



Unlocking Renewables and Issues with Grid Connection: Legal Challenges and Future Change

Estelle Dehon KC, Jack Barber and Lois Lane

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The Grid:

Planning, Policy and Reform

Lois Lane



Mission Impossible?

‘Mission 2’ in Labour Party manifesto 2024

“Make Britain a clean energy superpower to cut bills, create jobs and deliver security with cheaper, zero-carbon electricity by 2030, accelerating to net zero.”



What does Clean Power 2030 mean?

Clean Power 2030 Action Plan

- By 2030, clean sources produce at least 95% of UK's generation.
- Gas used only as an emergency back-up.

Planning policy changes

- Updates to NPSs.
- Planning and Infrastructure Bill - NSIP consultation requirements.
- Higher threshold for solar NSIPs.

Grid connection reform

- Final approval for NESO's Target Model Option 4 proposals in April 2025.
- Aim to speed up grid connections for vital clean energy projects.

*“The national grid has become the **single biggest obstacle** to the deployment of cheap, clean power generation and the electrification of industry. With grid connection dates not being offered until the late 2030s, **important business and infrastructure investment is being stalled or lost overseas.**”*

Labour manifesto, 2024



Too many ‘zombie projects’ in the queue...

Current connection process

Four problems with current '**first come, first served**' process identified by Ofgem:

1. Too much capacity in queue.
2. Misaligned with Clean Power goals.
3. Unclear network build signal.
4. Delayed connection dates = reduced investor confidence.





What's changing with TMO4+?

- First **ready and needed**, first connected.
- Two gates: Gate 1 = indicative connection offers. Gate 2 = firm connection dates for ready and needed projects.
- For a Gate 2 offer projects must be:
 - **“Ready”** with exclusive land rights and evidence of progress in their planning status within a defined period of time.
 - **“Needed”** in alignment with the Clean Power 2030 Action Plan.





Grid connection as a material consideration

Estelle Dehon KC



National policy



- **National Policy Statements** - changes recently consulted upon
- **NPPF** and **NPPG** broad brushed
- Room for more?

Availability of grid connection

- Locational **suitability**
- Early connection **date**
- Presence of **connection agreement**
- Distinction between **availability of connection** and **production / storage of renewable energy**



Practice notes (1)

01

Land South of Halse Road (Inquiry)

While I give limited weight to the availability of grid connection [a “locational selection factor primarily”]... I give very significant weight to the production and storage of renewable energy

02

Rookery Farm (Hearing)

The presence of a Grid Connection agreement and an early connection date also weighs significantly in favour of the proposal

03

Land North Of Manor Farm (Written Reps)

The presence of a Grid Connection agreement and an early connection date...weighs significantly in favour of the proposal

Practice notes (2)

01

Land at Murton Way (Inquiry)

Early grid connection offer a **significant** benefit (§33) and **substantial** benefits to provision of renewable energy infrastructure (§40) “patently outweigh” Green Belt harm.

02

Land At Westfield Road (Inquiry)

No need to produce actual grid connection agreement. Ability to provide **flexible input** to grid when needed a major benefit to proposal (§101)

03

Land at Vigo Lane and Wrens Road (Inquiry)

The proposal would take B&MV agricultural land out of productive use for 40 years, but the ability to make a 132kV connection on-site, is a compelling reason to do so (§22)



Other key points

- Not a uniform approach (some **cautionary tales**) but still an important part of the narrative
- **Deliverability** is a material consideration – availability of a grid connection vs uncertainty of whether National Grid can deliver the connection

Aesop: In a pinch a good use of our wits may help us out.



03



Grid Connection and EIA

Jack Barber



It's not me, it's EU

Directive 2011/92/EU

Recital 7: *"Development consent for public and private projects which are likely to have significant effects on the environment should be granted only after an assessment of the likely significant environmental effects of those projects has been carried out."*

- Art. 1 – Project is **widely defined** (see *Finch*, [12])
- Art. 2(1) – Member states to adopt **"all measures necessary"**
- Art. 3(1) and Art. 5(1) – EIA to **identify, describe** and **assess** in appropriate manner the direct and indirect significant effects



*Is it a **legal error** to conclude that a grid connection is **not part of an application** and therefore is **not required to be included in an EIA** for the project?*





