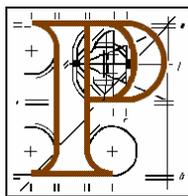


# An Bord Pleanála



## Inspector's Report

**PL 26.237137**

**Development:** Retention of previously permitted 24 m high telecommunications support structure with antennae, associated equipment and access track.

**Location:** Dungulph, Fetherd, Co. Wexford

Planning Application: Permission

Planning Authority: Wexford County Council

Planning Authority Reg. Ref. No.: 2010/0440

Applicant: Vodafone Ireland Limited

Type of Application: Retention Permission

Planning Authority Decision: Grant Permission + conditions

### **Planning Appeal:**

Type of Appeal: Third Party v grant

Appellant: Esther Brennan

Observers:  
John Hanlon  
Terence Pilkington  
Patrick Hanton  
Orla Doyle Fitzpatrick  
Grace O'Mahoney  
Pauline & Frances Moran  
Thomas & Marie Murphy  
Veronica Fardy

**Date of Site Inspection:** 10<sup>th</sup> September, 2010.

**Inspector:** Sarah Moran

## **1.0 SITE LOCATION AND DESCRIPTION**

- 1.1 The site is located in a rural area in the south east of Co. Wexford, near Fethard on the Hook Head Peninsula. This is an area of scattered development with the main access route being the R734 between New Ross and Fethard. The R734 is a busy regional route and there was a significant amount of passing traffic on the day of inspection. The landscape is undulating with salt marsh lowlands along the coastline. The area of Bannow Bay is located nearby to the east, accessed via a local road off the R734. This area is an important habitat and the Bannow Bay site has several designations. The site of Dungulph Castle is located nearby to the west of the site, adjacent to the R734, however there are little existing remains.
- 1.2 The mast is at a locally elevated location, c. the 34 m contour line, with views mainly to the east and south. The site is accessed via an agricultural entrance and an unsurfaced track off the R734. Sight distances are poor in both directions at the entrance due to the narrow and winding nature of the R734 at this point. The site is surrounded by fields in agricultural use. There is an existing mast that was previously permitted under Reg. Ref. 2005/0794. The mast is a slimline structure measuring 24 m high. It carries several items of telecommunications equipment. It is located within an enclosure that also contains two equipment cabinets. The enclosure has an area of c. 225 sq.m. It is surrounded by a 2.4 m high palisade fence.

## **2.0 PLANNING HISTORY**

- 2.1 Permission was granted for a 24 m high mast at this location under Reg. Ref. 2005/0794, subject to 10 no. conditions. Condition no. 2 specified a permission period of 5 years. Details of 2005/0794, including the planning report and other technical reports, are enclosed in a pouch to the rear of the file.

## **3.0 THE PROPOSED DEVELOPMENT**

- 3.1 Permission is sought to retain the existing 24 m high mast with antennas, equipment container and associated equipment, the fenced compound and the access track. The application was accompanied by the following particulars:
- ODTR report no. 01/85 regarding compliance with International Commission on Non-Ionising Radiation Protection (ICNIRP) Guidelines 1998.
  - Synopsis of a report on mobile phone base stations and health in Ireland by a group of technical experts.

## **4.0 DECISION OF PLANNING AUTHORITY**

- 4.1 The planning authority received a large volume of third party submissions on foot of the application. The main points made are summarised in the planning report on file dated 18<sup>th</sup> June, 2010. A submission was also received from the Irish Aviation Authority, which stated no comment. The planning authority granted permission subject to a total of 5 no. conditions. Condition no. 2

specified a temporary permission for a total of 5 years for the following reason:

*“It is necessary in the interests of the proper planning and development of the area to limit the period of permission in order to review the effect of the structure on the amenities of the area.”*

## **5.0 THIRD PARTY APPEAL**

5.1 The appeal was submitted by a local resident. The main points made may be summarised as follows:

- The planning authority did not take the concerns of local residents into consideration.
- Potential impacts on Bannow Bay SPA/SAC/NHA.
- Proximity of mast to a primary school, playschool and local residences, contravention of County Development Plan policy Inf. 28.
- Health concerns. Recent refusal by Wexford County Council for a mast on grounds relating to insufficient information about compliance with International Radiation Protection Association Guidelines, Reg. Ref. 2009/0332.
- A list of other existing telecommunications equipment in the area is provided. It is submitted that there is a saturation of mobile phone coverage in the area.
- A large volume of objections was submitted to the planning authority. There is serious concern about the development in the local area.

