

Comhairle Contae Chorcaí Cork County Council

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ESB Engineering & Major Projects,
C/O Heather McMeel, Senior Specialist Planning,
One Dublin Airport Central,
Dublin Airport,
Cloghran,
Co. Dublin
K67 XF72

16th January, 2025

REF: D/289/24

LOCATION: Midleton 110kV Substation, Carrigogna, Midleton, Co. Cork

**RE: DECLARATION OF EXEMPTED DEVELOPMENT UNDER SECTION 5 OF THE
PLANNING & DEVELOPMENT ACT 2000 - 2010.**

Dear Madam,

On the basis of the information submitted by you on 11th December, 2024 the Planning Authority, having considered whether the proposed (a) replacement of 1 No. existing 31.5 MVA 110/38kV transformer and associated Arc Suppression Coil with 2 No. new 63 MVA 110/38kV transformers and associated Arc Suppression Coils to provide additional load capacity (b) the refurbishment of existing 110kV electrical equipment in 6 No. 110kV bays due to age and insufficient ratings and install 1 No. 110kV electrical equipment in 1 No. new bay (c) replace the existing AIS strung 38kV busbar and house transformer due to insufficient rating with a new modular uprated 38kV busbar and 2 No. new house transformers for substation LV electrical supply (d) replace 1 No. existing 110kV OHL end mast (north east corner) to remove electrical overhead hazard in proposed works with 1 No. 110kV OHL end mast (south east corner) (e) construction of a new access road along the north and **EAST** of the existing substation compound with 2 No. new access gates on **EASTERN** compound fence and (f) general compound stoning and earthgrid works and all ancillary site development and enabling works at **Midleton 110kV Substation, Carrigogna, Midleton, Co. Cork** is or is not development or is or is not exempted development, has declared that it is **exempted development**.

Reason for Decision

The Planning Authority in considering this referral, had particular regard to:

- Sections 2(1), 3(1) and 4 of the Planning and Development Act 2000, as amended.

And Whereas the Planning Authority hereby concludes that

- a) The proposal constitutes "development" within the meaning of Section 3 of the Act



We are Cork.



Recycled

- b) The proposal constitutes "exempted development" as Section 4(1)(g) of the Planning and Development Act 2000 (as amended)

The proposed works at **Midleton 110kV Substation, Carrigogna, Midleton, Co. Cork constitutes development and is exempted development.**

This exemption does NOT itself empower a person to carry out a development unless that person is legally entitled to do so.

Please note that under Section 5 Subsection 3(a) where a declaration is issued under this section, any person issued with a declaration under subsection 2(a) may, on payment to the Board of such fee as may be prescribed, refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.

Yours faithfully,



**PIO TREACY,
ADMINISTRATIVE OFFICER,
PLANNING DEPARTMENT.**

In order to process your query, it may be necessary for Cork County Council to collect Personal information from you. Such information will be processed in line with our privacy statement which is available to view at <https://www.corkcoco.ie/privacy-statement-cork-county-council>

Declaration on Exempted Development under Section 5 of the Planning and Development Act 2000

D289-24- Asset replacement and electrical infrastructure upgrading, Midleton

The Question

The applicant is querying whether the following works are or are not exempted development

o Replace 1 no. existing 31.5 MVA 110/38kV transformer and associated Arc Suppression Coil with 2 no. new 63 MVA 110/38kV transformers and associated Arc Suppression Coils to provide additional load capacity;
o Refurbish existing 110kV electrical equipment in 6 no. 110kV bays due to age and insufficient ratings and install 1 no. new 110kV electrical equipment in 1 no. new bay;
o Replace the existing AIS strung 38kV busbar and house transformer due to insufficient rating with a new modular uprated 38kV busbar and 2 no. new house transformers for substation LV electrical supply;
o Replace 1 no. existing 110kV OHL end mast (north east corner) to remove electrical overhead hazard in proposed works area with 1 no. 110kV OHL end mast (south east corner);
o Construction of a new access road along the north and west of the existing substation compound, with 2 no. new access gates on western compound fence; and
o General compound stoning and earthgrid works, and all ancillary site development and enabling works.

Planning History



22/5879-Permission granted to Lysaghstown Solar farm Ltd for Alterations to the existing Midleton 110kV station to include a single storey extension on the northern side of the existing control building and the extension of the existing compound palisade fence to the north of the site.

15/4551 - Permission for alterations to the existing Midleton 110kV station to include; extension to the existing compound palisade fence, single storey side extension to the existing control building, 1 no. 18 meter high monopole, 1 no. transformer and transformer bay, associated drainage and site works (granted).

Statutory Provisions

I consider the following statutory provisions relevant to this referral case:

Planning and Development Act, 2000

Section 3 (1) states:-

“In this Act, “development” means, except where the context otherwise requires, the carrying out of works on, in over or under land, or the making of any material change of use of any structures or other land.”

Works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal”.

S 4(1) (g) development consisting of the carrying out by any local authority or statutory undertaker of any works for the purpose of inspecting, repairing, renewing, altering or removing any sewers, mains, pipes, cables, overhead wires, or other apparatus, including the excavation of any street or other land for that purpose;

S4(1)(h) “for the maintenance, improvement or alteration of any structure being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconstant with the character of the structure or of neighbouring structures”

Section 4 (2) of the Act provides that the Minister may, by regulations, provide for any class of development to be exempted development. The main regulations made under this provision are the Planning and Development Regulations, 2001.

The ESB is a statutory undertaker as per Section 2 of the Act, which defines “statutory undertaker” as “a person, for the time being, authorised by or under any enactment or instrument under an enactment to – (b) provide, or carry out works for the provision of, gas, electricity or telecommunications services” .

Planning and Development Regulations, 2001

Article 6(1) of the Regulations states as follows:- *“(a) Subject to article 9, development consisting of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1*

Article 9 (1) of the Regulations sets out circumstances in which development to which Article 6 relates shall not be exempted development.

Precedent Cases

ABP 306431-20 – Whether the construction of 220kV Shunt Reactors with associated internal compound and associated equipment within the existing Ballyvouskill 220/110kV Electricity Substation at Caherdowney, County Cork, is or is not development or is or is not exempted development. The Board determined that the works came within the scope of section 4(1)(g) of the Act and were exempted development.

ABP RL3316 – where the Board determined that the extension of the existing medium voltage busbar and the construction of a cable chair within the existing Kilmagig 38kV electricity substation came within the exempted development provisions of section 4(1)(g) of the Act.

ABP RL3364 – where the Board determined that a modification within an existing substation consisting of a new 38kV bay and associated equipment, new 110kV neutral, new arc suppression coil and associated works came within the exempted development provisions of section 4(1)(g) and 4(1)(h) of the Act.

Cork City Council R603/20 – where Cork City Council determined that the installation of electrical infrastructure at the existing Trabeg 110kV Electricity Substation, South Douglas Road, Cork is exempted development

Proposal Particulars

As outlined in the submitted documents, The proposed works comprise the ‘renewing’, ‘altering’ and ‘removal’ of existing electrical infrastructure ‘apparatuses’ within the substation, as well as the necessary construction works (i.e. access roads, access gates, general compound stoning and earthgrid works) to facilitate same. The proposed works comprise the replacement of existing electrical infrastructure and the installation of some new electrical infrastructure all within the development envelope of the existing substation compound. It is asserted that the replacement and renewing of existing electricity infrastructure relate to the statutory undertaker’s function associated with maintaining and improving the national distribution network.

The existing equipment will be replaced by similar equipment types and the majority of the works are located to the south of the site away from any potential sensitive receptors.