The Irish answer

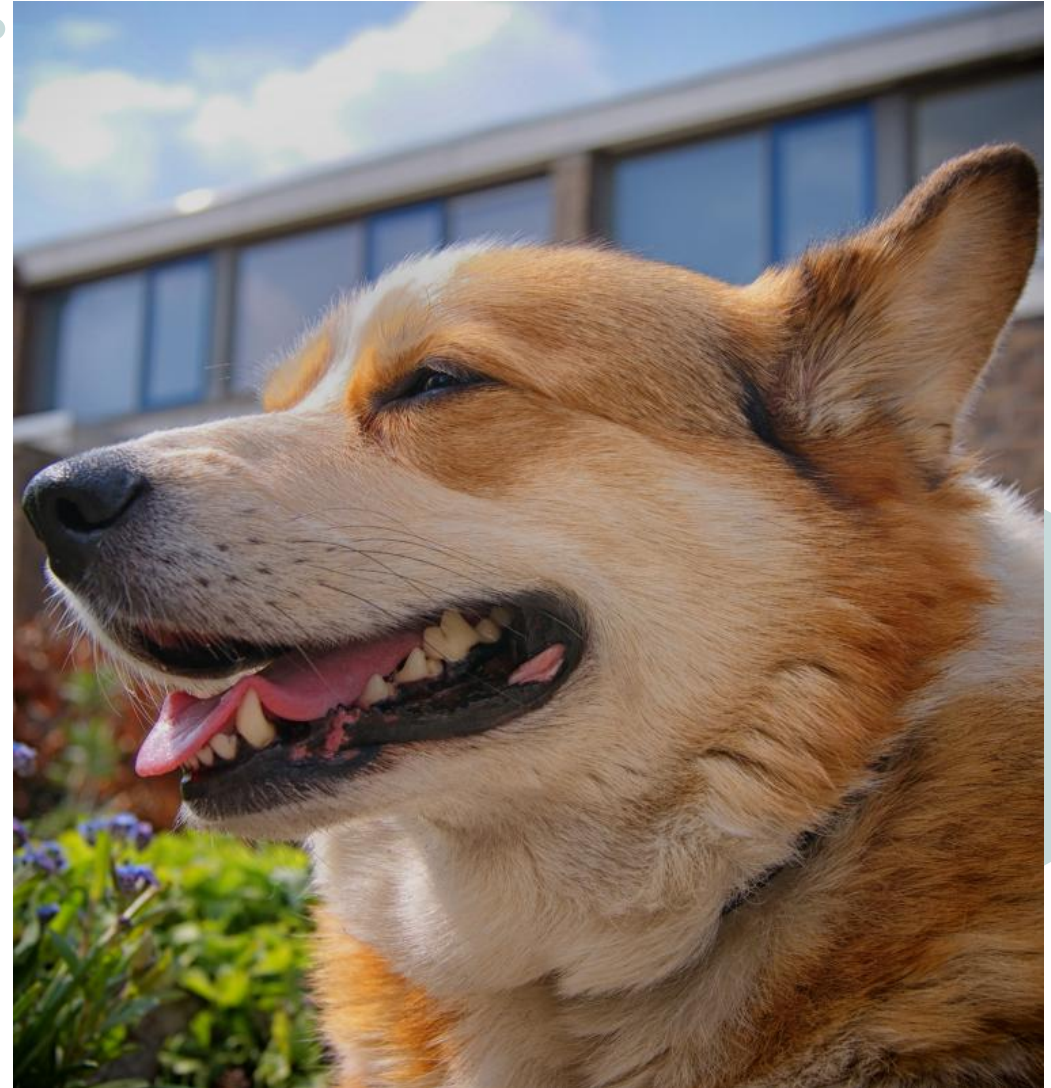
- A project **could not be split** into two independent parts (i.e., wind farm and grid connection):
O’Grianna & Ors. v An Bord Pleanála [2014] IEHC 632
- Grid connection works are part of an overall project, and **cannot be treated as a standalone element**:
Daly v Kilronan [2017] IEHC 308
- Grid connection’s environmental impacts must be **considered alongside** wind farm’s original EIA:
Sweetman v An Bord Pleanála [2023] IEHC 89
- **The Irish answer:** Strict (and restrictive) approach to what is required



Is that right though?

Great British EIA™

- **Multi-stage consent process:** may require EIA after initial consent: **CG Fry** in EWCA at [91]; see also **CG Fry** in UKSC at [31]
- Staged approach to assessment is legitimate: **TASC; Forest of Dean**
- Such information “...which the applicant can reasonably be required to compile having regard to **current knowledge**”: **Khan**.
- Defining project matter of **judgement**: **Wingfield**
- Can be functional relationship but no interdependence: **Llandaff North Residents Association**
- Whether cumulative assessment required / whether can be undertaken later depends on circumstances: **Sky Windfarm Action Group**





Where are we?



The answer is blowin'
in the wind.





Thanks!

Ask us more questions:

events@cornerstonebarristers.com

For instructions and inquiries

clerks@cornerstonebarristers.com