## **6.0 RESPONSE OF PLANNING AUTHORITY TO APPEAL**

6.1 The main points made may be summarised as follows:

- The primary school is located over 1 km from the site and the closest house is 270 m away.
- The application complies with County Development Plan policy for telecommunications section 10.13.0 and complies with the DEHLG *Guidelines for Telecommunications Antennae and Support Structures*.

## **7.0 RESPONSE OF APPLICANT TO APPEAL**

7.1 The main points made may be summarised as follows:

- The existing mast provides essential telecommunications coverage to the area and is strategically important to the local community, business and tourism.
- The Bannow Bay SPA/SAC/NHA is located a considerable distance to the east and south east of the site. The protection given to Bannow Bay is mainly due to the coastal flora and fauna present. Such natural habitats are not found at the site and therefore there would be no impact.
- The submission refers to a similar site ref. PL 25.235846 at Coole County, Westmeath, which was located c. 3 km from a designated area. IN that case, the Inspector’s report did not consider that a mast would have significant visual impact due to the intervening distance.

- The development involves the retention of an existing structure and would not involve any additional ground works.
- With regard to visual impact, the site is located in an agricultural area with a scattering of individual dwellings. Nearby driving routes are not protected. The mast is of below average height at 24 m. It has been noted in previous An Bord Pleanála reports that the sighting of telecommunications is now normal in Ireland and their impact has been reduced in recent times through the population's general acceptance of such installations.
- The structure is located an adequate distance from dwellings and other buildings such that the residential amenity of the area is protected.
- Health issues are not a planning concern so long as the required documentation has been provided by the applicant in line with County Development Plan requirements.
- With regard to impact on agricultural land values, it is submitted that values would be improved by access to telecommunications infrastructure. The benefits of such infrastructure to the rural community are noted. Submission refers to Inspector's report of PL 08.234771, Glenbeigh, Co. Kerry, which considered that masts have a questionable impact on property prices.
- The development complies with County Development Plan policy Inf, 28 as there are 2 operators using the structure. If the site were refused permission, these operators would require sites in the surrounding area.
- The applicant considers that the planning authority has carried out an appropriate assessment of the application.

## **8.0 OBSERVATIONS**

8.1 A total of 8 no. observations have been submitted by local residents. The main points raised may be summarised as follows:

- Planning authority did not consider potential impacts on the Bannow Bay SPA/SAC/NHA.
- Adjoining landowner has not given permission for the use of the laneway as access to the mast.
- Development is unnecessary due to amount of other telecommunications infrastructure in the area. These were erected without planning permission.
- Health concerns. There is a significant amount of houses in close proximity to the mast, with a large population of young children (varying figures provided).
- Proximity of local primary school and playschool. Contravention of County Development Plan policy Inf. 28.
- Visual impacts. Dungulph is located in the Hook Peninsula which is an area of natural beauty and historic interest, also an important tourist area.
- Impact on designated Zone of Archaeological Interest at Dungulph Castle.
- Contravention of section 10.13.0 of the County Development Plan.
- Adverse impact on livestock and land values of adjoining agricultural property.

## **9.0 RELEVANT PLANNING POLICY**

### **9.1.1 DEHLG Telecommunications Antennae and Support Structures Guidelines for Planning Authorities (1996)**

9.1.1 These guidelines set out a policy to support the development of a national network of telecommunications antennae and structures to facilitate a top quality telecommunication service throughout the State. They state that planning authorities should indicate in their development plans where these structures are not favoured, such as lands whose high amenity value is already recognized in the Development Plan or sites beside schools which would give rise to local concerns. Only as a last resort should free-standing masts be located within or in the immediate surrounds of smaller towns or villages, in a residential area or beside schools.

9.1.2 Section 4.3 states the following with regard to visual impact:

*“Whatever the general visual context, great care will have to be taken when dealing with fragile or sensitive landscapes, with other areas designated or scheduled under planning and other legislation, for example, Special Amenity Areas, Special Protection Areas, the proposed Natural Heritage Areas and Special Areas of Conservation and National Parks. Proximity to listed buildings, archaeological sites and other monuments should be avoided.”*

The visual impact of access roads should also be considered. Support structures are to be kept to a minimum and should be monopole. Applicants are encouraged to share structures in order to reduce visual impacts and are required to satisfy planning authorities that they have made a reasonable effort to share.

