



Inspector's Report

Case Ref. No:	06F. PC0239.
Issue:	SID Pre-application – whether project is or is not strategic infrastructure development.
Proposed Development:	Provision of an ancillary substation and associated works to serve the permitted fuel storage facility.
Location:	Dublin Airport, Co. Dublin
Applicants:	Dublin Airport Authority plc.
Planning Authority:	Fingal County Council.
Inspector:	Philip Green.

1.0 Proposed Development.

- 1.1** Dublin Airport Authority has submitted this request for a pre application consultation. Attached with the request was an explanatory statement and set of drawings illustrating the location and layout of the proposed development, previously permitted development and analysing the development in the context of the legislative provisions of the Act as it relates to Strategic Infrastructure. In response to a Board request for clarification of certain matters the DAA provided additional information on the 30 November and 21st December 2016.
- 1.2** The proposed development is referred to as for the provision of a replacement ancillary ESB sub station and associated works to serve the permitted fuel storage facility at Dublin Airport. It consists of a single storey structure comprising ESB sub station, customer switch room and back up generator. The building is stated as having a floor area of 105 sq.m. and height of 2.95m. to be located in the north western corner of the fuel storage facility. The permitted Operations Building within the fuel storage facility will be repositioned some 5m. east and 3m. south of its permitted location under F16A/0254 (remaining within the permitted site boundary).
- 1.3** The prospective applicant notes that that the existing fuel storage facility has consent for its redevelopment under planning permissions F06A/1463 and F06A/1463/E1. A further permission was granted for minor modifications and repositioning of the 3 permitted buildings within the permitted boundary under F16A/0254 following the Board determining that these modifications did not constitute strategic infrastructure (Board reference 06F PC0219).
- 1.4** The original planning permission envisaged using the existing sub station however on review with the ESB it has been established that this 40 year old facility is no longer suitable for the new expanded facility and there was no provision in that permission for back up power generation in the event of a mains failure.
- 1.5** It is therefore necessary to plan for the interim situation where the existing facility must remain intact to provide for continued fuelling operations whilst the new sub station is built. The new sub station is therefore sited away from the existing and the location chosen has been agreed with the ESB. As a result it is also necessary to relocate the permitted operations building. It is considered that these works constitute minor alterations to those already permitted and do not provide any new critical infrastructure but replace existing outdated power supply arrangements at the permitted fuel storage facility.

1.6 In subsequent correspondence received the prospective applicants have indicated that the voltage capacity of the substation would be between 10kV and 20kV. In addition it is stated that the sub station has been designed in accordance with and will be operated by ESB under wayleave agreements with DAA. The associated back up generator room and customer side will be owned by the DAA. The purpose of the substation is for the distribution of electricity to the airports fuel storage facility rather than constituting electricity transmission as defined in the Planning Act. The Board's attention is brought to the DAA's status in respect of electricity distribution and that the DAA are the 'de facto' holders of a permit to distribute and supply electricity at Dublin Airport (extracts from CER report and 2007 Determination 'Extension of Section 37 Permit in accordance with Section 15 of the Electricity Regulation Act 1999' provided).

2.0 Applicant's case.

2.1 Dublin airport is Ireland's busiest airport and during 2015 over 25 million passengers travelled through the airport. It is therefore a facility specified in Seventh Schedule.

2.2 Fingal County Development Plan 2011-2017 is relevant. Applicant notes that an approved 2006 LAP has now expired. (the Dublin Airport LAP). Development complies with relevant Zoning Objective DA and Objective EE49 for the efficient and effective operation of the Airport. Site's zoning remains unchanged in the draft Fingal Development Plan 2017 - 2023 and the works are in accordance with Objective ED 30 of the draft Plan to provide the required infrastructure at the airport whilst having regard to impact on residential areas.

2.3 It is considered that the proposed development being minor alterations to an extant permission would not be strategic in nature as defined in the Act. It would constitute alterations to the location of a permitted development and provision of a new replacement structure to cater for power requirements but would not extend beyond that already permitted.

2.4 Proposed elements in their own right and cumulatively would not contribute to the fulfilment of any of the objectives in the NSS or in any Regional Planning Guidelines as it will not deliver any significant new infrastructure.

