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**Getting an infrastructure project through the planning  
process – a case study**

**The North-South Ireland Interconnector**



**John Litton QC**  
**Charles Banner BL**

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**Tyrone to Cavan Interconnector**



- Cross-border 400-kV overhead electricity transmission line connecting the electricity grids in Northern Ireland and the Republic of Ireland.
  - Planning permission for the RoI section granted by An Bord Pleanála on 21 December 2016.
  - Planning permission for NI section granted by Department for Infrastructure on 13 January 2018.
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## Overview



- Application submitted in December 2009.
  - 102 lattice towers and overhead electricity cables stretching 34km from new substation at Turleenan, County Tyrone to the border near Kingscourt, County Cavan. New access points and tracks.
  - From the border, the Interconnector runs for a further 100km to Woodland, County Meath.
  - In the 9 years since the application was first submitted to a decision. 3 separate Inquiry Hearings in 2012, 2016 & 2017.
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## Inquiry



- First opened 6 March 2012.
  - Sat for 2 weeks hearing preliminary issues relating to the application (red line and omission of access tracks) & adequacy of the ES (no assessment of access tracks, Active Implemented Medical Devices (AIMDs) etc).
  - Requirement for Strategic Environmental Assessment.
  - Lack of proper advertisement.
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## Inquiry (cont'd)



- Second planning application submitted (2013) for associated works conjoined with inquiry into original application.
  - ES's for both applications conjoined.
  - Because of the elapsed time since March 2012, PAC determined to start inquiry process again with fresh evidence.
  - Inquiry to be held in 2 stages. Stage 1 – consideration of legal and procedural issues. Stage 2 – consideration of planning merits of the proposal.
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## Stage 1: legal issues



- PAC invited reps from interested parties and identified 2 issues. Issue 1 - enlargement of the site for the substation and overhead line application. Issue 2 - need for SEA.
  - Purpose of Stage 1 was to consider and decide legal and procedural issues to avoid re-run of March 2012.
  - Inquiry 21<sup>st</sup> June 2016; PAC report 19<sup>th</sup> July 2016.
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## Stage 1: outcome



- Issue 1 – substation was larger, 74 towers had moved and 16 towers had increased in height but the proposal remained in substance the same. Amendments properly advertised and no-one prejudiced. Applying *Wheatcroft*, the amendments were admissible.
- Issue 2 - Applications not plans or programmes. Draft Network 25 not a plan or programme covering the Interconnector. Therefore no SEA required.
- DfI adopted PAC's recommendation by letter dated 9th September 2016 authorising PAC to proceed to stage 2 of the inquiry.
- No JR challenge.

## Stage 2: evidential issues



- Energy and Planning Policy (including effect of Brexit on the Single Electricity Market).
- Health effects including noise.
- Landscape and visual effects.
- Alternatives (undergrounding vs. pylons): relevance and adequacy of environmental assessment.
- Ecology.
- Traffic and Transport.
- Built heritage.
- Tourism.

All covered in 4 days (22<sup>nd</sup>-24<sup>th</sup> & 27<sup>th</sup> Feb 2017)

159-page PAC Report issued to DfI on 20<sup>th</sup> November 2017

## The DfI's decision



- Planning permission granted on 23 January 2018.
- DfI adopted in their entirety the recommendations of PAC Report.
- Decision issued by the DfI without waiting for restoration of the institutions at Stormont because:  
*“The Department considered that it is in the public interest to take this decision, without further delay, given the strategic importance of the project for the region”.*
- Still nearly 2 months left before the 3 month long-stop time limit for JR although High Court's tough line on “promptness” may be relevant if JR brought.

## Lessons Learned



- Application – take care over red-line
- Consultation – better too much than too little
- Environmental Statement
- Evidence
- Objections