



Board Direction

Ref: 10.RL2670

The submissions on this file, including in relation to the notices issued under Sections 132 and 137 of the Act, and the report and supplementary report of the Director of Planning were considered at a Board meeting held on 22nd February 2011.

The Board agreed with the Director of Planning, as set out in his supplementary report, that the works had been undertaken by a statutory undertaker, namely Tetra Ireland, licensed by ComReg. Accordingly, the provisions of Class 31 of Part 1 of Schedule 2 of the P&D Regulations are of relevance.

But, the Board decided, contrary to the recommendation of the Director of Planning, that erection of the mast with aerials is exempted development. In making this decision, the Board noted the differences between the layout of the original mast and aerials and that of the replacement to which the Director of Planning had drawn attention in his original report. But notwithstanding these differences, the Board considered that the replacement mast complies with the conditions and limitations of the relevant Class 31(j), having regard to its overall dimensions and the disposition of antennae, when compared with those of the mast which it replaced.

DRAFT ORDER

WHEREAS a question has arisen as to whether the erection of a replacement mast with aerials off same, support structures and associated telecommunications cabinet at Freshford Garda Station is or is not exempted development:

AND WHEREAS the said question was referred to An Bord Pleanála by Michael and Mairead Cormack, Kilkenny Road, Freshford, Co. Kilkenny on 14th October 2009, following a Declaration by Kilkenny County Council dated 7th October 2009:

AND WHEREAS An Bord Pleanála, in considering this referral had particular regard to-

- (a) sections 2, 3, and 4 of the Planning and Development Act, 2000, as amended,
- (b) articles 6 and 9 of the P&D Regulations, 2001, as amended,
- (c) Class 31 of Part 1 of Schedule 2 of the said Regulations, including the conditions and limitations attached thereto, and

- (d) the nature and extent of the works and the use of the telecommunications equipment.

AND WHEREAS An Bord Pleanála has concluded that -

- (a) the erection of a replacement mast with aerials off same, support structures and associated telecommunications cabinet constitutes development,
- (b) the said erection of a replacement mast with aerials off same, support structures and associated telecommunications cabinet has been carried out on behalf of Tetra Ireland Ltd, which is a statutory undertaker licensed by the Commission for Communications Regulation (ComReg);
- (c) the replacement mast with aerials off same, support structures and associated telecommunications cabinet are part of a telecommunications system,
- (d) the development is of a type coming generally within the exempted development provisions of Class 31 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001,
- (e) the erection of the associated equipment cabinet comes within the exempted development provisions of Class 31(f) and complies with the conditions and limitations attaching thereto;
- (f) the erection of the replacement mast comes within the exempted development provisions of Class 31(j) and complies with the conditions and limitations attaching thereto.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the 2000 Act, as amended, decides that the erection of a replacement mast with aerials off same, support structures and associated telecommunications cabinet at Freshford Garda Station, Freshford, County Kilkenny, is exempted development.

Board Member: _____ Date: 21st March 2011
Karl Kent