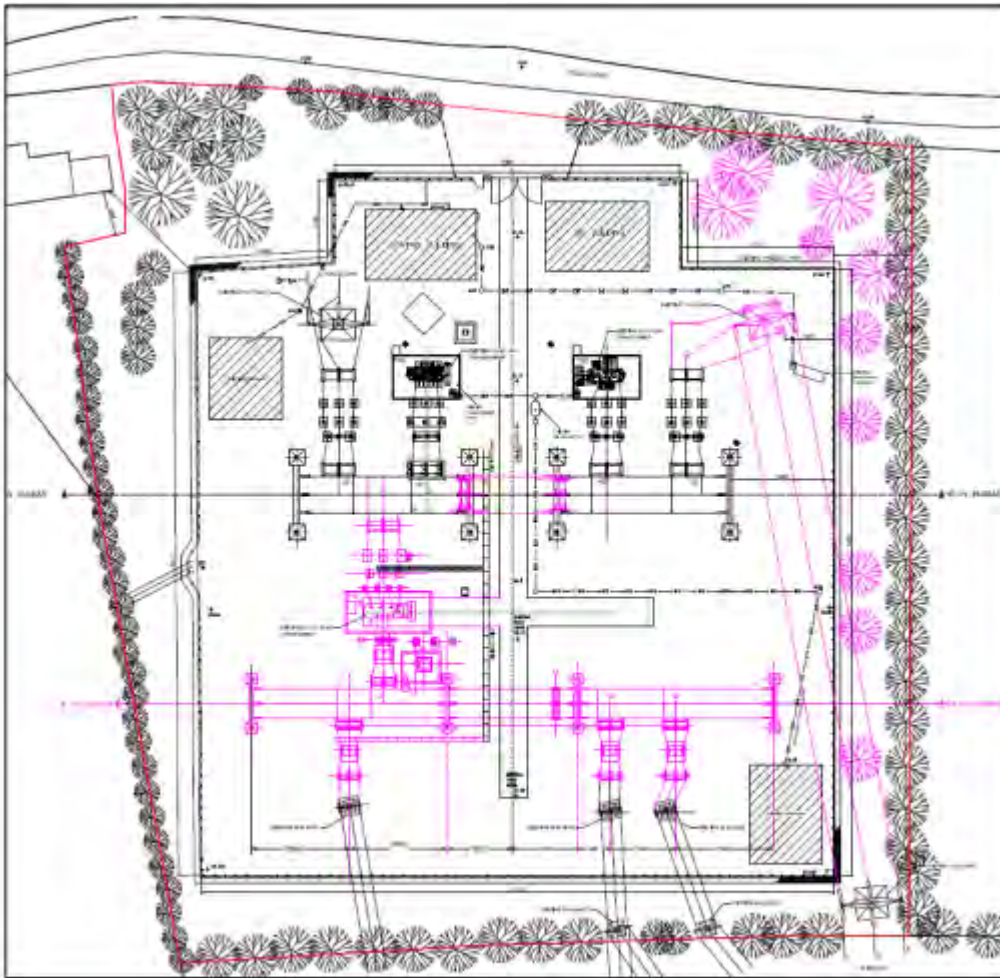


Figure 3 - Site Layout: Proposed Works

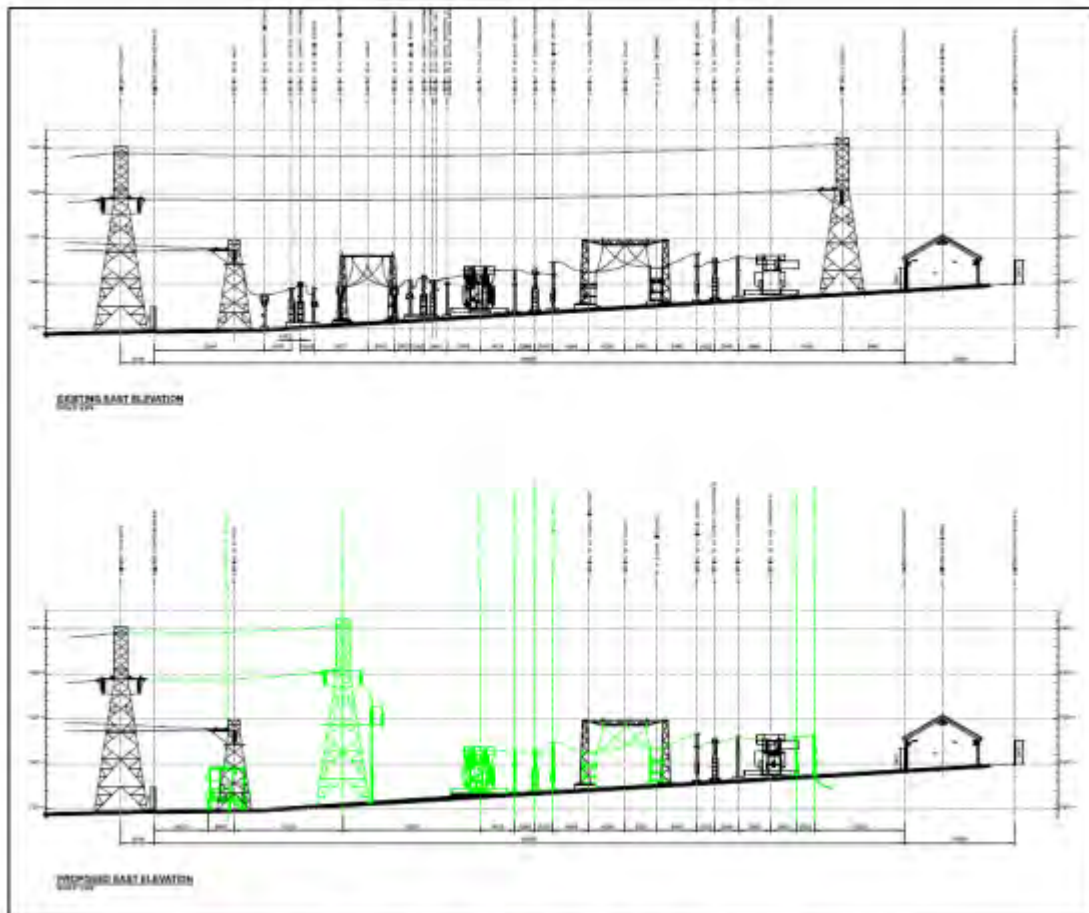


Figure 5 - Site Elevations: Existing and Proposed

Assessment

At the outset I note that ESB is a statutory undertaker for the purposes of Section 4(1)(g) and as defined under Section 2 of the Act.

Having regard to the questions posed, the proposal constitutes “development” as set out under S3 of the Planning and Development Act 2000 in that “works” are proposed to be carried out on the site. The question therefore is whether or not these “works” constitute “exempted development” for the purposes of the Act

Based on assessment of the received documents and a review of the precedent cases, it would appear that the works would fall within the scope of S4(1)(g) of the Act. This section details works undertaken by a statutory undertaker which are exempted development the substantive consideration is whether those proposed are for the provision of inspecting,

repairing, renewing, altering or removing any sewers, mains, pipes, cables, overhead wires or other apparatus, including the excavation of any street or other land for that purposes. In the context of the precedent detailed above and the purpose of the works which will not alter the mechanism/processes of the substation i.e.. the transmission and distribution of electricity, the works can be considered as altering of the substation apparatus and, therefore, can be considered to come within Section 4(1)(g)

S4(1)(g) does not set out any limits on the scope/ scale of the replacement/ modifications elements thus the exemption is applicable to the suite of works proposed by the applicant. The new roadway is within the existing site compound and does not generate any new impacts on the wider public road

Article 9 restrictions

As the exemption is not reliant on classes of development prescribed under Article 6, the restrictions as set out under Article 9 do not apply

AA/ EIA

Section 4(4) of the Act essentially de-exempts any development which attracts a requirement for Environmental Impact Assessment (EIA) or Appropriate Assessment (AA).

In relation to EIA, part 2 of schedule 5 lists development which may require EIA for the purposes of part 10 of Part 10 of the Planning and Development Act.

Having considered that detail I am satisfied the proposal does not trigger any requirement for mandatory or sub-threshold EIA having regard to the nature and scale of the proposed development, and to the nature of the receiving environment.

As regards Appropriate Assessment, given the nature of the proposal, the existing brownfield nature of the site and the lack of any hydrogeological link to Natura 2000 site, I am satisfied that the proposal does not generate any concerns re: AA. The nearest natura site is >3km from the subject site

Conclusion

In considering this referral, and having had regard particularly to –

(a) Section 2(1), 3(1), 4, of the Planning and Development Act, 2000, as amended,

The Planning Authority has concluded that:

(a) the proposal constitutes “development” within the meaning of S3 of the Act

(b) The proposal constitutes “exempted development” as S(1) (4)(g) of the Planning and Development Act 2000 (as amended)

Enda Quinn

Executive Planner

15/1/2025



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**Cork County Council,
Planning Department,
County Hall,
Carrigrohane Road,
Cork
T12 R2NC.**

10th December 2024

Re: Section 5 Declaration Request in relation to works at the existing Midleton 110kV Substation, Carrigogna, Midleton, Co. Cork.

