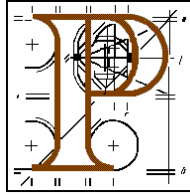


An Bord Pleanála



INSPECTOR'S REPORT

DEVELOPMENT: construction of a 15m support pole to carry 3 no aerials and 1 no dish, associated equipment and fencing, retention of access track and all associated site works

LOCATION: Elly, Killygarvan, Co Donegal

PLANNING APPLICATION

Planning Authority: Donegal County Council

Planning Authority Reg. Ref.: 10/40105

Applicant: Tetra Communications

Type of Application: Permission

Planning Authority Decision: Grant

PLANNING APPEAL

Appellant: Gavin Gallagher & Others

Type of Appeal: Third Party

Observers: None

DATE OF SITE INSPECTION: August 2010

INSPECTOR: Mary Crowley

1.0 SITE LOCATION AND DESCRIPTION

1.1 The appeal site with a stated area of 0.8ha is located in an exposed upland area to the north west of Rathmullan. Access to the site from the local road is provided by means of an existing un-surfaced roadway. In the immediate vicinity of the site the area is primarily rural and characterised by one off housing, agricultural land and associated farm buildings. There is a wind farm to the south of the appeal site. A set of photographs of the site and its environs taken during the course of the site inspection is attached

2.0 PROPOSED DEVELOPMENT

2.1 **Permission** is sought for the erection of a 15metre support pole to carry 3 no 3.1 radio aerials (these will extend above the height of the proposed support pole to a total height of 18m) and 1 no 0.3m dish for use by the Emergency Services (Garda, Ambulance and Fire Brigade) together with associated equipment, gantry poles, cabling, GPS timing antenna, cabinet and fencing for a new National Digital Radio Service. **Retention** permission is sought for the existing access track that will form access to the proposed installation.

2.2 The application was accompanied by the following:

- (1) Letter from Eamonn Ferry giving approval to Tetra Ireland to apply for planning permission on their lands
- (2) Letter from Tetra Ireland stating that the proposed equipment and installation as detailed in the application is designed to be in full compliance with the requirements of the radio frequency public exposure guidelines of the ICNIRP¹
- (3) Report from Tetra Ireland setting out the planning policy and technical justification for the application and its location

3.0 TECHNICAL REPORTS

3.1 The **Irish Aviation Authority** advises that they *have no observations* on this application. The **Roads** Department has no objections subject to conditions. The Local Authority **Planner** was satisfied with the proposed development and recommended that planning permission be granted subject to conditions. The notification of decision to grant planning issued by Donegal County Council reflects this recommendation.

4.0 OBJECTIONS / OBSERVATIONS TO THE PLANNING AUTHORITY

4.1 There is one letter of objection on file from Gavin Gallagher & others. The issues raised are similar to those set out in the third party appeal below and relate to visual impact, property value, impact on road network, proximity to dwelling houses and potential for co-location.

5.0 PLANNING AUTHORITY DECISION

5.1 The planning authority issued notification of decision to **grant permission** for the proposed 15m support pole to carry 3 no aerials and 1 no dish, associated equipment and fencing,

¹ International Commission on Non – Ionising Radiation Protection

subject to 4 standard conditions (Schedule A refers) and to **grant retention** permission of the access track and all associated site works subject to no (none) conditions (Schedule B refers). It is worth noting that no condition requiring the payment of a development contribution was attached.

6.0 PLANNING HISTORY

6.1 There are no previous appeals on this site. Reference is made in the planners report to the following planning application:

Reg Ref 09/40425 – planning application on the subject site to erect a 15m high support pole to carry 3 no 3.1m high radio aerials and 1 no 0.3m dish, for use by the emergency services, together with associated equipment. This application was **withdrawn** prior to a decision issuing.

7.0 POLICY CONTEXT

7.1 The operative plan for the area is the **County Donegal Development Plan 2006-2012 (as varied)**. The site is located in a rural area out with any designated area of Urban Generated Rural Housing, Special Area of Conservation, Special Protection Area or proposed Natural Heritage Area and is removed from any protected Views and Prospects. However the site is within an **Area of Especially High Scenic Amenity** (Conservation Map 9 refers). There is no national monument within the site boundaries.

