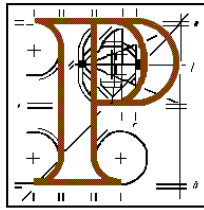


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Kerry County

Planning Register Reference Number: 15/1143 (Listowel)

An Bord Pleanála Reference Number: PL 08.246300

APPEAL by Vodafone Ireland Limited care of 4site of 4site House, Raheen Business Park, Limerick in relation to the application by Kerry County Council of the terms of the Development Contribution Scheme made for the area in respect of condition number 2 of its decision made on the 18th day of February, 2016.

PROPOSED DEVELOPMENT: Retention of existing 24 metre high multi user telecommunications support structure carrying associated antennae and link dishes, associated equipment cabin, within secure compound, and access track. The development will continue to form part of Vodafone Ireland Limited's existing GSM/3G and 4G broadband telecommunications networks, all at Lisroe Townland, Duagh, County Kerry.

DECISION

The Board, in accordance with section 48 of the Planning and Development Act, 2000, as amended, considered, based on the reasons and considerations set out below, that the terms of the Development Contribution Scheme for the area had not been properly applied in respect of condition number 2 and directs the said Council to REMOVE condition number 2 and the reason therefor.

REASONS AND CONSIDERATIONS

Having regard to the:

- Kerry County Council Development Contribution Scheme 2011,
- Circular Letter 07/12 issued from the Department of the Environment, Community and Local Government is explicitly issued under Section 28 of the Planning and Development Act 2000 (as amended) which requires that planning authorities when revising their development contribution schemes should provide a waiver for broadband infrastructure (masts and antennae) from the requirement to pay development contributions, and
- the Development Contributions Guidelines for Planning Authorities issued from the Department of the Environment, Community and Local Government in January 2013 which require planning authorities in reviewing their development contribution schemes to include *waivers for broadband infrastructure (masts and antennae)* and that *practice of “double charging” is inconsistent with both the primary objective of levying development contributions and with the spirit of capturing “planning gain” in an equitable manner.*

It is considered that it would be inappropriate to attach a Section 48 Development Contribution in this instance as:

A Section 48 Development Contribution in the amount of €14,000 has been paid for this development under the previous Board decision for this site (appeal reference number PL08.236160, planning register reference number 09/152 refers) and in line with the Kerry County Council Development Contribution Scheme 2011 and to apply a Development Contribution condition would amount to “double charging”.