9.1.3 Appendix II deals with health and safety aspects. Operators should be required to furnish a statement of compliance with the International Radiation Protection Association (IRPA) Guidelines (Health Physics, Vol. 54, No. 1 (Jan) 1988) or the equivalent European Pre-standard 50166-2 which has been conditioned by the licensing arrangements with the Department of Transport, Energy and Communications and to furnish evidence that an installation of the type applied for complies with the above guidelines.

### **9.2 Wexford County Development Plan 2007-2012**

9.2.1 Section 6.7.0 of the Plan relates to Telecommunications. Policy Inf. 27 states;

*“To maximise the existing use of masts and sites, so as to limit the impact of development on the landscape, giving priority to the protection of visually vulnerable or sensitive landscapes and areas of nature conservation value.”*

Policy Inf. 28 states;

*“To adopt a presumption against the erection of antennae in proximity to residential areas, schools or community facilities, structures of historical or architectural interest and areas and sites of archaeological importance.”*

9.2.2 Section 9 of the Plan relates to heritage, conservation and landscape. Section 9.3, *Archaeological Heritage* includes objective AH2, which states;

*“That any development either above or below ground, within the vicinity of a site of archaeological interest shall not be detrimental to the character of the archaeological site or its setting, and shall be sited and designed with care for the character of the site or the setting.”*

The Plan lists Bannow Bay as a candidate Special Area of Conservation (cSAC), Site Code 000697 and a Special Protection Area (SPA), Site Code 004033 designated to conserve habitats and species of European importance pursuant to the EU Habitats and Birds Directives. It is listed as a proposed Natural Heritage Area (NHA) under the Wildlife (Amendment) Act, 2000, designated to conserve species and habitats of national importance. Bannow Bay is also Ramsar Site no. 840 under the Ramsar convention on wetlands. Objective NH1 states;

*“Prohibit development which would damage or threaten the integrity of sites of international or national importance, designated for their habitat/wildlife or geological/geomorphological importance including the proposed Natural Heritage Areas, candidate Special Areas of Conservation, Special Protection Areas and Statutory Nature Reserves.”*

The site is located in the South Coast coastal policy area as per Map no. 7 of the plan, the Landscape Character Assessment. Policies for this area generally aim to protect vulnerable landscapes from intensive and haphazard development. Objective CZ3 states;

*“Protect sea views from coast roads and restrict development on the seaward sides of roads where it would be injurious to amenities.”*

9.2.3 Policy on landscape is also set out in Appendix 5 of the Plan, which comprises the Landscape Character Assessment of the county.

9.2.4 Section 10.13.0 of the plan sets out development standards for telecommunications infrastructure. The following is required with proposals for the erection of antennae and support structures:

- *A reasoned justification as to the need for the particular development at the proposed location in the context of the operator’s overall plans to develop a network in County Wexford.*
- *Indication of what other sites or locations in the county were considered.*
- *Evidence of consultation with other operators with regard to the sharing of sites and support structures.*
- *Proposals to mitigate the visual impact of the proposed development including the construction of access roads, additional poles and structures.*
- *Statement of compliance with the International Radiation Protection Association (IRPA) Guidelines or the equivalent European Pre-Standard 50166-2.*

9.2.5 A copy of relevant extracts from the County Development Plan, including the Landscape Character Assessment, is enclosed in the attached pouch.

## **9.0 ASSESSMENT**

9.1 The following are the principal factors for consideration in this case:

- Principle of development with regard to DEHLG and County Development Plan policy.
- Impacts on Bannow Bay SPA/SAC/NHA
- Impacts on visual amenities
- Health and safety concerns
- Miscellaneous issues

These issues may be considered separately as follows.