7.2 **Section 2.8** Appendix A (Technical Standards) Paragraph 6 details issues against which telecommunications applications are assessed and these include siting and design, public health and safety, visual amenity, residential amenity, compliance with relevant legislation, proximity of structure to Residential Areas, Schools, Hospitals and nearby settlements, potential for co-location, potential adverse impacts on archaeological sites or protected structures and finally third party submissions.

7.3 Further strategic guidance is contained in “**Telecommunications Antennae and Support Structures**” issued by the DoEHLG.

8.0 GROUNDS OF APPEAL

8.1 The first party appeal has been prepared and submitted by Gavin Gallagher & others. Lurganboyce, Rathmullan, Letterkenny, Co Donegal, a landowner and resident of the area adjacent to the proposed development and can be summarised as follows:

8.2 **Visual Impact** – This is a scenic rural area that attracts many visitors and it is considered that a 15 metre antenna with 3 no 3.1 metre aerials will be intrusive on the local landscape and will be visible from a wide area i.e. Inishowen.

8.3 **Property Value** – A high steel antenna structure overlooking adjoining dwellings will affect the value of house and land in the area.

8.4 **Impact on Road Network** – The main road from Lurganboy to Drumhallagh is a minor road and it would put a lot of stress on it to withstand the pressure of heavy machinery associated with the transportation of materials to the site.

8.5 **Site location and Description** – The applicants description of the surrounding area that it mainly consists of agricultural and forested land with limited development in the nearby vicinity is inaccurate as there are 23 residential houses with families in close proximity to the site.

8.6 **Potential for co-location and clustering** – According to the applicant in their report submitted with the planning application the structure is in a location that may require coverage from mobile phone operators and broadband operators. It is further stated that this structure can be made available to respective operators if it would eliminate any more possible developments, subsequently protecting the surrounding landscape. The community strongly object to mobile operators and broadband operators using this location. Reference is also made to the following planning applications for similar developments within the area:

- Reg Ref 09/40271 – application for the construction of a 18 meter high antenna support structure with antenna and transmission dishes attached, associated works, equipment, cabinets, access tract and fencing for the governments national broadband scheme at Glentidally Glebe, Glenalla was granted planning permission.
- Reg Ref 08/50239 – application by Eircom for a 20m support pole to carry 3 no radio aerials for use by the emergency services (Garda, Ambulance and Fire Service) at the existing Eircom exchange in Ramelton. Following objections by the residents the applicant moved to Glentidally Glebe Reg Ref 10/40045 refers.

The appellant considers that this current application could be co-located by Tetra Ireland Ltd rather than erecting further antennae at Elly. It is also pointed out that Ramelton and Rathmullan Garda Stations are roughly the same distance from Glentidally Glebe.

8.7 **Public Consultation** – Policy TC10 encourages applicants for telecommunication antenna to engage in pre application discussions with local stakeholders. No contact was made with local residents prior to making the planning application.

8.8 **Landowner** - The landowner does not reside in the area but resides in Letterkenny c 20km away and does not have the same concerns as the adjoining residents regarding a development of this nature

8.9 **NOTE:** the appeal was accompanied by the following

1. Notification of decision to grant permission
2. Report of Threefold Project Management Ltd on behalf of the applicant Tetra Ireland
3. Letter from Donegal County Council to the Ramelton Community Youth Project and Minister Batt O'Keefe regarding Reg Ref 08/50239 setting out inter alia that although no third party concerns were raised when the planning application was being processed following public concern one year after the grant of permission the developers agreed not to act on the permission within Ramelton but to co-locate the emergency antennae onto a previously approved telecommunication mast (Reg Ref 09/40271) located in the rural areas outside of the settlement - Reg Ref 10/40045 refers.

9.0 **RESPONSE OF THE PLANNING AUTHORITY**

9.1 The applicants in this instance have stressed that the specification issued by the emergency services for the National Radio Service requires a very high level of coverage, inclusive of

overlapping coverage in areas to ensure that if one site fails an adjoining site can provide sufficient coverage. It is stressed that the requirements of the NDRS are quite different from those of commercial mobile phone networks which can be rolled out in stages in areas that will not generate revenue.