Dear Sir/Madam,

1. Introduction

This Section 5 Declaration of Exempted Development submission, under the provisions of Section 5 of the Planning and Development Act, 2000 (as amended), has been prepared by the Electricity Supply Board (ESB) for the consideration of Cork County Council.

This Section 5 Declaration of Exempted Developments seeks a declaration from the Planning Authority on the following:

- *Whether the proposed asset replacement and electrical infrastructure upgrading works at the existing Midleton 110kV Substation, Carrigogna, Midleton, Co. Cork, is or is not development, and if development, is or is not exempted development.*

The elements involved in delivering this work are as follows:

- Replace 1 no. existing 31.5 MVA 110/38kV transformer and associated Arc Suppression Coil with 2 no. new 63 MVA 110/38kV transformers and associated Arc Suppression Coils to provide additional load capacity;



- Refurbish existing 110kV electrical equipment in 6 no. 110kV bays due to age and insufficient ratings and install 1 no. new 110kV electrical equipment in 1 no. new bay;
- Replace the existing AIS strung 38kV busbar and house transformer due to insufficient rating with a new modular updated 38kV busbar and 2 no. new house transformers for substation LV electrical supply;
- Replace 1 no. existing 110kV OHL end mast (north east corner) to remove electrical overhead hazard in proposed works area with 1 no. 110kV OHL end mast (south east corner);
- Construction of a new access road along the north and west of the existing substation compound, with 2 no. new access gates on western compound fence; and
- General compound stoning and earthgrid works, and all ancillary site development and enabling works.

The proposed works are intended to maintain and safeguard the operational functionality of the existing electricity network in the wider area. The driver of the proposed works is the requirement for additional capacity in the East Cork region for new customer load applications and existing customer MIC increases.

The proposed electrical infrastructure works are located within an existing substation compound and are typical of upgrade works associated with the continued operation of a substation, as well as anticipating future needs that will be required as a result of Ireland moving towards a net zero society.

It is considered that the proposed works subject to this Section 5 Declaration represent development, and furthermore, constitute exempted development under the provisions of Section 4(1)(g) and 4(1)(h) of the Planning and Development Act, 2000 (as amended).

In order to assist the Planning Authority in its assessment and determination, the following documentation is included with this request:



- Section 5 Declaration Report
- Completed Section 5 Application Form
- Associated Drawings

Please note that the payment of the fee will be made over the phone.

We trust that the information provided should prove sufficient to inform the Planning Authority's determination on this matter and look forward to hearing from the Authority further in due course.

Yours sincerely,

Heather McMeel

Heather McMeel

Senior Specialist Planning, ESB Engineering and Major Projects

086 176 7511 – heather.mcmeel@esb.ie



CORK COUNTY COUNCIL APPLICATION FOR SECTION 5 DECLARATION OF EXEMPTION

APPLICANT CHECKLIST

(Please tick ✓)

- 4 No. Copies of Application Form:**
- 1 No. Copy of Contact Details:**
- 4 No. Copies 6” O.S. Maps:**
- 4 No. Copies 25” O.S. Maps:**
- 4 No. Copies of Site Layout Plan:**
- 4 No. Copies Scaled Drawings of Development:**
- €80 Application Fee:**

FOR OFFICE USE ONLY

Receipt No.	
Cash/Cheque/ Credit Card	
Date	
Declaration Ref. No.	

DATE STAMP HERE

You should make sure that you are satisfied that any information/documentation that you submit is appropriate to be viewed by the public. Please do not submit any information that you do not want 3rd parties to view.

In the case of a Declaration of Exemption for Land Reclamation, the following additional information is required:

- A copy of the details submitted to the Council’s Environment Department (Inniscarra) for a Waste Licence Permit
- Correspondence from Teagasc (detailing how the land reclamation would benefit the land in question for agricultural purposes)
- Details of existing and proposed levels
- Details of fill material and duration of fill.

DATA PROTECTION

The planning process is an open and public one. In that context, all applications for Declarations of Exemption are made available for public inspection.

Personal information collected by Cork County Council is done so in order for us to process your application for a Section 5 Declaration of Exemption. Legally we can process this information as it is necessary for us to comply with our statutory/legal obligations. The protection of our personal data is a key priority for the Council and your data will be processed in line with our Privacy policy which is available at <http://www.corkcoco.ie/Privacy-Policy> or hardcopy from our offices at County Hall, Carrigrohane Road, Cork, Ireland. Should you have any questions about our privacy policy or the information we hold about you, please contact us by email to dpo@corkcoco.ie or write to us at Data Protection Officer, Cork County Council, County Hall, Carrigrohane Road, Cork, Ireland.

1. NAME OF APPLICANT: (ADDRESS TO BE SUPPLIED AT QUESTION A – CONTACT DETAILS)

--

2. POSTAL ADDRESS OF LAND OR STRUCTURE FOR WHICH DECLARATION OF EXEMPTION IS SOUGHT:

--

3. QUESTION/DECLARATION DETAILS:

Please state the specific question for which a Declaration of Exemption is sought
 Note: Only works listed and described under this section will be assessed under the Section 5 Declaration of Exemption

4. APPLICATION DETAILS:

Answer the following if applicable. Note: Floor areas are measured from the inside of the external walls and should be indicated in square metres (m²)

(a) Floor area of existing/proposed structure(s):	
(b) If a domestic extension is proposed, have any previous extensions/structures been erected at this location after 1 st October, 1964 (including those for which planning permission has been obtained):	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, please provide floor areas (m ²) and previous planning reference(s) where applicable:
(c) If a change of use of land and/or building(s) is proposed, please state the following: Existing/previous use _____ _____	Proposed use _____ _____
(d) Are you aware of any enforcement proceedings connected to this site?	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, please state relevant reference number(s):

5. LEGAL INTEREST OF APPLICANT IN THE LAND/STRUCTURE:

Please tick appropriate box to show applicant's legal interest in the land or structure:	A. Owner <input type="checkbox"/>	B. Other <input type="checkbox"/>
Where legal interest is "Other", please state your interest in the land/structure:		
If you are not the legal owner, please state the name of the owner/s (address to be supplied at Question C in Contact Details):		

6. PROTECTED STRUCTURE DETAILS / ARCHITECTURAL CONSERVATION AREA:

Is this a Protected Structure/Proposed Protected Structure or within the curtilage of a Protected Structure: Yes <input type="checkbox"/> No <input type="checkbox"/>
If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 been requested or issued for the property by the Planning Authority: Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, please state relevant reference No. _____
Is this site located within an Architectural Conservation Area (ACA), as designated in the County Development Plan? Yes <input type="checkbox"/> No <input type="checkbox"/>

7. APPROPRIATE ASSESSMENT:

Would the proposed development require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site (SAC, SPA etc)? Yes No

8. DATA PROTECTION DECLARATION:

In order for the Planning Authority to process the personal data you have provided, your consent is required. By ticking the box below, you consent to the Planning Authority processing the personal data provided by you in line with the terms of Cork County Council’s Privacy Policy available at <http://www.corkcoco.ie/privacy-statement-cork-county-council> or in hardcopy from any Council office; and to having your information processed for the following purposes:

Processing of your Declaration of Exemption application by the Planning Authority

I give permission for my personal information to be processed for the purpose stated above

Signed (By Applicant Only)	<i>Heather McMeel</i>
Date	

GDPR Special Categories of data / Sensitive Personal data - Explicit Consent

Where Special Categories of personal data / sensitive personal data are provided as part of / in support of a declaration application, **explicit consent** to the processing of the special categories of data must be given by the person to whom the data refers, namely the Data Subject.

Special Categories of data / Sensitive Personal data include:

- Race
- Ethnic origin
- Political opinions
- Religion
- Philosophical beliefs
- Trade union membership
- Genetic data
- Biometric data
- Health data
- Concerning a natural person's sex life
- Sexual orientation

In order for the Planning Authority to process the sensitive personal data you have provided, your consent is required. By ticking the box below, you consent to the Planning Authority processing the personal data provided by you in line with the terms of Cork County Council’s Privacy Policy available at <https://www.corkcoco.ie/privacy-statement-cork-county-council> or in hardcopy from any Council office; and to having your information processed for the following purposes:

Sensitive personal data being submitted in support of Declaration of Exemption Application

I give permission for my sensitive personal data submitted to the Planning Authority to be processed for the purpose stated above.