### **9.2 Principle of Development**

9.2.1 Under Ref. Ref. 2005/0794, permission was previously granted for a mast on the site for a limited period of 5 years for the following reason:

*“To enable the impact of the proposed development to be reassessed having regard to changes in technology and design during the five year period and to the circumstances then prevailing.”*

This 5 year permission was in accordance with Section 4.8 of the DEHLG *Telecommunications Antennae and Support Structures Guidelines for Planning Authorities* (1996), which recommends;

*“Retention of the base stations at the end of the five year period would then be conditional on the replacement of obsolescent technology with more modern, environmentally friendly designs where these have become available, where they are commercially viable and where they would allow the base station to continue to operate within the standards set out in the licensing arrangements, or in the original planning permission or within more stringent or other standards if these are considered more desirable at the time.”*

Given that there have been no technical developments that would render obsolete the current technologies used by the mobile communications service suppliers, it is considered reasonable that the mast be retained. It is also noted that, according to the applicant, the mast is currently used by 2 operators. This is in accordance with County Development Plan and DEHLG policies to maximise the use of existing masts. As the DEHLG Guidelines are still in force, it is recommended that permission is again granted for a 5 year period.

9.2.2 The appellant and observers state concerns about the proximity of the site to residential properties, to a playschool at St. Adidan’s Church, Poulfour Bridge and to Poulfour National School. County Development Plan policy Inf. 28 and the DEHLG Guidelines recommend the avoidance of sites in close proximity to schools and residential areas. However, there are no houses in the immediate vicinity of the site and the area has a generally low residential density. The mast does not unduly overbear or overshadow any residential

property or otherwise injure residential amenity. The development would not, therefore, injure the character of the area or the amenities of property in the vicinity. The playschool is c. 1 km from the site and the school is c. 1.25 km away (distance estimates based on the O.S. Discovery map). It is therefore considered that the development would not contravene DEHLG or County Development Plan policy relating to proximity to schools or residential areas.

### **9.3 Impacts on Bannow Bay SPA/SAC/NHA**

9.3.1 As can be seen from the enclosed map, the Bannow Bay SPA/SAC/NHA is nearby to the south and east and extends to within c. 0.5 km of the site. Copies of the Site Synopses for the SPA and SAC designations are enclosed. The SAC designation relates to the presence of a large number of E.U. Habitats Directive Annex 1 habitats, including the priority habitat fixed grey dune and the legally protected Red Data Book plant species Perennial Glasswort. The SPA designation is due to its importance as a habitat for wintering waterfowl. Site Synopses are not currently available for NHAs. It is not considered that the development would result in any adverse impacts on the designated sites with regard to the following:

- The location of the site at least 0.5 km outside the boundaries of the designated sites.
- The nature of the development it is proposed to retain.
- The appellants have not put forward any specific examples as to current adverse impacts on the wildlife habitats of Bannow Bay as a result of the existing structure.

### **9.4 Impacts on Visual Amenities**

9.4.1 The site has a locally elevated location at the 34 m contour, c. 0.5 km inland from the coastline. The Landscape Character Assessment of the County Development Plan describes this area of the County as follows;

*“This coast is characterised by significant areas of enclosure – such as Bannow Bay, Ballyteige, Tacumshin and Lady’s Island. These features mean that the coastal character penetrates much further inland than on the east coast.”*

Within the south coastal area, the lowland coast is considered a separate core policy area as it has significantly different landscape attributes, sensitivities and robustness. The following policies are stated;

- *Facilitate appropriate tourism and amenity development in a progressive manner, where feasible, that reflects the scale, character and sensitivities of the landscape.*
- *Encourage development that will not have a disproportionate effect on the existing character of the coastal environment in terms of location, design, and visual prominence.*
- *Encourage development that will not interrupt or penetrate distinct linear sections of primary ridge lines and coastlines when viewed from areas of the public realm.*

- *Preserve any areas that have not been subject to recent or prior development and have retained a dominantly undisturbed coastal character.*

The adjacent area of wetlands, estuaries and beaches would be a vulnerable landscape according to the characterisation provided, i.e. having a very low capacity to absorb new development without significant alterations of existing character over an extended area. Section 8.2 describes such areas as follows;

*“Vulnerable landscapes are defined by linear environmental features such as the shores of the main water bodies (lakes, large rivers, coasts, estuaries) and the ridges or skylines of mountains, hills, promontories and headlands. Major skylines are visible over a wide area (any area will be visible against the skyline if viewed from a lower elevation). These are all conspicuous features of the natural landscape to which the eye is drawn because of strong contrasts of form and colour where there is contact between the land and sky or water. Therefore, they represent vulnerable features on the landscape as any development on or in the vicinity of shores or skylines has the potential to affect the visual integrity of the surrounding environment.”*

- 9.2.2 Section 3.5 of the Landscape Characterisation Assessment lists transmission masts as typically having a significant degree of impact on the landscape. Given the relatively elevated location of the existing mast, it is visible from a wide area. However it is a distant and rather small object in such views and it does not significantly interfere with the scenic amenity of the countryside. It therefore would not have a disproportionate visual impact, notwithstanding the vulnerability of the landscape. In addition, the access track is not visible over a wide area. It is therefore considered that the retention of the mast would not seriously injure the rural character or visual amenity of the area.