9.2 The planning authority consider that the applicants in this case have explored possible alternatives to the proposed site and indeed have noted that “no existing site in the area meets the coverage requirements of the emergency services without adding at least one extra site for specific site coverage and of overlapping coverage should a neighbouring site fail.

9.3 The planning authority would contend that the proposal to provide improved radio services for the emergency services in the area in the interests of proper planning and sustainable development and would further contend that the development is in compliance with the terms and provisions of the current County Development Plan.

10.0 RESPONSE OF THE FIRST PARTY TO THE THIRD PARTY APPEAL

10.1 None received

11.0 OBSERVATION

11.1 None Received.

12.0 ASSESSMENT

12.1 Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key issues relating to the assessment of the appeal are:

- Principle / Policy Considerations
- Visual Impact
- Residential Amenity & Property Values
- Impact on Road Network

12.2 There are two elements to this appeal namely (1) permission for the support pole et al and (2) retention permission for the access track. As much of the appeal centres on the support pole et al the retention of the track will be dealt with under the “Principle / Policy Considerations” section only of the assessment. The remainder of the assessment thereafter will focus on the permission for the support pole et al only.

12.3 As mentioned in Section 7.0 “Policy Context” of this report above the site is located in a rural area out with any designated area of Urban Generated Rural Housing, Special Area of Conservation, Special Protection Area or proposed Natural Heritage Area and is removed from any protected Views and Prospects. According to the applicant (pg 10 of their report submitted in support of the application) *it is apparent that we are not located within an area designated Especially High Scenic Amenity*. However according to the Planning Authority the site is within an Area of Especially High Scenic Amenity (Map 6 & 9 refers). Due to the scale and detail of information available on the maps accompanying the Development Plan it is very difficult to adjudicate in this situation whether or not the appeal site is within this designated area or not. However based on the report of the planning authority it is taken that in this instance that the

site is within this designated scenic area for the purposes of this report and will be assessed accordingly. However they Board may wish to seek clarification in this regard from the planning authority prior to their consideration of this appeal

13.0 PRINCIPLE / POLICY CONSIDERATIONS

- 13.1 According to the applicant there was a dirt track in place at this location for a number of years and was used for access to the bog area for the recovery of turf amongst other requirements as part of the land – owners agricultural activities. Between 2004 and 2005 the owner upgraded this track in the interests of safety during inclement weather periods particularly in winter but without the benefit of planning permission,. The track is not within or adjacent to an area designated for heritage protection in the Development Plan however the site is located within an area designated as being an Area of High Scenic Amenity where it is a policy of the Council to actively discourage any practise that results in the permanent and irreversible scarring of the landscape. Having travelled the entire length of this roadway by car I am satisfied that the track provides a reasonable standard of access to the proposed site and that it will facilitate the installation and subsequent monitoring / maintenance of the proposed National Radio Digital Service (NRDS) development. Having regard to the location and elevated nature of the site I am generally satisfied that in terms of visual impact that the track to be retained does not impact negatively on the overall character of this designated scenic rural area in this instance.
- 13.2 According to the applicant the primary intended use of this proposed structure is to form part of the new National Digital Radio Service (NDRS). This project is the replacement of the old Emergency Services networks (Gardai, Ambulance, Fire Brigade) with a unified state of the art digital system. It is further stated that the various existing communication systems used by the public safety organisation in Ireland are in the majority, not secure and limited in capability. NDRS coverage must be provided to the entire land mass of the county, the islands and 20 km out to sea. Coverage from this site must serve specific public buildings, roads and populated areas while contributing to the nationwide composite coverage plan. If a site in the network fails, the vast majority of its coverage must be provided by other surrounding sites. This is called overlapping of site and this is a unique design requirement of Tetra technology. A site at the Lurganboy Wind farm was the preferred location for the site in the area but a suitable location for a site design could not be found. It is stated that no existing site in the area meets the coverage requirements of the Emergency services without adding at least one extra site for specific site coverage and for overlapping coverage should a neighbouring site fail in the event of an emergency or natural disaster.
- 13.3 Overall I am satisfied that a reasonable case has been made with regard to the proposed site selection. Having regard to the policies and objectives at both national and local level to facilitate telecommunications infrastructure and the new National Digital Radio Service (NDRS) I agree with the local authority planner that the principle of *the proposed development which is intended to facilitate an improved communications system for the emergency services in the county, is consistent with the objectives of proper planning and sustainable development and is thus acceptable in principle at this location.*
- 13.4 It is also worth noting that the applicant states in their supporting documentation that *in addition the support pole maybe able to accommodate other operators, for example a rural broadband operator could co-locate on the support pole subject to it meeting technical requirements* however a height of 25m would be required so as to clear existing mature trees in the area and meet all emergency services coverage requirements. The acceptance of the principle of this