Signed	
Date	

You have the right to withdraw your consent by contacting the Planning Department, Ground Floor, County Hall, Carrigrohane Road, Cork. Tel: (021) 4276891 Email: planninginfo@corkcoco.ie or by contacting the Planning Department, Norton House, Cork Road, Skibbereen, Co. Cork. Tel: (028) 40340 Email: westcorkplanninginfo@corkcoco.ie However if consent to the use of personal data is withdrawn during the declaration of exemption decision-making process this information cannot be considered as part of the decision making process. Once a decision has been made, an applicant is not entitled to withdraw consent, as the right of erasure does not apply to a situation where processing is required for compliance with a legal obligation or for the performance of a task carried out in the public interest.

Please note that all information / supporting documentation submitted will be available publicly to view at the Planning Authority offices.

ADVISORY NOTES:

The application must be accompanied by the required fee of €80

The application must be accompanied by a site location map which is based on the Ordnance Survey map for the area, is a scale not less than 1:1000 and it shall clearly identify the site in question.

Sufficient information should be submitted to enable the Planning Authority to make a decision. If applicable, any plans submitted should be to scale and based on an accurate survey of the lands/structure in question.

The application should be sent to the following address:

The Planning Department, Cork County Council, Floor 2, Co. Hall, Carrigrohane Road, Cork, T12 R2NC; or for applications related to the Western Division, The Planning Department, Cork County Council, Norton House, Cork Road, Skibbereen, Co. Cork, P81 AT28.

- The Planning Authority may require further information to be submitted to enable the authority to issue a decision on the Declaration of Exemption application.
- The Planning Authority may request other person(s), other than the applicant; to submit information on the question which has arisen and on which the Declaration of Exemption is sought.
- Any person issued with a Declaration of Exemption may on payment to An Bord Pleanála refer a Declaration of Exemption for review by the Board within 4 weeks of the date of the issuing of the Declaration of Exemption decision.
- In the event that no Declaration of Exemption is issued by the Planning Authority, any person who made a request may on payment to the Board of such a fee as may be prescribed, refer the question for decision to the Board within 4 weeks of the date that a Declaration of Exemption was due to be issued by the Planning Authority.

The application form and advisory notes are non-statutory documents prepared by Cork County Council for the purpose of advising the type of information which is normally required to enable the Planning Authority to issue a Declaration of Exemption under Section 5. This document does not purport to be a legal interpretation of the statutory legislation nor does it state to be a legal requirement under the Planning and Development Act 2000 as amended, or Planning and Development Regulations, 2001, as amended.

9. **I hereby declare that, to the best of my knowledge and belief, the information given in this form is correct, accurate and fully compliant with the Planning and Development Acts 2000, as amended and the Regulations made thereunder:**

Signed (Applicant or Agent as appropriate)	<i>Heather McMeel</i>
Date	



Energy for
generations

Section 5 Declaration Report

**Asset replacement and electrical infrastructure upgrading
works**

**Midleton 110kV Substation, Carrigogna, Midleton, Co.
Cork**

Date: December 2024

ESB Engineering & Major Projects, One Dublin Airport Central, Dublin Airport, Cloghran, Co. Dublin, K67 XF72, Ireland.

Phone +353 (0)1 703 8000

www.esb.ie

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1 Introduction

This Section 5 Declaration of Exempted Development submission, under the provisions of Section 5 of the Planning and Development Act, 2000 (as amended), has been prepared for the consideration of Cork County Council.

This Section 5 Declaration of Exempted Development seeks a declaration from the Planning Authority on the following:

- *Whether the proposed asset replacement and electrical infrastructure upgrading works at the existing Midleton 110kV Substation, Carrigogna, Midleton, Co. Cork, is or is not development, and if development, is or is not exempted development.*

The elements involved in delivering this work are as follows:

- *Replace 1 no. existing 31.5 MVA 110/38kV transformer and associated Arc Suppression Coil with 2 no. new 63 MVA 110/38kV transformers and associated Arc Suppression Coils to provide additional load capacity;*
- *Refurbish existing 110kV electrical equipment in 6 no. 110kV bays due to age and insufficient ratings and install 1 no. new 110kV electrical equipment in 1 no. new bay;*
- *Replace the existing AIS strung 38kV busbar and house transformer due to insufficient rating with a new modular uprated 38kV busbar and 2 no. new house transformers for substation LV electrical supply;*
- *Replace 1 no. existing 110kV OHL end mast (north east corner) to remove electrical overhead hazard in proposed works area with 1 no. 110kV OHL end mast (south east corner);*
- *Construction of a new access road along the north and west of the existing substation compound, with 2 no. new access gates on western compound fence; and*
- *General compound stoning and earthgrid works, and all ancillary site development and enabling works.*

The Electricity Supply Board (ESB) are intending to undertake asset replacement and electrical infrastructure upgrading works within the existing Midleton 110kV/38kV Substation in order to maintain and safeguard the operational functionality of the existing electricity network in the wider area and to allow for additional capacity in the East Cork region for new customer load applications and existing customer MIC

increases. The proposed works are located within the existing substation and are typical of upgrade works associated with the continued operation of a 110kV/38 kV substation, as well as anticipating future needs that will be required as a result of Ireland moving towards a net zero society.

It is considered that the proposed works subject to this Section 5 Declaration represent development, and furthermore, constitute exempted development under the provisions of Section 4(1)(g) and 4(1)(h) of the Planning and Development Act, 2000 (as amended).

2 The Subject Site

2.1 Site Location and Context

The location of the proposed works is at the existing Midleton 110kV Substation located approx. 3.5km north of Midleton Town Centre, in the townland of Carrigogna located off the L3601 and the R626 (Upper Mill Road). The existing substation comprises electrical infrastructure including a control building, an MV building and a number of existing transformers and bays enclosed within an existing palisade fence.

The surrounding land uses adjacent to the existing substation comprise primarily of rural farmland and a cluster of residential dwellings. Please refer to Figure 1 and Figure 2 below which identify the site context of the substation.



Figure 1 – Site Location: Aerial Image (GoogleMaps).



**Figure 2 – Site Context: Extract from Location Map
(Drawing No. PE492-D056-104-002-000)**

2.2 Description of Proposed Works

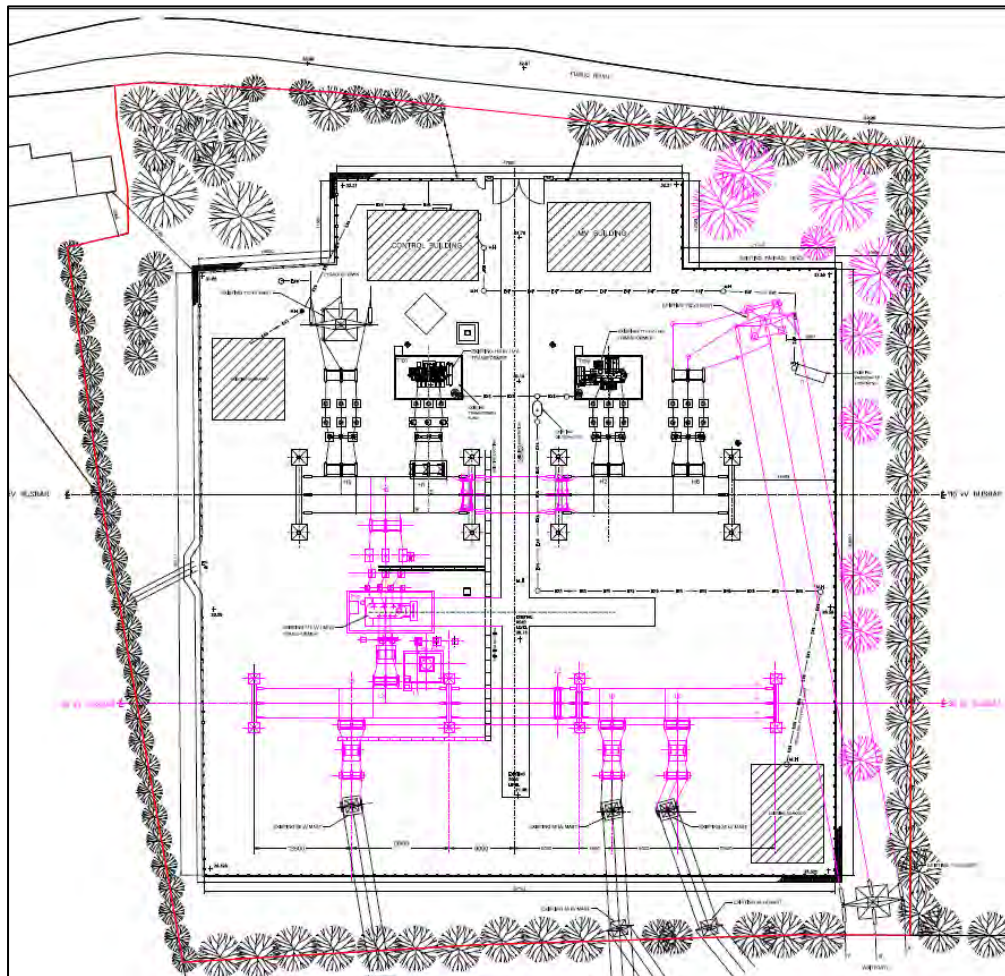
The proposed works comprise the replacement and upgrade of existing electrical infrastructure within the Middleton 110/38kV Substation. The elements involved in delivering this work are as follows:

- Replace 1 no. existing 31.5 MVA 110/38kV transformer and associated Arc Suppression Coil with 2 no. new 63 MVA 110/38kV transformers and associated Arc Suppression Coils to provide additional load capacity;
- Refurbish existing 110kV electrical equipment in 6 no. 110kV bays due to age and insufficient ratings and install 1 no. new 110kV electrical equipment in 1 no. new bay;
- Replace the existing AIS strung 38kV busbar and house transformer due to insufficient rating with a new modular uprated 38kV busbar and 2 no. new house transformers for substation LV electrical supply;
- Replace 1 no. existing 110kV OHL end mast (north east corner) to remove electrical overhead hazard in proposed works area with 1 no. 110kV OHL end mast (south east corner);

- Construction of a new access road along the north and west of the existing substation compound, with 2 no. new access gates on western compound fence; and
- General compound stoning and earthgrid works, and all ancillary site development and enabling works including hedge/tree clearance.

The existing equipment will be replaced by similar equipment types and the majority of the works are located to the south of the site away from any potential sensitive receptors. The site demolition and proposed works are presented in the attached drawings PE492-D056-104-005-000 and PE492-D056-104-006-000 (see extract in Figures 3 and 4 below).

It is not considered that the proposed works will result in any visual impact of the site from that existing. Comparison of the existing and proposed site elevation is presented in the attached drawing PE492-D056-104-007-000 (see extract in Figure 5 below).

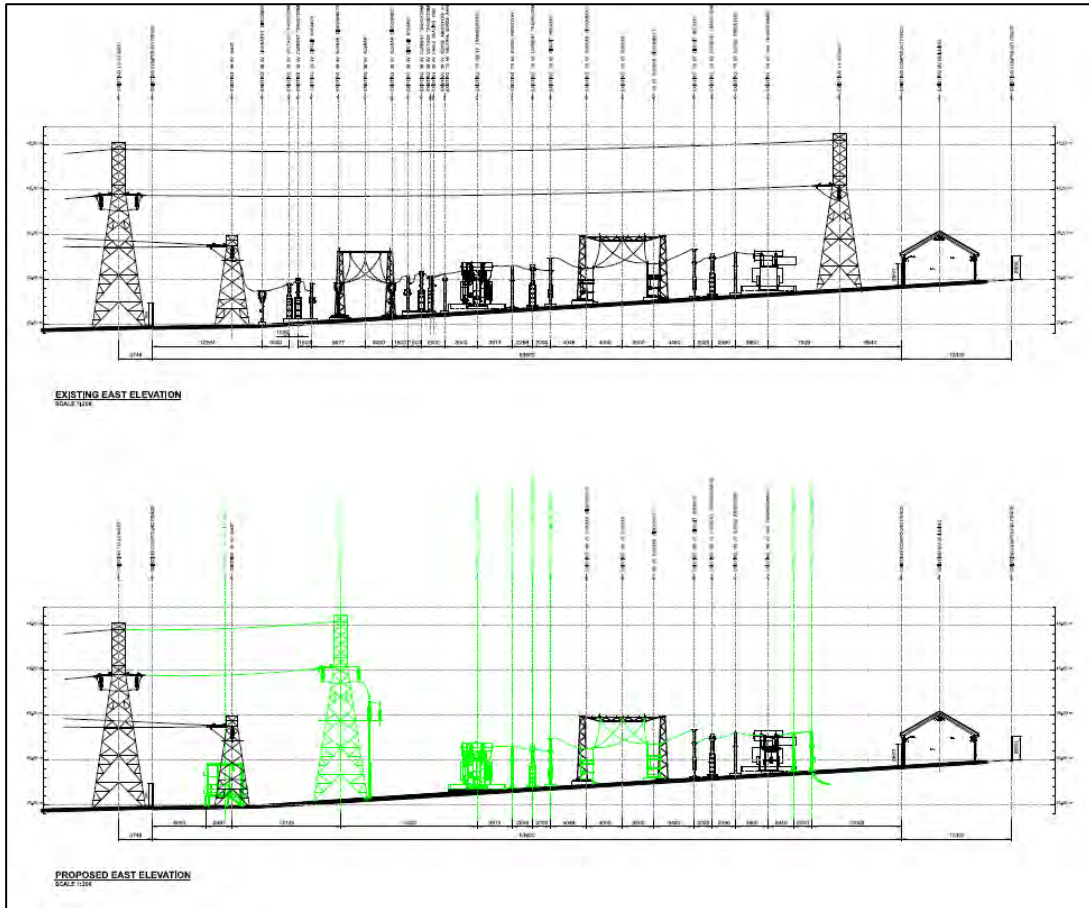


**Figure 3 - Site Layout: Proposed Works
(Drawing No. PE492-D056-104-005-000)**



**Figure 4 - Site Layout: Proposed Works
(Drawing No. PE492-D056-104-006-000)**

Section 5 Declaration Report - Midleton 110kV Substation



**Figure 5 - Site Elevations: Existing and Proposed
(Drawing No. PE492-D056-104-007-000)**

3 Legislative Context and Assessment

3.1 Definition of 'Development'

The aim of this Section 5 Declaration is to determine whether the proposed works to the existing Middleton 100kV Substation, is or is not development, and is or is not exempted development. Therefore, it must be determined whether the proposed works constitute development in the first instance.

Section 3(1)(a) of the Planning and Development Act, 2000 (as amended) [hereafter referred to as 'the Act'] defines "*development*" as:

- *"the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land, ..."*

Section 2(1) of the Act defines "*use*" and "*works*" as follows:

- *"use", in relation to land, does not include the use of the land by the carrying out of any works thereon;*
- *"works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.*

It is considered that the proposed removal and replacement of existing electrical infrastructure within the substation compound and associated ancillary works are "*works*" as defined under Section 2(1) of the Act, and therefore, is "*development*" as defined under Section 3(1) of the Act.

There will be no material change of use taking place as a result of the proposed development.

3.2 Exempted Development

As it is considered that the proposed removal and replacement of existing electrical infrastructure within the substation compound and associated ancillary works is "*development*", it is then necessary to determine whether it is exempted development.

The Act includes specific provision for certain developments that are considered to be exempt from the requirement to obtain planning permission. In this regard, under Section 4(1) of the Act, the following exempted development provision is considered relevant:

- **4(1)(g):** *development consisting of the carrying out by any local authority or statutory undertaker of any works for the purpose of inspecting, repairing, renewing, altering or removing any sewers, mains, pipes, cables, overhead wires, or other apparatus, including the excavation of any street or other land for that purpose;*
- **4(1)(h):** *development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures.*

The ESB is a statutory undertaker as per Section 2 of the Act, which defines “statutory undertaker” as “a person, for the time being, authorised by or under any enactment or instrument under an enactment to— (b) provide, or carry out works for the provision of, gas, electricity or telecommunications services”. Accordingly, the requirement that the subject works must be carried out by a statutory undertaker to qualify as exempted development under the provision of Section 4(1)(g) of the Act is satisfied in this instance.

The proposed works comprise the ‘renewing’, ‘altering’ and ‘removal’ of existing electrical infrastructure ‘apparatuses’ within the substation, as well as the necessary construction works (i.e. access roads, access gates, general compound stoning and earthgrid works) to facilitate same. As described in Section 2 of this report, the proposed works comprise the replacement of existing electrical infrastructure and the installation of some new electrical infrastructure all within the development envelope of the existing substation compound. The replacement and renewing of existing electricity infrastructure relate to the statutory undertaker’s function associated with maintaining and improving the national distribution network.

