



An
Bord
Pleanála

Inspector's Report

04.VC0107

Development

Diversion of Clashavoon-Clonkeen
110kV overhead line, Macroom, Co.
Cork

Prospective Applicant

Eirgrid

Type of Case

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

Inspector

Pauline Fitzpatrick

1.0 INTRODUCTION

- 1.1. Eirgrid proposes to divert a section of the existing Clashavoon-Clonkeen 110kV overhead line to the north and east of Ballyvourney, Co. Cork.

2.0 PROPOSED DEVELOPMENT

- 2.1. In 2011 the Board granted approval for construction of the 22km Bhuire-Macoom Road Development which provides for a dual carriageway, associated structures and ancillary and consequential works. The EIS for the road scheme addressed and assessed the consequential diversion of the existing Clashavoon-Clonkeen 110kV overhead line for a distance of c.2.2km to the north of Ballyvourney. A CPO has been confirmed to allow for the proposed development.
- 2.2. Following detailed design, diversion of the power line is now required over a distance of approx. 5km to the north and east of Ballyvourney between structures 94 and 134. In total 18 structure positions are involved, including changing 6 structures from polesets to towers. In addition 3 structures will be added in between existing structure locations to allow for the realignment. As such there is not an exact structure number for structure number replacement. In general the maximum latitudinal distances of replacements are from the centreline of the permitted road scheme to the edge of the road corridor which is generally 15-20 metres. This is within the confirmed CPO area.

3.0 PROSPECTIVE APPLICANT'S CASE

- 3.1. The request for a determination was lodged with the Board on the 26/06/17. The prospective applicant notes that:
 - the diversion of the existing overhead line is required entirely as a consequence of the approved road development and that there is no other reason for such diversion. It is considered that the diversion comprises and was proposed as 'ancillary and consequential works' associated with the then proposed road scheme.

- The works relate to a long existing overhead line. However it does relate to existing transmission infrastructure.
- This local diversion of the existing transmission overhead line will occur within the area of the CPO. It will occur by way of standard and long established methodologies for the construction of polesets and angle masts.

3.2. The prospective applicant requests the Board to consider the following options:-

- The diversion was adequately proposed, assessed and consented under application HA0025 with no need for any subsequent consent;
- Consideration of the diversion under section 146(1)(b)(ii) of the Planning and Development Act 2000 as amended;
- Confirmation by way of alteration to the parent application in accordance with section 146B of the Planning and Development Act 2000 as amended;
- That a separate permission is required but given that the works relate to an existing transmission line is not a Strategic Infrastructure Development and thus an application should be made to Cork County Council;
- That a separate permission is required in accordance with Section 182A of the Planning and Development Act 2000 as amended.

4.0 LEGAL PROVISIONS

4.1. 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.

4.2. 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.

- 4.3. 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.

5.0 ASSESSMENT

- 5.1. As noted above the proposal pertains to the localised diversion of an existing 110kV line arising from the approved N22 Baile Bhuirne-Macroon proposed road development.

- 5.2. 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.”

5.3. Section 37(A)(2) of the Planning & Development Act 2000, as amended, 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 refs. VC0016 and VC0048 pertaining to development of a comparable nature to that which is the subject of this pre-application consultation.

These criteria are:

- development of strategic economic or social importance to the state or the region in which it would be situate;
- development which would contribute substantially to the fulfilment of any of the objectives of the National Spatial Strategy or in any regional spatial and economic strategy in force in respect of the area or areas in which the development would be situate;
- development which would have a significant effect on the area of more than one planning authority.

5.4. Having regard to these requirements I note that the existing transmission is long established and its realignment for a distance of in the region of 5km is so as to facilitate the approved N22 Baile Bhuirne-Macroom road development, only. I submit that the realignment is not of strategic economic importance to the State nor will it contribute substantially to the fulfilment of the NSS or the regional planning guidelines. Finally the works are within the catchment of a single planning authority.

5.5. Having regard to the above and noting the particular circumstances of this case, I consider that the proposed 110kV line diversion as described in the submission 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.

In terms of the other scenarios presented for consideration by the Board namely:

- that the diversion was adequately proposed, assessed and consented under HA0025 with no need for any subsequent consent.
- Consideration of the proposed diversion in terms Section 146A(1)(b)(ii) and Section 146B of the Planning and Development Act, 2000, as amended.

I submit that the first question is more appropriately addressed to the applicant for the road development (ref. HA0025), namely Cork County Council. Should Cork County Council not concur with same it would be at liberty to initiate the processes allowed for under 146A(1)(b)(ii) and Section 146B of the Planning and Development Act, 2000, as amended.

6.0 RECOMMENDATION

Having regard to the particular circumstances of this case that the proposed development consisting of a proposed diversion of an existing 110kV transmission line so as to facilitate the approved N22 Baile Bhurine-Macroom road development does not fall within the scope of section 182A of the Planning and Development Act 2000, as amended.

Pauline Fitzpatrick

Inspectorate

September, 2017