

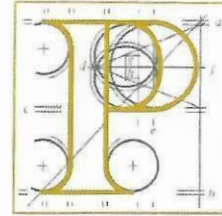
## Appendix 6B

### An Bord Pleanála Pre-Application Response

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**Our Case Number:** ABP-316229-23

**Your Reference:** SSE Generation Ireland Ltd



An  
Bord  
Pleanála

Gravis Planning  
c/o Ed Barrett  
41 Baggot Street Lower  
Dublin 2  
D02 NN67

**Date:** 16 October 2023

**Re:** Proposed 350MW Low Carbon Open Cycle Gas Turbine (OCGT) fuelled by hydrotreated vegetable oil, administration building and workshop, and ancillary plant and infrastructure.  
Tarbert Power Station, Tarbert, Co. Kerry.

Dear Sir / Madam,

Please be advised that following consultations under section 37B of the Planning and Development Act 2000, as amended, the Board hereby serves notice under section 37B(4)(a) that it is of the opinion that the proposed development falls within the scope of paragraphs 37A(2)(a) and (b) of the Act. Accordingly, the Board has decided that the proposed development would be strategic infrastructure within the meaning of section 37A of the Planning and Development Act 2000, as amended. Any application for permission for the proposed development must, therefore, be made directly to An Bord Pleanála under section 37E of the Act.

Please also be informed that the Board considers that the pre-application consultation process in respect of this proposed development is now closed.

Attached is a list of prescribed bodies to be notified of the application for the proposed development.

An Chomhairle Ealaíon

An Taisce

Commission for Regulation of Utilities

Cork County Council

Department of Agriculture, Food and the Marine

Department of the Environment, Climate and Communications

Department of Housing, Local Government and Heritage

Environmental Protection Agency

Fáilte Ireland

Health Service Executive

Irish Water

Teil	Tel	(01) 858 8100
Glaó Áitiúil	LoCall	1800 275 175
Facs	Fax	(01) 872 2684
Láithreán Gréasáin	Website	<a href="http://www.pleanala.ie">www.pleanala.ie</a>
Ríomhphost	Email	<a href="mailto:bord@pleanala.ie">bord@pleanala.ie</a>

64 Sráid Maoilbhríde	64 Marlborough Street
Baile Átha Cliath 1	Dublin 1
D01 V902	D01 V902

Kerry County Council

Southern Regional Assembly

Transport Infrastructure Ireland

Further notifications should also be made where deemed appropriate.

In accordance with section 146(5) of the Planning and Development Act 2000, as amended, the Board will make available for inspection and purchase at its offices the documents relating to the decision within 3 working days following its decision. This information is normally made available on the list of decided cases on the website on the Wednesday following the week in which the decision is made.

In accordance with the fees payable to the Board and where not more than one pre-application meeting is held in the determination of a case, a refund of €3,500 is payable to the person who submitted the pre-application consultation fee. As only one meeting was required in this case, a refund of €3,500 will be sent to you in due course.

The following information relates to challenges to the validity of a decision of An Bord Pleanála under the provisions of the Planning and Development Act 2000, as amended.

### **Judicial review of An Bord Pleanála decisions under the provisions of the Planning and Development Acts (as amended).**

A person wishing to challenge the validity of a Board decision may do so by way of judicial review only. Sections 50, 50A and 50B of the Planning and Development Act 2000 (as substituted by section 13 of the Planning and Development (Strategic Infrastructure) Act 2006, as amended/substituted by sections 32 and 33 of the Planning and Development (Amendment) Act 2010 and as amended by sections 20 and 21 of the Environment (Miscellaneous Provisions) Act 2011) contain provisions in relation to challenges to the validity of a decision of the Board.

The validity of a decision taken by the Board may only be questioned by making an application for judicial review under Order 84 of The Rules of the Superior Courts (S.I. No. 15 of 1986). Sub-section 50(7) of the Planning and Development Act 2000 requires that subject to any extension to the time period which may be allowed by the High Court in accordance with subsection 50(8), any application for judicial review must be made within 8 weeks of the decision of the Board. It should be noted that any challenge taken under section 50 may question only the validity of the decision and the Courts do not adjudicate on the merits of the development from the perspectives of the proper planning and sustainable development of the area and/or effects on the environment. Section 50A states that leave for judicial review shall not be granted unless the Court is satisfied that there are substantial grounds for contending that the decision is invalid or ought to be quashed and that the applicant has a sufficient interest in the matter which is the subject of the application or in cases involving environmental impact assessment is a body complying with specified criteria.