It is an existing substation and there will be no material change in the function or form of the electrical substation. After the completion of the works, the site will still operate and function as an electrical substation. In the context of an established and operational substation site, the scale of the development is not significant. There will still be significant areas of open ground within the substation and the addition of new infrastructure will not change the character and appearance of the substation.

It is thus considered that these works comprise the maintenance and improvement of electricity structure and will not materially alter the function or visual impact of the substation to render it inconsistent with its current use.

3.3 Restrictions on Exemptions

Section 4(4) of the Act outlines that development shall not be considered as exempted development should an Environmental Impact Assessment (EIA) or Appropriate Assessment (AA) for the development be required.

- *(4) Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.*

The applicant has considered the provisions of Schedule 5 of the Planning and Development Regulations, 2001 (as amended), and the governing European Directives. The proposed development does not fall within any of the classes of development within Part 1 or Part 2 of Schedule 5. The Proposed Development is not a type of development to which Schedule 5 applies and therefore, the requirement for sub-threshold development does not apply (as that can only apply to a Schedule 5 development). As such it is considered that an EIA is not required for the Proposed Development.

Furthermore, in relation to the requirement for AA, the proposed works are located outside any European site. The Great Island Channel SAC and Cork Harbour SPA are the closest European sites, both located c. 3 km to the south of the proposed works. The proposed works are located within an existing substation with hardstand, compound stone, electrical equipment, and buildings, with planted trees on amenity grassland outside the inner compound. There is no Annex I habitats present. These habitats are unlikely to provide suitable supporting habitat to any Annex II species. There are no watercourses in close proximity to the works, the closest waterbody is the Glenathonacash is located c. 355 m east of the proposed works.

Therefore, considering the location, scale and nature of the proposed works as well as the existing environment, no likely significant effects on any European site (SAC/SPA), either alone or in-combination with any other plans or projects, are predicted.

3.4 Precedents

To assist the Planning Authority in their assessment of whether the proposal constitutes exempted development as per the provisions of the Act described above, a summary of applicable precedent cases for similar works that have been determined by An Bord Pleanála are outlined below. These remain as the most current precedents.

ABP 306431-20 – Whether the construction of 220kV Shunt Reactors with associated internal compound and associated equipment within the existing Ballyvouskill 220/110kV Electricity Substation at Caherdowney, County Cork, is or is not development or is or is not exempted development. The Board determined that the works came within the scope of section 4(1)(g) of the Act and were exempted development.

ABP RL3316 – where the Board determined that the extension of the existing medium voltage busbar and the construction of a cable chair within the existing Kilmagig 38kV electricity substation came within the exempted development provisions of section 4(1)(g) of the Act.

ABP RL3364 – where the Board determined that a modification within an existing substation consisting of a new 38kV bay and associated equipment, new 110kV neutral, new arc suppression coil and associated works came within the exempted development provisions of section 4(1)(g) and 4(1)(h) of the Act.

Cork City Council R603/20 – where Cork City Council determined that the installation of electrical infrastructure at the existing Trabeg 110kV Electricity Substation, South Douglas Road, Cork is exempted development.

4 Conclusion

This Section 5 Declaration Report has been prepared by the ESB to assist Cork County Council in their determination of ***whether the proposed asset replacement and electrical infrastructure upgrading works at the existing Midleton 110kV Substation, Carrigogna, Midleton, Co. Cork, is or is not development, and if development, is or is not exempted development*** as provided for by Section 5(1) of the Act.

The Report has set out the legislative basis of the proposed works and has examined the two principal considerations of the Section 5 process; does the proposal constitute development and if so, does the proposal qualify as exempted development?

As demonstrated within this Report, the proposed renewing and altering of the existing Midleton 110kV Substation falls within the scope of the definition of development under Section 3 of the Planning and Development Act 2000, (as amended) and is considered to fall within the exemptions provided for under Section 4(1)(g) and 4(1)(h) of the Act.

The proposed works have been screened against the statutory requirements for both Appropriate Assessment and Environmental Impact Assessment and neither are required in the context of the works.

It is therefore requested that Cork County Council confirm that, while the proposed asset replacement and electrical infrastructure upgrading works constitutes development, the works can be considered exempted development under the provisions of the Act.

INDEX

SHEET No.	DESCRIPTION	REVISION No.
001	INDEX SHEET	000
002	SITE LOCATION MAP (1:2500)	000
003	SITE LOCATION MAP (1:10560)	000
004	EXISTING SITE LAYOUT	000
005	PROPOSED DEMOLITION LAYOUT	000
006	PROPOSED SITE LAYOUT	000
007	EXISTING AND PROPOSED SITE ELEVATION	000

MIDDLETON 110 kV SUBSTATION HV ASSET REPLACEMENT UNDER I_BF0169 SECTION 5 DRAWINGS

INDEX SHEET

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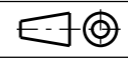


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Contract I_BF0169	INDEX SHEET

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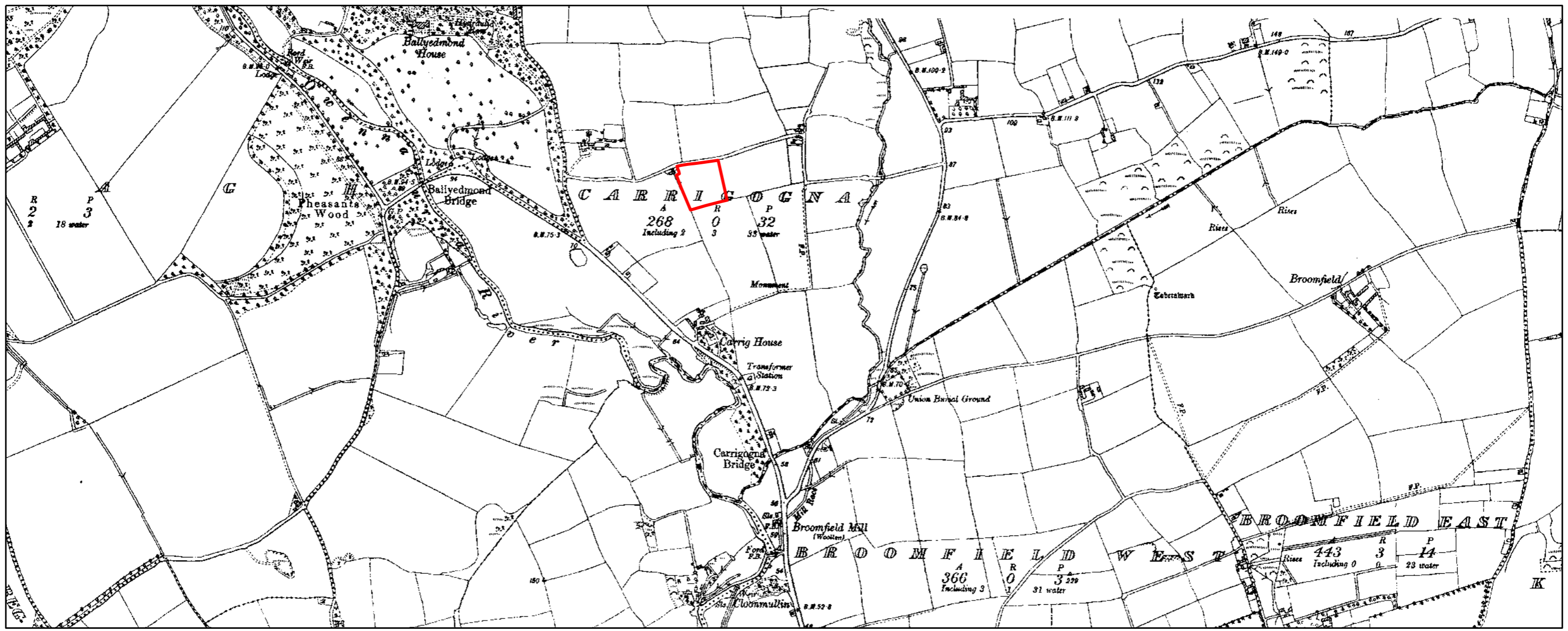