## **9.5 Health and Safety Concerns**

- 9.5.1 The applicant has submitted a report regarding compliance with International Commission on Non-Ionising Radiation Protection (ICNIRP) Guidelines 1998. The DEHLG Guidelines state that the highest field strength of emissions from base station towers in Ireland is a very small fraction of these international limits. In addition, there are safeguards outside of the planning system which protect public health in relation to telecommunications installations. Moreover, there is no evidence produced in the appeal to suggest that the existing telecommunications infrastructure at the site has not been operating in accordance with national standards or that it is otherwise failing to comply with the International Radiation Protection Association Guidelines. It is therefore considered that there is no reason to refuse permission on health grounds.

## **9.6 Miscellaneous Issues**

- 9.6.1 The appeal states concerns relating to potential archaeological impacts on the site of Dungulph Castle. There are 2 no. monuments listed in the Record of Monuments and Places at this location, i.e. Dungulph Castle (SMR ref.

WX045/041) and a graveyard to the south of Dungulph Castle (SMR ref. WX045/075). Their location relative to the site may be seen in the enclosed extract from the Record of Sites and Monuments. Given the distance of the site from these locations, it is not considered that the development would have any archaeological impacts.

- 9.6.2 As regards devaluation of property such masts are a common occurrence nowadays and their impact on property prices is questionable, especially having regard to the length of the permission.
- 9.6.3 The appeal raises the issue of the applicant's right of way over the existing laneway access. However, the documentation on file does not make any reference to the matter. It should be noted that any dispute with respect to legal interest is a civil matter and a grant of planning permission does not entitle the recipient to carry out a development.

## **9.0 RECOMMENDATION**

- 9.1 The development it is proposed to retain is considered to be acceptable in principle with regard to the recommendations of the *DEHLG Telecommunications Antennae and Support Structures Guidelines for Planning Authorities* (1996) and to relevant County Development Plan policy. The development would not have any significant adverse impact on residential or visual amenities or on the designate site of Bannow Bay. Accordingly, permission is recommended subject to the conditions set out below.

## **REASONS AND CONSIDERATIONS**

Having regard to-

- (a) the national strategy regarding the improvement of mobile communications services,
- (b) the guidelines relating to telecommunications antennae and support structures which were issued by the Department of the Environment and Local Government to planning authorities in July, 1996,
- (c) the general topography and landscape features in the vicinity of the site, and
- (d) the existing pattern of development in the vicinity;

it is considered that, subject to compliance with the conditions set out below, the development it is proposed to retain would not seriously injure the amenities of the area, would not be prejudicial to public health and would be in accordance with the proper planning and sustainable development of the area.

## **CONDITIONS**

1. The development shall be retained in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. This permission is for a period of five years from the date of this order. The telecommunications structure and related ancillary structures shall then be removed unless, prior to the end of the period, planning permission shall have been granted for their retention for a further period.

**Reason:** To enable the impact of the development to be re-assessed, having regard to changes in technology and design during the period of five years.

3. The site shall be reinstated on removal of the telecommunications structure and ancillary structures. Details relating to the removal and reinstatement shall be submitted to and agreed with the planning authority as soon as practicable.

**Reason:** In the interest of orderly development.

4. The transmitter power output, antennae type and mounting configuration shall be in accordance with the details submitted with this application and shall not be altered without a prior grant of planning permission.

**Reason:** To clarify the nature of the development to which this permission relates and to facilitate a full assessment of any future alterations to the network.

5. No material change of use of the mast shall be made without a prior grant of planning permission.

**Reason:** To safeguard the amenities of the area.

6. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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Sarah Moran  
Senior Planning Inspector  
29<sup>th</sup> November, 2010