An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Kerry County

Planning Register Reference Number: 16/277

An Bord Pleanála Reference Number: PL 08.246700

APPEAL by Vodafone Ireland Limited care of FocusPlus Limited of 3 Arbourfield House, Dundrum Business Park, Windy Arbour, Dublin 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 10th day of May, 2016.

PROPOSED DEVELOPMENT: Retention of an existing 30 metre high telecommunications structure, antennas, equipment container and associated equipment within a fenced compound and access track at Tullaha Townland, Bunane, Kenmare, County Kerry. The development forms part of Vodafone Ireland Limited's existing GSM and 3G Broadband telecommunications network.

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, and
- the Development Contributions Guidelines for Planning Authorities (2013) which require planning authorities in reviewing their development contributions schemes to include waivers for broadband infrastructure (masts and antennae) and that the 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 decision of Kerry County Council for this site (An Bord Pleanála appeal reference PL08.237781 (planning register reference number 10/864) and in line with the Kerry County Council Development Contribution Scheme 2011 and to apply a Development Contribution condition would amount to "double charging".

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Member of An Bord Pleanála duly authorised to authenticate the seal of the Board.

Dated this day of