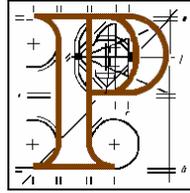


# An Bord Pleanála



## Inspector's Report

<b>Planning Appeal No.:</b>	PL 08.239454
<b>Development:</b>	Retain 35m telecommunications mast, fencing and equipment.
<b>Planning Application:</b>	Permission
<b>Planning Authority:</b>	Kerry City Council.
<b>Applicant:</b>	Towercom Limited.
<b>Appellant:</b>	Towercom Limited
<b>Planning Authority:</b>	Reg. Ref.: 11/502
<b>Planning Authority Decision:</b>	Refuse
<b>Type of Appeal:</b>	First Party
<b>Site Inspection:</b>	November 2011.
<b>Inspector:</b>	Hugh Mannion

## **1. SITE DESCRIPTION**

The site is located in northwest County Kerry about 4.5 kilometres north-east of Ballybunion and about 8kms west of Ballylongford. Knockanore has a summit height of 267mOD and rises over a flat plane which characterises this area of North Kerry. There are a number of regional routes in the area; the R553 Listowel to Ballybunion and the R551 Ballybunion to Ballylongford. The site has a stated area of 0.37ha and along with the tower the subject of this retention application the immediate area of the site accommodates three other lattice telecommunications towers.

The site is accessed over a minor road which climbs the Knockanore hill from the west. The tower is surrounded by a 2.4m high chain link fence with access gates.

## **2. PROPOSED DEVELOPMENT**

The proposed development comprises the retention of a 35m high telecommunications mast together with associated equipment and fencing. The tower supports three antennas and five link dishes. On the ground within the compound are three large equipment cabinets and a number of smaller items including a generator.

## **3. HISTORY**

The original permission was granted on appeal under PL08.218403 (register reference number 1234/06) for a 35m high mast on this site with associated equipment. Condition 1 specified a 5 year lifetime from 22 January 2007.

Within the cluster of telecoms masts of which the subject mast is one the Board granted a permission under PL08.237512 for the retention of a 24m mast and ancillary equipment on 21<sup>st</sup> January 2011.

## **4. PLANNING AUTHORITY DECISION**

Kerry County Council made a decision to refuse permission for the proposed development for the reason stated below.

*“The structure is located within 1 kilometre of existing residential properties and would therefore contravene Section 13.18.11 of Kerry County Council’s Development Plan 2009-2015 which states that telecoms masts shall not be located within 1 kilometre of residential properties, schools, hospitals or any other structures where there is human occupancy for residential or daily work purposes. The proposed development is therefore contrary to the proper planning and sustainable development of the area.”*

## **5. GROUNDS OF APPEAL**

The grounds of appeal may be summarised as follows;

- The mast proposed for retention is of strategic importance as it provides co-located facilities for emergency service facilities operated by Tetra Ireland Ltd, Vodafone Ireland Ltd, Eircom and Hutchison 3G. The loss of this mast would seriously impair the quality of telecommunications in the area.
- The services provided by this Towercom mast cannot be provided by other masts within this cluster of support structures as the other masts are structurally unable (due to wind loading, ancillary steelwork, ice loading and equipment height requirements) to carry large microwave drum point to point dishes.
- National policy supports the provision of improved telecommunications infrastructure.

## **6. PLANNING AUTHORITY RESPONSE**

The planning authority did not comment on the appeal.

## **7. OBSERVATIONS**

An Taisce made an observation making the following points;

- Knockanore is visually prominent in North Kerry. The mast proposed for retention is one of a number of masts but is highly visible and bulky and by far the worst of the cluster.
- The planning authority's planning report noted that mast sharing options and screening had not been fully considered by the applicant.

## **8. PLANNING POLICY FRAMEWORK**

Telecommunications Antennae and Support Structures - Guidelines for Planning Authorities published by the DoELG in 1996 sets out advice in relation to development management of telecommunications infrastructure. Generally the advice to planning authorities is that a supportive policy towards telecommunication services should be adopted except in limited circumstances.

The Kerry County Development Plan includes a policy that telecoms masts should not be located within 1km of residential uses.

## **9. ASSESSMENT**

**9.01** The County Development Plan sets out the planning authority's policy in relation to the provision of telecommunications infrastructure in the section 13.18. The issues which the planning authority will consider are landscape impacts, sharing facilities and clustering, availability of access roads, duration of permission, design and issues of health and safety.

