
An Bord Pleanála



Memorandum

Development: Proposed 110kV substation at the former Mitsui Denman site at Wallingstown, Little Island, Cork

Applicant : Progressive Commercial Construction Ltd.

Type of Case : Pre-Application Consultation, Section 182E Planning and Development Act, 2000, as amended

Inspector : Pauline Fitzpatrick

1.0 INTRODUCTION

Progressive Commercial Construction Ltd. propose to construct an electrical substation along with associated works to serve a proposed commercial development for which permission is currently being sought from Cork County Council under reference number 16/5011. The proposed development provides for 3 no. data centre buildings with a stated floor area of 23,192 sq.m. (subject of 16/5011) in addition to two office buildings with a floor area of 12,653 sq.m. which secured permission under reference 07/12475 (as extended under 15/5450).

2.0 SITE LOCATION

The site is accessed from the R623 at Wallingstown in Little Island c.10km to the east of Cork City with the general area characterised by commercial and industrial uses. The site which forms part of a larger brownfield site has been largely cleared of the buildings associated with the previous use (manganese dioxide processing plant) save for a number noted alongside the roadside boundary. Site preparation works are ongoing.

3.0 PROPOSED DEVELOPMENT

The proposal entails the construction of a substation on a 0.306 hectare site within the larger 13 hectare holding. It will comprise a two storey Gas Insulated Switchgear (GIS) 110/20 kV substation building; an associated single storey Gas Insulated Switchgear (GIS) 20 kV substation building; associated outdoor electrical equipment including filter banks, transformers, cable sealing ends and surge arresters, up to 4 no. lightning protection masts approx. 18 metres in height if necessary and 1 no. communications mast approx. 20 metres in height if necessary, associated internal access road, boundary fencing and all ancillary works. The proposal will also involve the 2 no. 110kV underground cable ducts between the substation and the existing Eirgrid substation c. 300 metres to the north.

4.0 PROSPECTIVE APPLICANT'S CASE

Pre-application consultations were held with the prospective applicant on the 10th May, 2016 to consider whether the proposed development constitutes Strategic Infrastructure Development.

As per the details provided prior to and at the meeting the prospective applicant stated:

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- The proposal is effectively replacing a 110kV substation that served the previous use on the site, the remnants of which are still visible.
 - It will be 300 metres to the south of the Castlevew 110 kV substation from which there is an existing spur line to the site. There is capacity in the said substation to facilitate the development without need for additional infrastructure.
 - The substation is to serve the permitted and proposed commercial development on the 13 hectare brownfield site only. The permitted and proposed commercial development would cover approx. 10 hectares of the said site.
 - It will be designed to Eirgrid requirements. It will constitute a private development and will remain in private ownership although some assets may be required to be in the ownership of Eirgrid.
 - It will not involve any alteration or addition to the national grid infrastructure and will not involve transmission. It effectively constitutes the end of the network. It will be taking from the network to supply the development, only, and will not be adding to capacity.
 - The substation is not considered to be of strategic, economic or social importance to the region or state, would not contribute in any material way to fulfilling the objectives of the NSS or the Regional Planning Guidelines and would not have an impact on multiple Local Authority areas.
 - There are recent precedents that have established that works involving a 110kV substation are not considered Strategic Infrastructure.
 - An EIA is not a mandatory requirement for the substation. An assessment of the proposal against the criteria set out in Schedule 7 of the Planning and Development Regulations concludes that the proposal would not have a significant effect on the receiving environment.
 - The site is c. 440 metres from Cork Harbour SPA. AA- Screening concludes that the proposal, by itself or in combination with surrounding projects, will not have an undue negative impact on the integrity of the designated site. A Stage 2 AA is not required.

5.0 LEGAL PROVISIONS

The development subject of this pre-application consultation request relates specifically to a proposed substation to be constructed in conjunction with proposed commercial development.

Subsection 1 of section 182A of the Planning and Development Act 2000 Act [inserted by section 4 of the Planning and Development (Strategic Infrastructure) Act 2006] states that where an 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.

Subsection 9 of section 182A 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.

"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 a consumer.*

6.0 ASSESSMENT

The proposed development to be considered is the development of a 110kV substation to serve a commercial development and whether that as described constitutes Strategic Infrastructure or not.

The commercial development would entail 3 no. data centre buildings with an anticipated floor area of 23,192 sq.m. which is the subject of a current application to Cork County Council under ref. 16/501, in addition to two office buildings with a floor area of 12,653 sq.m. which secured permission under reference 07/12475 (as extended under 15/5450). The prospective applicant has confirmed that the proposed substation would facilitate development on the 13 hectare, only, and will not serve any other lands.