proposed development should not be taken as setting a precedent for any future development at this location. As pointed out by the applicant this development unlike commercial mobile phone networks whose primary aim is to cover urban centres and areas of high population in order to achieve a return on the investment, the new NDRS requires very substantial and specific geographic coverage to avoid communication black spots, which could prejudice the safety of communities or individual Emergency Services members. Accordingly any further proposals for development at this location should be considered from first principles.

14.0 VISUAL IMPACT

- 14.1 As mentioned above the appeal site is within an area designated as Especially High Scenic Amenity (EHSA) in the current County Development Plan. Policy TC8 and Section 2.8 Appendix A of the County Development Plan 2006 – 2012 states that *the Council will not favourably consider application for telecommunications antennae and support structures in areas of Especially High Scenic Amenity*. However in terms of the visual impact of the proposed scheme the applicant appears to have based their assessment and justification of the proposed development on the premise that the site is not located within such a designated area. It is further noted that no comprehensive set of photomontages were made available with either the application to the planning authority or in response to the third party appeal in order to assist with the assessment of this appeal.
- 14.2 The area is characterised as an exposed scenic upland location where the site affords spectacular uninterrupted long distance views of the surrounding countryside and where the converse is also applicable i.e. the proposed site is visible from a wide area. I note the comments of the applicant in their report submitted in support of the application that *in terms of the wider area and the surrounding views the structures impact is minimal due to the screening that exists in the area from the mature trees*. I would point out that this is not an inaccurate assessment of the appeal site and its environs from a screening perspective. It was noted on day of site inspection that there was a planted forestry in the area of the appeal site to the east however this is at a much lower level to the appeal site and therefore offers little by way of reducing the visual impact of the site or any associated development (site photos refer). Furthermore it was also noted on day of site inspection (site photos refer) that the fencing, cabinets and the lower section of the monopole are located against the backdrop of the most elevated part of the site that will provide some screening of the scheme however as pointed out by the applicant *the upper section of the support pole will be visible from the nearby public road, the R247 to the north of the site*.
- 14.2 Notwithstanding the absence of what I consider to be an important aid to the consideration of the visual impact of this scheme at this location, that is photomontages, I noted on day of site inspection that the area has already experienced a significant intervention in the landscape to the south of the appeal site in the form of a wind farm. It could be argued that the slimline nature of the proposed development by contrast to the wind farm, while it would be visible it will not present a highly intrusive feature on the local landscape by comparison to other permitted development in the area. However, while not explicitly stated in the appeal, it would appear that in all likelihood the area where the wind farm is located is most likely outwith the area designated as being an Area of Especially High Scenic Amenity.
- 14.3 Overall I am concerned that the proposed application has not had due regard to the designated scenic amenity of the area, that the consideration of views available in the wider area have been inappropriately set aside and that the ability of the site to provide screening has been

underestimated. In the absence of adequate analysis and assessment of the proposed scheme in terms of visual impact at this designated scenic location I cannot support the nature and scale of the proposed scheme at this elevated, exposed location. Accordingly I am not satisfied that the nature and scale of the proposed support structure is such that it would not be overly obtrusive at this location. Refusal is recommended.

