



An  
Bord  
Pleanála

## Inspector's Report

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**Development**

Proposed substation and associated underground cable connection from permitted Dromnahough and Lenalea windfarms to Clogher substation, Co. Donegal.

**Prospective Applicant**

Cufgaze Ltd.

**Type of Case**

Pre-Application Consultation, Section 182E Planning and Development Act, 2000, as amended

**Inspector**

Pauline Fitzpatrick

**Date of Site Inspection**

10/08/16

## **INTRODUCTION**

Cufgaze Ltd. propose to construct an electrical substation along with an associated underground cable connection to the national grid at Clogher substation to serve two permitted windfarm developments.

The windfarms are located in the rural upland setting of central Donegal, between 8 and 13 km south west of Letterkenny and c.12km to the north-west of Ballybofey. Dromnahough windfarm has an area of 480 ha with the eastern half of the site currently under commercial forestry. The upper areas are mostly composed of intact blanket bog which graduates to heath and wet grassland further down slope. Lenalea windfarm has an area of approx. 400 ha with much of the site currently under commercial, coniferous forestry which is managed by Coillte.

There are a number of windfarms immediately to the south, east and north west of the lands on which the permitted windfarms refer notably Cark, Culliagh and Meentycat windfarms accounting for in excess of 80 turbines with associated substations noted.

## **2.0 PROPOSED DEVELOPMENT**

The proposed 110kV substation is to replace two 110kV substations permitted as part of two wind farm developments, namely Dromnahough 15 turbine wind farm granted permission under ref. 08/50687 (duration extended under 13/51609) and Lenalea 9 turbine wind farm granted under ref. 09/50116 (duration extended under 12/40091). The proposal also entails the 110kV grid connection cable connecting the proposed substation to the Clogher substation near Barnsmore to the south-west which is currently under construction and the 33kV cabling connecting Lenalea wind farm to the proposed substation. The cable routes are to be underground for a distance of c.32 km., 27km of which to be along public roads with the remaining 5km largely along private access/forestry tracks.

The location of the proposed substation is approx. 3km to the south-east of the previously approved location at Dromnahough windfarm and will be accessed from the permitted wind farm road on a site between turbine numbers 12, 13 and 14 (location altered marginally in the documentation submitted by the prospective applicant at the pre-application consultation meeting held on the 29/06/16). The substation is comparable in size and configuration to those already approved under the said permissions and the receiving environment is comparable characterised by upland heath and coniferous forestry. The substation is to be constructed and operated by Eirgrid.

### **3.0 PROSPECTIVE APPLICANT'S CASE**

The request for pre-application consultations was lodged with the Board on the 29/03/16 with further plans and details submitted on the 09/05/16 following a request for same dated 29/04/16. A meeting was held with the prospective applicant on the 29/06/16. The prospective applicant contends that the proposal does not constitute Strategic Infrastructure for the following reasons:

- The proposal entails the amalgamation of two previously permitted substations which were previously granted permission by the Planning Authority.
- There are extant permissions for the said substations
- The proposed substation remains within the site of the previously permitted Dromnahough windfarm.
- The associated cable route connection is underground and predominantly follows the public road corridors and existing tracks.
- The substation will be accessed via the same roads as already permitted for the Dromnahough wind farm.

The prospective applicant currently has a Section 5 application with Donegal County Council under reference number S516-21 as to whether or not it considers the underground cable works to be exempted development. To date no decision has been made on the application.

Consequent to the meeting held with the Board on the 29/06/16 the prospective applicant by way of a letter dated 15/07/16 requests the Board to consider the following two scenarios in its determination:

(a) The proposed substation by itself

And

(b) The proposed substation and the underground cabling

### **4.0 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.*

## **5.0 ASSESSMENT**

The proposal is for the substitution of 2 no. 110kV substations for 1 no. 110 kV substation to serve two permitted windfarm developments in addition to underground cabling from the substation to the substation at Clogher near Barnsmore. I note that Dromnahough windfarm secured permission for 15 no. turbines and a 110kV substation under planning reference number 08/50687, the duration of which was extended until 29/03/19 under ref. 13/1609. The application was accompanied by an EIS. Lenalea windfarm secured permission for 9 no. turbines and 110kV substation under planning reference number 09/50116. This was also accompanied by an EIS. Whilst dependent on the turbine specifications the projected output of the two windfarms would be in the region of 72 megawatts. At the time of the lodgement of the applications both proposals were significantly below the then threshold of 50 turbines or 100 MW\* set out in the 7<sup>th</sup> Schedule of the Planning and Development Act, 2000, as amended, which set out infrastructure developments for the purposes of sections 37A and 37B. The threshold was amended in 2010 to 25 turbines or 50MW.

I submit that there are two aspects of the proposed development that need to be considered in adjudicating whether the proposal constitutes strategic infrastructure or not. The 1<sup>st</sup> is the replacement of two permitted substations with one substation. The second aspect is the transmission of the electricity generated by the windfarms to the grid.

### **110kV Substation**

With regard to the substation 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.