I consider that the provisions of Section 182A of the Act would be the directly relevant legislative provisions relating to this case. However the legislation is not specific in terms of defining high voltage for substations or electrical plant unlike high voltage lines. Section 182A(9) of the Planning and Development Act, 2000, as inserted by the Planning and Development (Strategic Infrastructure) Act, 2006, sets a threshold of 110 kilovolts in order for a high voltage electricity transmission line to be considered strategic infrastructure. No threshold is set in respect of a substation.

The Board has, in the past, concluded that such type 110kV substation development has constituted strategic infrastructure, notably at Dulla Co. Tipperary (case ref. VC0049) and near Moycullen Co. Galway (case ref. VC0062). In both instances the infrastructure was required to serve permitted windfarm development. Conversely the Board decided that a 110kV substation did not constitute strategic infrastructure at Grange Castle, Clondalkin, Co. Dublin (case ref. VC0069).

In these cases due to the lack of clarity in the interpretation of Section 182 A and its requirement in regard to such proposed developments the Board has exercised some discretion and used the broad definition of the Strategic Infrastructure Act *“developments of strategic importance to the State”* and the criteria contained in Section 37(A)(2) to determine such matters although not specifically cited in regard to cases coming forward under Section 182A.

I consider that there are material considerations put forward by the prospective application as to why the substation would not constitute strategic infrastructure. I consider these arguments have a sound basis. In this regard I note the following:

- The proposed development is to serve a discrete commercial development, on a 13 hectare site and will not serve any other lands or development in the

vicinity. It will effectively constitute the end of the network and will be taking from, and not adding to, network capacity.

- The overall site has a stated area of 13 hectares of which 10 hectares are proposed to be developed (permitted and proposed). This falls short of the 15 hectare threshold for industrial estate development as set out in Class 10, Part 2, 5th Schedule of the Planning and Development Regulations, 2001, as amended, at which the requirement for an EIS is triggered.
- There was a 110kV substation on the site serving the previous industrial use, part of which as yet remains.
- The substation, in itself, would not qualify as being of economic or social importance to either the State or Cork in a strategic sense. The development which it is to serve, namely data centre and offices, does not of itself, constitute strategic infrastructure and whilst of importance in terms of local economic and employment opportunities could not be considered as being of strategic importance to the State or the Cork region
- While the NSS and Regional Planning Guidelines advocate the reinforcement of the electrical network and the necessity of security of supply to promote economic growth, the proposed development serving a discrete development will not be capable of substantially contributing to the fulfilment of these broad objectives. The development which it is to serve, whilst contributing in terms of economic investment and widening of the employment base would also would be not be capable of substantially contributing to the fulfilment of the documents' objectives.
- The substation is proposed to serve a specific development proposal on a 13 hectare site and is wholly within one local authority area, Cork County Council.

I note that the Board decided that a proposed 220kV substation to serve a data centre proposed by Apple in Athenry in Co. Galway (VC0091) and a 220kV substation to serve a similar development in Clonee, Co. Meath (VC0087) constitute Strategic Infrastructure. I submit that the subject proposal is not comparable in terms of power output and scale proposed. The site size and proposed development it is to serve are materially smaller than the two mentioned cases. In terms of Athenry the site has a approx. area of 197 hectares with a data centre to be provided in 8 phases with the first phase providing for 25,000 sq.m. In Clonee the site has an approx. area of 91 hectares with an anticipated floor area of 100,000 sq.m. As noted above the proposal will be at the end of the system and will not form a new node in the transmission network.

It is my opinion that any detailed and specific issues arising in terms of the substation and whether it would be in accordance with the proper planning and sustainable development of the area are matters that could be addressed in an application to Cork County Council

Thus having regard to the above and noting the particular circumstances of this case, I consider that the proposed 110kV substation as described in the submissions and drawings, and having regard 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) would not constitute strategic infrastructure. I conclude that the proposed development consisting of a proposed 110kV electricity substation and associated works does not fall within the scope of section 182A of the Planning and Development Act 2000, as amended necessitating an application direct to the Board.

7.0 RECOMMENDATION

I recommend that Progressive Commercial Construction Ltd be informed that having regard to the particular circumstances of this case that the proposed development consisting of a 110kV electricity substation at Wallingstown, Little Island., Co. Cork does not fall within the scope of section 182A of the Planning and Development Act 2000, as a mended, and that a planning application should be made in the first instance to Cork County Council.

Pauline Fitzpatrick
Inspectorate

May, 2016