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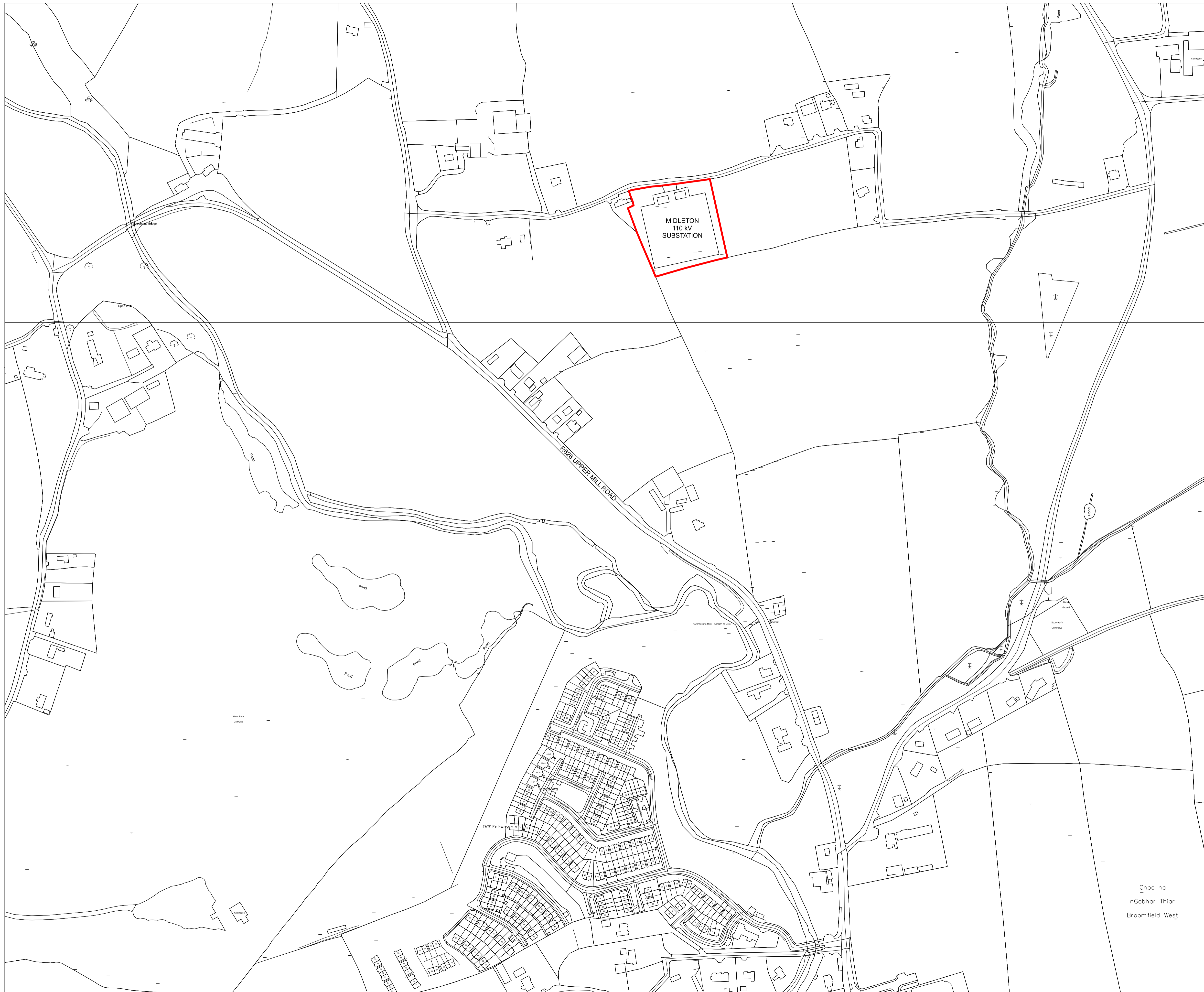
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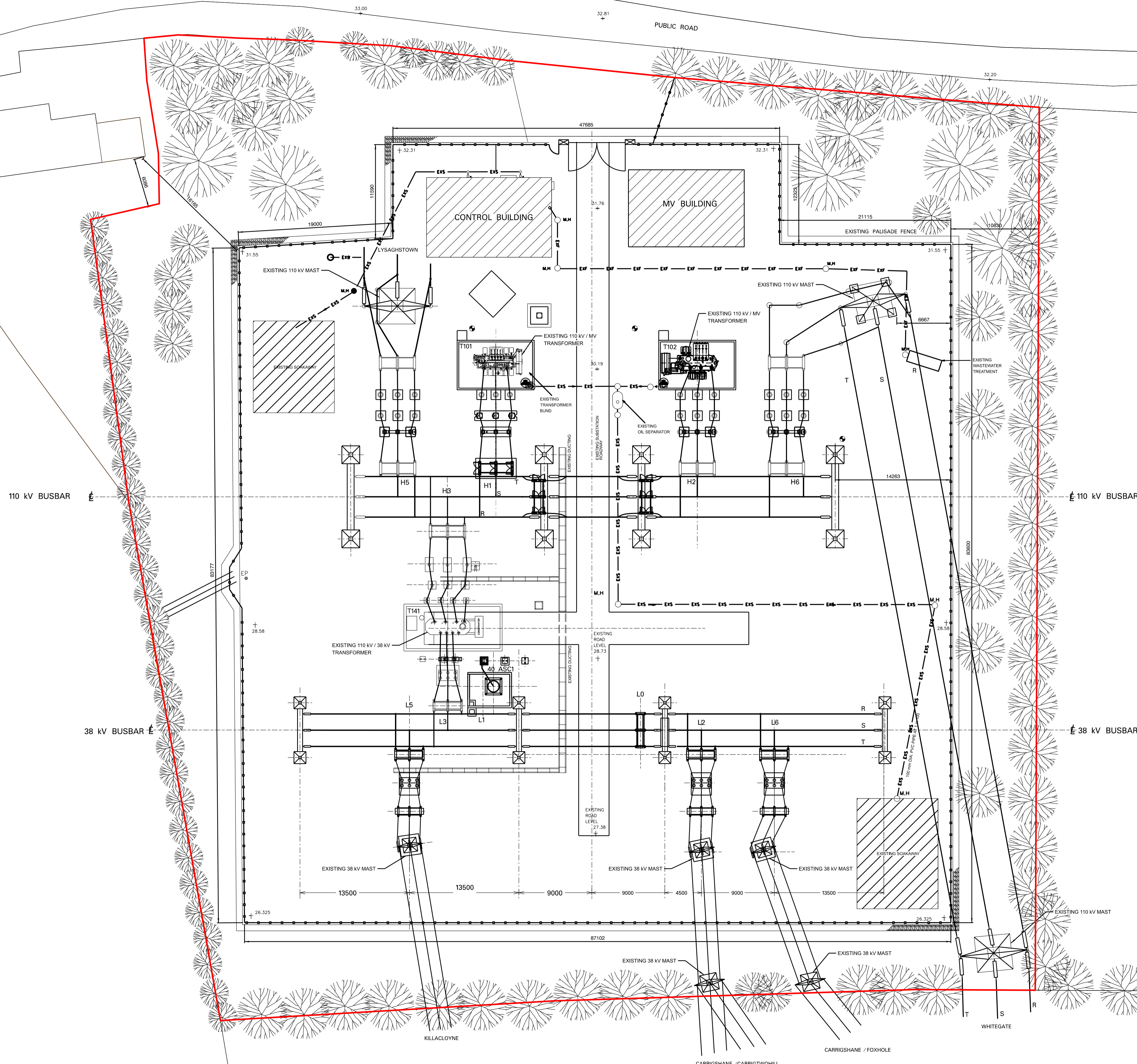
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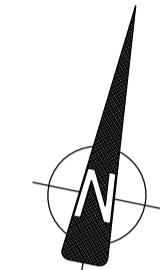
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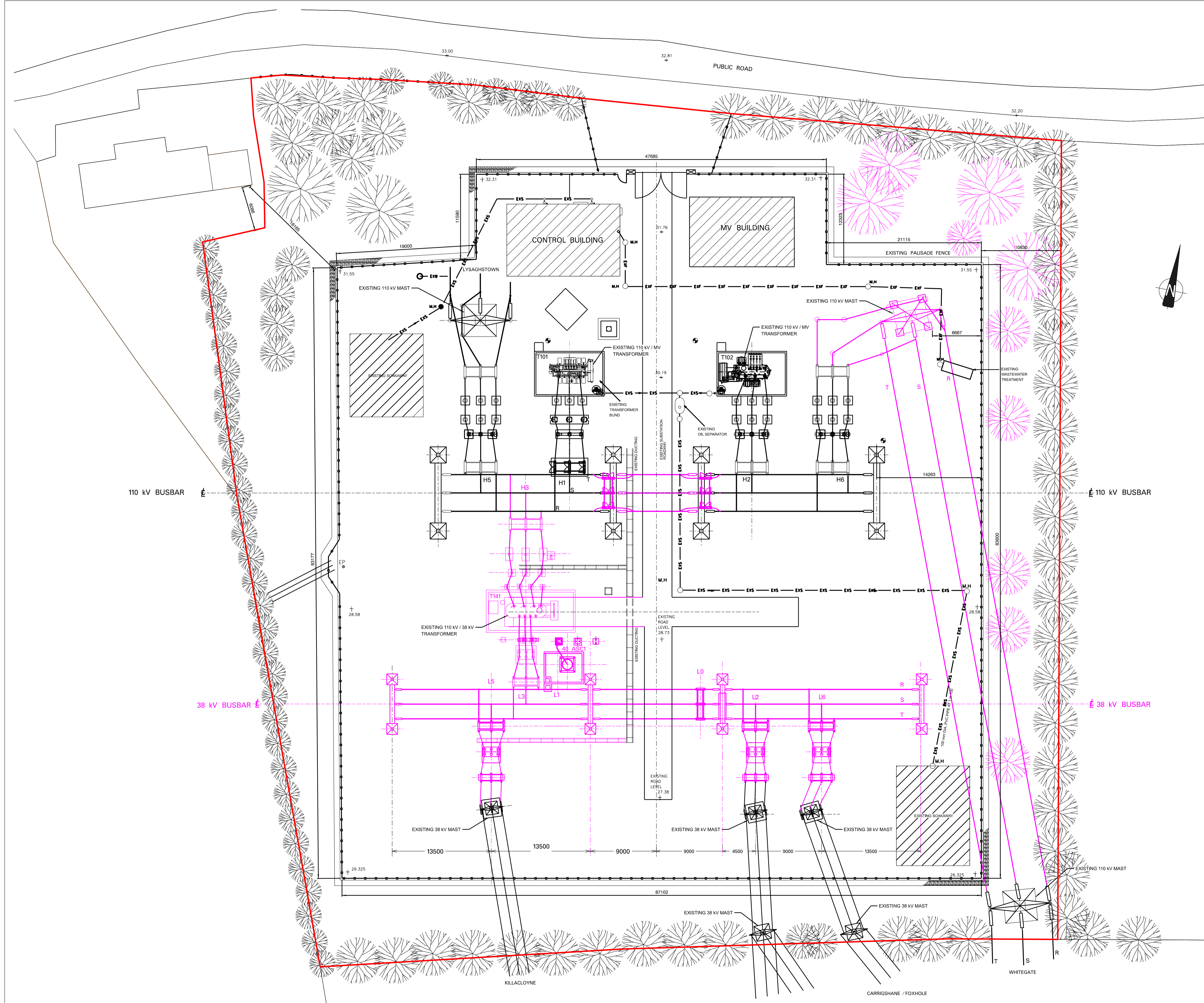
