electric plant’:**

*“...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 a consumer”*

○ **‘Distribution’:**

*“...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 switchgear and which is used for conveying electricity to final customers”.*

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<sup>4</sup> See section 6.3 of this report

### 6.3. ESB (Electronic Communications Networks) Act 2014

- Section 4(1) states:
  - *“...any line which is used solely or amongst other things for carrying electricity for any purpose and as including –*
    - (a) any support for any such line, that is to say, any structure, pole or other thing in, on, by or from which any such line may be supported, carried or suspended,*
    - (b) any apparatus connected to or associated with any such line for the purpose of carrying electricity or electronic communications services, whether such apparatus is owned by the Board or by any company referred to in section 2 or by a company which has been provided access or services referred to in section 3, or*
    - (c) any wire, cable, tube, pipe or similar thing (including its casing or coating) which is used for the purpose of carrying electricity or electronic communications services and which surrounds or supports or is surrounded or supported by, or is installed in close proximity to, or is supported, carried or suspended in association with, any such line.”*

## 7.0 Consultation Meeting

7.1. No meeting held.

## 8.0 Assessment

8.1.1. As noted in section 6 above, the definition of 'strategic infrastructure' includes development comprising or for the purposes of electricity transmission, with transmission described as either-

- The transport of electricity by means of a high voltage line of 110 kV or more, or an interconnector.
- The transport of electricity by means of a transmission system (a system of high voltage lines and electric plant 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, including interconnectors but excluding distribution system lines).

- 8.2. Based on the information on file, I am satisfied the existing Maynooth 220-110kV Substation does form part of the electricity transmission system for the purposes of the Planning Act.
- 8.3. However, from the same information, it is clear the proposed small scale Independent Power Producer (IPP) is intended to simply facilitate an 'under the fence' electrical connection to the Maynooth substation. It does not propose altering the function or nature of the Maynooth substation nor is it proposed to form part of the national transmission grid.
- 8.4. The prospective applicant indicates the proposal is for the purpose of enabling the connection of a future solar PV and battery energy storage system ('BESS') development to the national grid. The location of the 'proposed solar farm and battery storage lands' is shown on the drawings submitted and is directly to the east and south of the subject site.
- 8.5. It is my understanding an IPP facility typically adjoins transmission infrastructure e.g. as part of or to facilitate electricity generated from a new solar farm or wind energy development. The proposed transformer compound and under the fence connection will operate as an ancillary element to the nearby existing substation. It will not transmit electricity in a sense consistent with the legislative meaning of 'transmission' as set out in section 6 of this report.
- 8.6. I note the Board has previously determined requests for 182E pre-application consultations for similar proposals. In particular, I refer to ABP-319395-24 near Ballyraggett in County Kilkenny. This consultation was for a Transformer Compound enclosing a 110kV electricity transformer and an electrical control building, and approximately 30m of underground cables. The Board determined that such development does not fall within the scope of section 182A and consequently a planning application should be made in the first instance to the local planning authority.
- 8.7. What is proposed in this instance is a transformer compound, or IPP facility with an underground cable connection to the existing Maynooth substation. This will then

facilitate a development under a separate planning application to Kildare County Council for a solar farm and BESS facility for export of generated electricity to the grid via the existing Maynooth substation. It is at this point the medium voltage power generated by the solar farm and/or stored within the BESS would step up from 33kV to 110kV and enter the transmission network from the substation<sup>5</sup>.

- 8.8. This interpretation is consistent with recent Board determinations, such as ABP-319395, ABP-319241-24, ABP-319157-24 and ABP-316369-23 which the Board deemed did not fall within the scope of section 182A of the Act.
- 8.9. The subject proposal therefore does not satisfy the criteria to constitute 'transmission' as defined in the Planning and Development Act 2000 (as amended) and Electricity Regulation Act 1999.
- 8.10. Having regard to;
- The limited nature and scale of the proposed development
  - Its intended purpose, comprising a transformer compound to facilitate a solar PV and battery energy storage system ('BESS') development with connection to the existing Maynooth 220-110 kV substation
  - The meaning of 'transmission' as specified under the relevant legislation which the proposed development does not come within
  - The lack of wider impact on the operation of the transmission system in the area
  - Previous Board decisions in respect of similar requests for pre-application consultation, particularly references ABP-319395-24, ABP-319241-24, ABP-319157-24 and ABP-316369-23

I consider that the proposed development does not constitute Strategic Infrastructure Development.

- 8.11. In conclusion, therefore, I recommend that the Board issue a determination that the proposed development consisting of an 'Under the Fence' ('UTF') Transformer Compound does not fall within the scope of section 182A of the 2000 Act, as amended. A planning application should be made to Kildare County Council, in the first instance.

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<sup>5</sup> See section 2.1 of Consultation Document

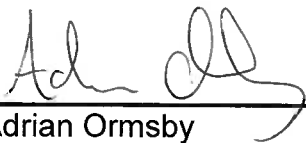
## 9.0 Recommendation

9.1. I recommend that Windgate Solar Limited be informed that:

the proposed development consisting of an 'Under the Fence' ('UTF') Transformer Compound 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 Kildare County Council.

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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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Adrian Ormsby  
Senior Planning Inspector

27<sup>th</sup> of November 2024