**9.02** In relation to visual amenity the DoELG guidance comments that;

*“In upland/mountainous areas hilltops will be favoured by operators as offering the best location from the point of view of radio coverage. Masts on hilltops will by definition remain visible. Yet if an authority were to rule out every hilltop as a possible location, the consequence would be that the operator might not be able to service the area or that a number of structures might be required to provide the same level of service. In the latter case visual intrusion might be increased rather than diminished. Where there is an existing mast every effort should be made to share it provided the shared mast is not itself unduly obtrusive. If this is the case, clustering may be more acceptable...”*

**9.03** An Taisce also raises the issue of visual amenity. While it is recognised that this mast is visible over a wide area the alternative may be that several masts at more dispersed locations with consequent visual intrusion. In the same vein it has to be recognised that there is an existing cluster of masts which, while visible over an area, are located on the highest point within this north Kerry plane which would serve the purpose of providing wireless telecoms over a wide area. Having inspected the site and in particular having regard to the lack of natural vegetation of any height and the exposed, windswept nature of the site I think it unlikely that substantial improvement could be achieved by screening.

**9.04** The County Development Plan requires that applicants demonstrate that efforts have been made to share facilities. This point in relation to sharing facilities is also made by An Taisce. In this regard the grounds of appeal make a strong case. The mast provides shared facilities for Tetra Ireland Ltd, Vodafone Ireland Ltd, Eircom and Hutchison 3G.

**9.05** It appears that the policy of the planning authority in relation to the location of telecommunications masts 1km from residential property is motivated by a concern for health and safety. In this regard it may be noted that DoELG guidance comments in relation to health and safety that

*“Concern has been expressed that the radio signals from these base station towers may be a hazard to health. The basis for this concern is that the signals from these towers are a form of non-ionising radiation. It is claimed that some scientific studies have shown an association between exposure to non-ionising radiation and illness. The response of authorities in Ireland has been to keep abreast of the best available information, to follow best practice and thus ensure that, in relation to exposure to non-ionising radiation, Irish*

*Telecommunication Companies operate within internationally recognised safe limits. ...*

*At the radio frequencies used in Ireland for mobile telephone networks (890MHz – 960 MHz) the International Radiation Protection Association limit is 4.5 watts per square metre. In contrast the highest field strengths measured in the vicinity of base station towers in Ireland range from 0.00003 watts per square metre to 0.0035 watts per square metre according to measurements made by Forbairt at a number of locations. These findings show that the actual exposure levels are about 1,000 times lower than the IRPA levels.”*

**9.06** The Guidelines (Section 4.6) state that as part of the Licensing Framework operators are now being required to comply with the relevant international standards in relation to emissions of non-ionising radiation from telecommunications antennae.

**9.07** I would further note that the closest house to the subject telecommunications mast is about 600m away at the junction of the site access road and the public road to the west.

**9.08** The planning authority does not state that the proposed development ‘materially contravenes’ the Development Plan. This consideration and the provision in Section 37(2)(b) (iii) which provides that the Board may grant a permission which materially contravenes the development plan where such is required by national policy guidance I consider allows the Board to grant a planning permission in this instance.

## **10. RECOMMENDATION**

Having regard to the location of the proposed development within an existing cluster of masts, to the overall the policy of the planning authority set out in the County Development Plan to support the provision of telecommunications infrastructure, to the advice set out in Telecommunications Antennae and Support Structures - Guidelines for Planning Authorities published by the DoELG in 1996 and subject to compliance with the conditions set out below I recommend a grant of permission.

## Reasons and Considerations

Having regard to –

- a) The national strategy regarding the improvement of mobile communication services,
- b) The guidelines relating to telecommunications Antennas and support structures which were issued by the Department of the Environment and Local Government to planning authorities in 1996,
- c) The policy of the planning authority set out in the Kerry County Development Plan 2009 to 2015 to support the provision of telecommunications infrastructure, and
- d) The location of the proposed development in an existing cluster of telecommunications masts,

it is considered that, subject to compliance with the conditions set out below, the proposed development would not be visually intrusive or injure the amenity of property in the vicinity and would be acceptable in terms of traffic safety and convenience. The proposed development would therefore accord with the proper planning and sustainable development of the area.

### CONDITIONS

1. The development shall be carried out and completed 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 interests of clarity.

2. (a) This permission shall apply 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.  
  
(b) 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 in writing with the planning authority at least one month before the date of expiry of this permission.

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

3. The transmitter power output, antenna type and mounting configuration shall be in accordance with the details submitted with this application and, notwithstanding the provisions of the Planning and Development Regulations 2001, and any statutory provision amending or replacing them, shall not be altered without a prior grant of planning permission.

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

4. Surface water drainage arrangements for the proposed development shall comply with the requirements of the planning authority.

**Reason:** In the interest of public health.

5. The developer shall pay to the planning authority a financial contribution, if any, 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 immediately 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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Hugh Mannion  
Planning Inspector  
13<sup>th</sup> December 2011.