

5.7.5.2. Impact on Development Potential of Land and Property

Third parties draw the Board's attention to the impact of the proposed development on the development potential of land and property in its vicinity. For example, the effect of the development on the ability of landowners to provide sites for their children, to sell sites, or to develop land or property in proximity to OHL (e.g. for tourism, agri-tourism)³⁶. Parties refer to the consequences of these effects, for example, the ability of farmers to fund their retirement/future care, the burden on title deeds, and the loss of future inheritance for children.

During the application for approval and oral hearing, the applicant argues that the proposed development does not result in sterilisation of lands i.e. that there is no statutory restriction in relation to development in proximity to overhead lines. This position is reflected in ESB/IFA Code of Practice³⁷ which refers to the statutory requirement to inform ESB if it is the landowner's intention to erect a building or structure within 25 yards (23m) either side of any transmission wire.

Whilst I accept therefore that there is no statutory impediment to building in proximity to overhead line infrastructure, having regard to my view that, in certain circumstances (above), the proposed development may have a negative impact on property prices and ability to sell, I would accept that in similar circumstances the proposed development may impact on the development potential of land and/or property in the vicinity of the route.

However, in this instance I refer the Board to the provisions of the ESB/IFA Code or Practice which clearly makes provision for the alteration of the overhead line or compensation if the line interferes with any future viable development of lands (and formal arbitration in the event that agreement cannot be reached). Having regard to these provisions, I do not consider that the proposed development will

³⁶ Brendan Bagnol, Noel & Martin McGarrell, Nigel Donaldson, Ciaran Kerr, Paedar McSkeane, Denis Nixon, Philip McDermot, Owen & Helen McCabe, Ann Irwin, Jimmy Marron, Paul Keenan, Pauric Agnew, Eugene Russell, France Clarke, Philip & Linda Connelly, Sean Duffy, Brendan Markey, Leo Marron; Eugene O'Reilly (brother of); Charles Clarke; Hugh Finnegan.

³⁷ ESB/IFA *Code of Practice for the Survey, Construction & Maintenance of Overhead Lines in relation to the Rights of Landowners* (ESB International, 1985).

give rise to significant impacts on the development potential of land or property in the immediate vicinity of the route.

5.7.5.3. ESB/IFA Code of Practice

Third parties question the current relevance of the ESB/IFA *Code of Practice for the Survey, Construction & Maintenance of Overhead Lines in relation to the Rights of Landowners* (ESB International, 1985), and its application to non-IFA members and to tenants.

The ESB/IFA Code of Practice was drawn up between the ESB and the IFA in 1985 as guidelines for the various activities associated with the survey, construction and maintenance of overhead lines of 110kV and above. The Code of Practice applies to both landowners and occupiers of land³⁸. Whilst the Code of Practice was adopted over 30 years ago the applicant stated during the oral hearing that its provisions remain relevant today and are used in the in the planning and development of the transmission system infrastructure. Having regard to its widespread use in applications coming before the Board, I would accept this position. In addition, the Code of Practice makes reference to a formal arbitration process if agreement cannot be reached between the parties and in this regard I would accept that it forms an appropriate basis for discussion, negotiation and agreement with all landowners regardless of their membership of the IFA.

5.7.5.4. Issues Regarding Community Gain

Observers argue that the community gain offered by the applicant is inadequate to offset the effects of the development, for example, to offset the loss of value to a property, to enable owners to sell their property and buy elsewhere, to compensate for impacts on the landscape. Some parties argue that it should be offered to all properties within 800m of the development as the impacts of the development are widespread.

Section 182(B)(6) of the Planning and Development Act 2000 (as amended) enables the Board to attach conditions in respect of the provision of a community

³⁸ Jarlath Fitzsimons, EirGrid, day 32 of oral hearing.