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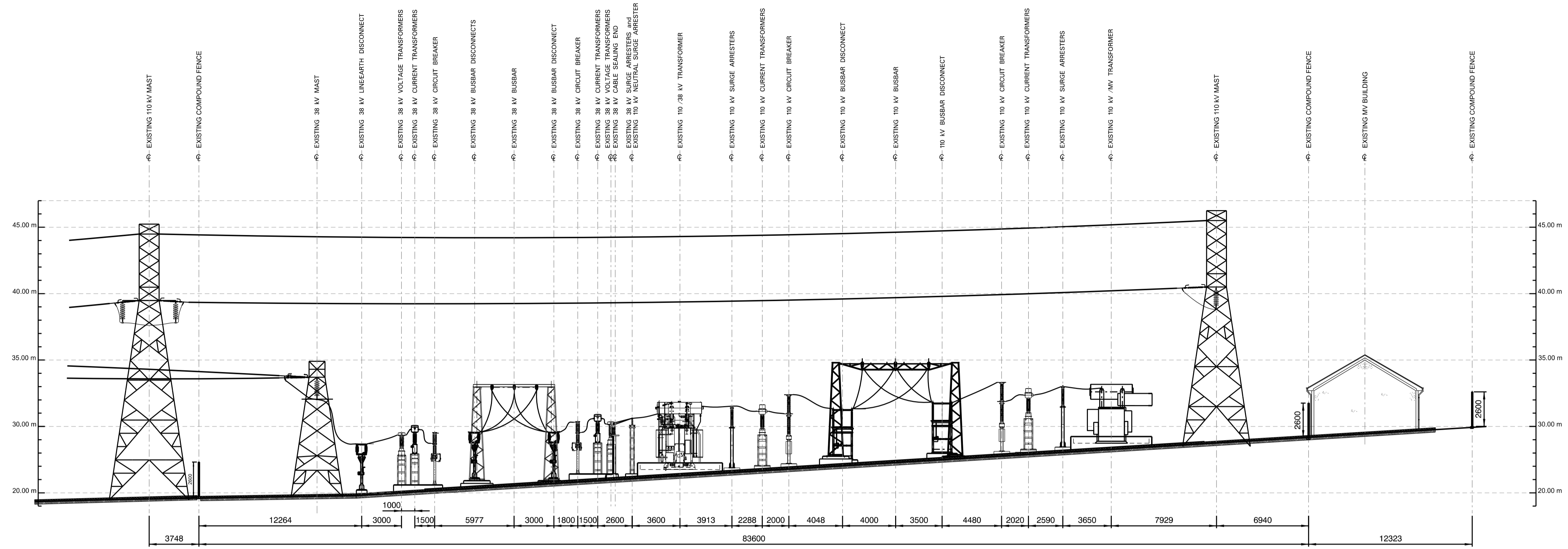
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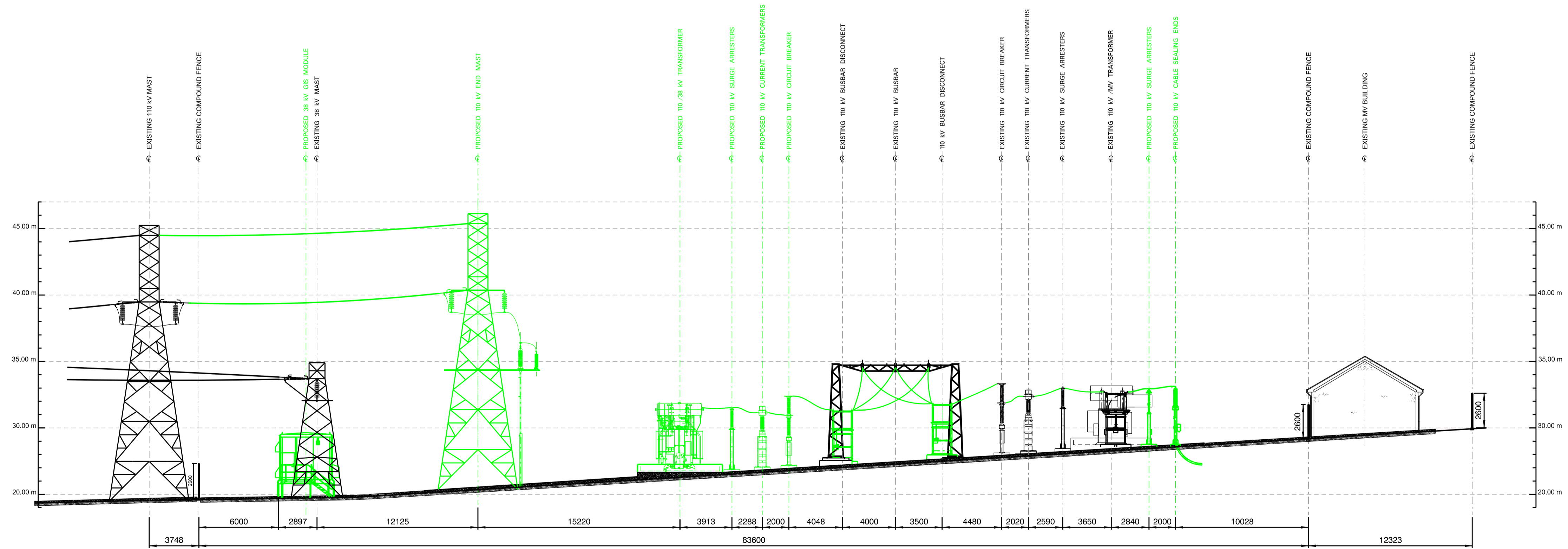


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EXISTING EAST ELEVATION
SCALE 1:200



PROPOSED EAST ELEVATION
SCALE 1:200

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