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 SI Act. “developments of strategic importance to the State” and the criteria contained in s.37(A)(2) to determine such matters although not specifically cited in regard to cases coming forward under s.182A.

In terms of proposals for new substations the Board has, in the past, concluded that such type development has constituted strategic infrastructure notably VC0049 at Dulla Co. Tipperary and VC0062 near Moycullen Co. Galway. 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 in VC0069 at Grange Castle, Clondalkin, Co. Dublin. However I consider that a

more comparable case is VC0074 where the relocation and enlargement of a 110kV substation to serve a permitted windfarm was considered not to constitute strategic infrastructure by the Board.

I consider that the case as put forward by the applicant as to why the relocated substation would not constitute strategic infrastructure has a sound basis as follows:

- Each permitted windfarm entailed the construction of a 110kV substation.
- The proposed substation is of a comparable size and design to those permitted.
- Both applications were accompanied by EIS and were subject to EIA.
- The location of the proposed substation is c.3km to the south-east of that permitted within the Dromnahough wind farm scheme. Whilst I note that the red line delineating the site boundary was very specific to the turbine and access road locations, only, and that the site of the relocated substation is outside of same, it is to be positioned between turbines 12, 13 and 14 and is to be served by the site access. As noted by the prospective applicant the site is within the defined study area of the previously submitted EIS and that the EIA undertaken would not have been restricted solely to the area within the red line boundary.
- A need, precedent and decision for the presence of a substation on the site have already been established.

It is my opinion that any detailed and specific issues arising in terms of the revised location, associated environmental implications and whether this would be in accordance with the proper planning and sustainable development of the area are matters that could be addressed in a subsequent application to Donegal County Council rather than necessitating reconsideration of whether the revised substation would be of strategic importance to the State and thus requiring an application direct to the Board.

### **Underground Cabling**

In relation to the specific question regarding the transmission of generated power to the national grid the proposal entails an underground 110kV grid cable connection from the proposed substation to the substation at Clogher c. 32km to the south-west to be routed, in the main, along public roads with the remainder, c. 5km, largely along private tracks/forestry tracks. As indicated above under 'Legal Provisions' transmission shall be construed as meaning the transport of electricity by means of a high voltage line of 110 kilovolts or more. The proposal would therefore come within the specified parameters. Thus where an undertaker "... *intends to carry out development comprising or for the purposes of electricity transmission .... 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.*” However, I submit that it would be reasonable to consider the long title of the Planning & Development (Strategic Infrastructure) Act 2006 in order to understand the intended purpose of the Act. This provides for the making directly to An Bord Pleanála of applications for permission for “developments of strategic importance to the State.”

Section 37(A)(2) of the P & D Act 2000-2010 lists 3 requirements of which one or more must be met to constitute strategic infrastructure. It should be noted that the criteria listed under section 37(A)(2) are not repeated under section 182(A), however they do provide a useful reference regarding the nature, importance and extent of a proposed development which is to be regarded as Strategic Infrastructure Development. I note that the Board adopted a similar approach under case ref. VC0048. Having regard to those 3 requirements I do not consider that the underground cable constitutes strategic infrastructure in that the cable is to serve the permitted windfarms, only, it cannot be considered to be of strategic economic importance to the State, the cable would not contribute substantially to the fulfilment of the NSS or the regional planning guidelines and it is within the catchment of a single planning authority.

Further to the above the underground cable could be considered ancillary to the main works relating to the electricity generation in this instance, namely the permitted windfarms. For further consideration is Class 26, Schedule 2, Part 1 of the Planning & Development Regulations as amended. Pursuant to that class an “*undertaker authorised to provide an electricity service*” is exempt from seeking permission to lay an underground cable. Depending on whom lays the cable it *may* be considered exempt development but that is a matter for the Planning Authority to make a determination on in the first instance.

Having regard to the above and noting the particular circumstances of this case, including the extant permissions for two substations within windfarm developments permitted by Donegal County Council, I consider that the proposed relocated 110kV substation and associated underground cabling 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 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.

## **5.0 RECOMMENDATION**

As the prospective applicant has requested the Board to consider two scenarios in its determination to which I have no objection I recommend Cutgaze Ltd be informed as follows:

### **Determination – 110kV Substation**

Having regard to the particular circumstances of this case that the proposed development consisting of a proposed 110kV electricity substation to serve two windfarms permitted under planning reference numbers 08/50687 (subsequently extended under ref. 13/1609) and 09/50116 (subsequently extended under ref. 12/40091) at Dromnahough and Lenalea County Donegal 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 Donegal County Council.

### **Determination – 110kV Substation and Underground Cabling**

Having regard to the particular circumstances of this case that the proposed development consisting of a proposed 110kV electricity substation and associated underground cable connection to serve two windfarms permitted under planning reference numbers 08/50687 (subsequently extended under ref. 13/1609) and 09/50116 (subsequently extended under ref. 12/40091) at Dromnahough and Lenalea County Donegal 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 Donegal County Council.

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**Pauline Fitzpatrick**  
**Inspectorate**

**August, 2016**