2.5 Proposed substation would not have a significant effect on the area of more than one planning authority.

2.6 It is considered that the proposal involves distribution not transmission and would not fall under s. 182A.

2.7 Board previously determined that provision of an ancillary substation to serve an area of apron at the airport (06F PC0189) was not S.I. Current proposal is directly comparable.

3.0 Legal Provisions.

3.1 The development subject of this pre application consultation request relates to a replacement substation and ancillary works including resiting of a permitted structure. Of broad relevance therefore are the following including the classes of development in the Seventh Schedule inserted into the Planning and Development Act 2000 by section 5 of the Planning and Development (Strategic Infrastructure) Act 2006 and s.78(a) of the Planning and Development (Amendment) Act 2010:

3.2 Classes of development in the Seventh Schedule inserted into the Planning and Development Act 2000 by section 5 of the Planning and Development (Strategic Infrastructure) Act 2006:

Energy Infrastructure

1. Development comprising or for the purposes of any of the following:

- *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 200 kilovolts or more, but excluding any proposed development referred to in section 182A(1) and*

Transport Infrastructure

2. Development comprising or for the purposes of any of the following:

An airport (with not less than 2 million instances of passenger use per annum) or any runway, taxiway, pier, car park, terminal or other facility or installation related to it (whether as regards passenger traffic or cargo traffic).

3.3 Section 37A(1) says that 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. Section 37A (2) says

That condition is that, following consultation under section 37B, the Board serves on the prospective applicant a notice in writing 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 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,*
- (c) *the development would have a significant effect on the area of more than one planning authority.*

3.4 Under section 182A(1) of the 2000 Act (inserted by section 4 of the 2006 Act) 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 development under section 182B and shall apply to the Board for such approval accordingly.

Subsection 9 states that

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.

In section 2(1) of the Electricity Regulation Act, 1999, “transmission” is defined in relation to electricity as meaning

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.

4.0 **Assessment.**

- 4.1** Given the small scale nature and capacity of the sub station I do not consider that it would constitute development for the purposes of defining energy infrastructure as set out in the Seventh Schedule (see 3.2 above).

- 4.2** Whilst I note the submissions in regard to the DAA's status as an 'electricity undertaking' it would appear to me that this is for the purposes of distribution and supply of electricity rather than electricity transmission as defined in the Planning Act. Having regard also to the small scale and voltage capacity of the substation I conclude that this proposed development is not for the purposes of 'electricity transmission' being electrical plant related to a high voltage line that would require consideration under s.182A of the Act. It is my opinion that in such circumstances the development the subject of this pre application consultation should therefore be considered under the 'airport' category of development specified in the Seventh Schedule.
- 4.3** Dublin Airport is an 'airport' falling within the class defined in the Seventh Schedule (see 3.2 above). I conclude that on the basis of the information provided, the existing sub station which it is proposed to replace and the stated ancillary nature and purpose of the substation for supply of electricity to assist in refuelling of aircraft that the proposed development would constitute a facility or other installation associated with an airport with not less than 2 million instances of passenger use per annum.
- 4.4** Notwithstanding the above I am not however convinced that in itself the currently proposed development's scale, purpose, function and significance is either 'strategic' or 'substantial' in the sense construed and required by Section 37A(2)(a) and (b) to justify SI status. Neither do I consider that Section 37A(2)(c) is applicable to this case. I consider that the proposed development as described in the submissions would not satisfy any of the conditions contained in section 37A (2) (a), (b) or (c) of the Act. Therefore, I agree with the prospective applicant that this proposed development does not constitute a strategic infrastructure development.
- 4.5** There have been a number of other pre application consultation requests for development not deemed to be strategic infrastructure at Dublin Airport (and other airports). These are included on the list attached to the Board's file and include that referred to in the prospective applicants submission.

Recommendation.

I recommend that the Dublin Airport Authority plc be informed that the proposed development consisting of the provision of an ancillary substation and associated works to serve the permitted fuel storage facility at Dublin Airport as set out in the plans and particulars lodged with the Board on the 8th November 2016 and further details provided on the 30th November and 21st December 2016 does not fall within one or more of the paragraphs specified in the condition contained in section 37A (2) of the Planning and Development Act, 2000, as amended, and that a planning application should be made in the first instance to Fingal County Council.

Philip Green,
Assistant Director of Planning.
21st December 2016.