15.0 RESIDENTIAL AMENITY & PROPERTY VALUES

15.1 With regard to the effect on residential amenity and property values in the vicinity, it is noted from the "Access Track" map Drawing (Drg No 206/206-S04-08 Issue B (stated scale 1:2000) refers) submitted with the planning application and confirmed on day of site inspection that there are a number of residential properties in the immediate area but that they are generally located to the south and east of the site and comprise linear "one-off" rural dwellings with some farm dwellings. The proposed telecommunications structure is in excess of 300 metres from the closest residential property to the south east of the appeal site and is at a greater distance from most other residential properties located in the immediate area. Furthermore it is unlikely that the proposed development will be visible from the aforementioned residential properties in the immediate area of the appeal site. Accordingly it is considered that the proposed scheme would not have any significant adverse effect on residential amenity and property values in the vicinity.

16.0 IMPACT ON ROAD NETWORK

16.1 It was noted on day of site inspection that access to the site is provided by means of a network of local roads. With regard to the impact of the development on the local road network I agree with the general comments of the local authority planner that given that the access road to the site has already been constructed thereby avoiding the requirement for the delivery of significant volumes of material to construct same, it is reasonable to conclude that the transportation of materials associated with the remainder of the development to the site will not have a significant load bearing impact on the road network. In terms of traffic movement associated with the scheme I am satisfied that any negative impact experienced during the construction phase (in the order of two weeks according to the applicant) will be low impact and short term. Overall I am satisfied that the proposed development would have a minimal long term impact on both existing traffic movements and on the existing road network.

17.0 RECOMMENDATION

17.1 Having considered the contents of the application, the provisions of the Development Plan, the grounds of appeal and the responses thereto, my site inspection and my assessment of the planning issues, I recommend that **permission** be **REFUSED** for the erection of a 15metre support pole, radio aerials and dish together with associated equipment, cabinet and fencing and that **retention permission** be **GRANTED** for existing access track as follows:

SCHEDULE A

REFUSE PERMISSION for the erection of a 15metre support pole to carry 3 no 3.1 radio aerials (these will extend above the height of the proposed support pole to a total height of 18m) and 1 no 0.3m dish for use by the Emergency Services (Garda, Ambulance and Fire Brigade) together with associated equipment, gantry poles, cabling, GPS timing antenna, cabinet and fencing for a new National Digital Radio Service for the reason and considerations as set out below

REASONS AND CONSIDERATIONS

1. The proposed site is located within an area designated as being an Area of Especially High Scenic Amenity as set out in the County Donegal Development Plan 2006-2012 (as varied) (Conservation Map 9 refers). Policy TC8 and Section 2.8 Appendix A of the County Development Plan 2006 – 2012 states that *the Council will not favourably consider application for telecommunications antennae and support structures in areas of Especially High Scenic Amenity*. This objective is considered reasonable and is in line with the guidelines relating to telecommunications antennae and support structures which were issued by the Department of the Environment and Local Government to planning authority's in July 1996. It is considered that it has not been adequately demonstrated that the nature and scale of the proposed development comprising the erection of a 15metre support pole to carry 3 no 3.1 radio aerials (these will extend above the height of the proposed support pole to a total height of 18m) and 1 no 0.3m dish together with associated equipment can be satisfactorily accommodated at this elevated, exposed scenic location that affords spectacular uninterrupted long distance views of the surrounding countryside and where the converse is also applicable i.e. the proposed site is visible from a wide area without seriously injuring the visual amenities of this sensitive area and that of the wider area. Accordingly it is considered that the proposed development would therefore be contrary to the provision of the County Donegal Development Plan 2006-2012 (as varied) in relation to the protection this designated Area of Especially High Scenic Amenity and to the proper planning and sustainable development of the area.

SCHEDULE B

GRANT RETENTION PERMISSION for the existing access track that will form access to the proposed installation for the reasons and considerations set out below

REASONS AND CONSIDERATIONS

Having regard to the provisions of the current county Donegal Development Plan 2006-2012 for the provision of telecommunications antenna and support structures together with the condition of the existing track to be retained where no further major works area required in order to facilitate access to the site, it is considered that, subject to compliance with the condition set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would not be prejudicial to public health and traffic safety, and would be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works

Reason: In the interest of public health and to ensure a proper standard of development.

Mary Crowley
Planning Inspector