Section 50B contains provisions in relation to the cost of judicial review proceedings in the High Court relating to specified types of development (including proceedings relating to decisions or actions pursuant to a law of the state that gives effect to the public participation and access to justice provisions of Council Directive 85/337/EEC i.e. the EIA Directive and to the provisions of Directive 2001/12/EC i.e. Directive on the assessment of the effects on the environment of certain plans and programmes). The general provision contained in section 50B is that in such cases each party shall bear its own costs. The Court however may award costs against any party in specified circumstances. There is also provision for the Court to award the costs of proceedings or a portion of such costs to an applicant against a respondent or notice party where relief is obtained to the extent that the action or omission of the respondent or notice party contributed to the relief being obtained.

General information on judicial review procedures is contained on the following website,  
[www.citizensinformation.ie](http://www.citizensinformation.ie).

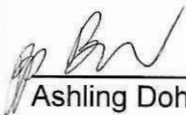
Tel	Tel	(01) 858 8100
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Disclaimer: The above is intended for information purposes. It does not purport to be a legally binding interpretation of the relevant provisions and it would be advisable for persons contemplating legal action to seek legal advice.

If you have any queries in the meantime, please contact the undersigned officer of the Board or email [sids@pleanala.ie](mailto:sids@pleanala.ie) quoting the above mentioned An Bord Pleanála reference number in any correspondence with the Board.

Yours faithfully,



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Ashling Doherty  
Executive Officer  
Direct Line: 01-8737160

PC09A

Teil  
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Facs  
Láithreán Gréasáin  
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Dublin 1  
D01 V902

14 September 2023

The Secretary  
An Bord Pleanála  
64 Marlborough Street  
Dublin 1

Dear Sir / Madam,

**Re: ABP-316229-23**

**Proposed 350MW Low Carbon Open Cycle Gas Turbine (OCGT) fuelled by hydrotreated vegetable oil, administration building and workshop, and ancillary plant and infrastructure.**

**Tarbert Power Station, Tarbert, Co. Kerry.**

On behalf of the Prospective Applicant for the above-referenced development proposal, SSE Generation Ireland Limited, we wish to confirm receipt of An Bord Pleanála's record of the pre-application consultation that took place on the 28th of August 2023.

We note the contents of the Board's record, in particular the preliminary opinion of the Board's representatives that *"the proposed development may be considered strategic infrastructure development"*.

With regard to the omission of works to the jetty, the Prospective Applicant wishes to advise that, following review, due to the 'peaking plant' nature of the proposed development and the infrequent and variable fuelling requirements that will arise as a result, the use of the jetty for fuel delivery will not form part of the project. No pipeline connection to the existing jetty is to be proposed accordingly. A revised layout plan is enclosed which omits connection to the jetty. As noted at the meeting, in the event of the proposed development being determined to constitute SID, the application that would be submitted to the Board would comprise an OCGT plant solely served by HVO delivered to the site by road.

Please also find enclosed additional detail regarding the proposed flood defence works, including section drawings which illustrate the nature and scale of the proposed flood defence wall. As noted at the meeting, no development is proposed within the nearshore area.

The Prospective Applicant has no further comments to add to the record and **hereby requests closure of the pre-application consultation process with An Bord Pleanála.**

We note the contents of Circular Letter 12/2021, issued to An Bord Pleanála and the Directors of Planning of each local authority in December 2021, that the development of conventional generation is a national priority and that the determination of applications for such infrastructure *“should be prioritised as much as possible”*. We look forward, accordingly, to receipt of the Board’s determination without delay.

Kind Regards,

A handwritten signature in black ink, appearing to read 'E. Barrett', is positioned above the printed name.

Ed Barrett

**Gravis Planning**

[ebarrett@gravisplanning.com](mailto:ebarrett@gravisplanning.com)

086 775 9355

**Encl.**

Overall Site Layout Plan (Dwg. Ref. 60695232-TBT-DR-001-Rev. A)

Proposed Flood Defence Layout (Dwg. Ref. 60695232-TBT-DR-016)

Proposed Flood Defence Sections (Dwg. Ref. 60695232-TBT-DR-017)