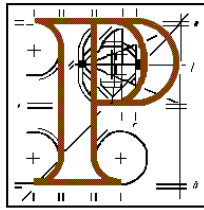


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Laois County

Planning Register Reference Number: 15/454

An Bord Pleanála Reference Number: PL 11.246838

APPEAL by Vodafone Ireland Limited care of 4Site of 4Site House, Raheen Business Park, Limerick in relation to the application by Laois County Council of the terms of the Development Contribution Scheme made for the area in respect of condition number 6 of its decision made on the 8th day of June, 2016.

PROPOSED DEVELOPMENT: Retention of an existing 18 metres high telecommunications support structure, carrying associated antennae and link dishes, associated equipment cabin, within secure compound, and access track at Maidenhead Townland, Ballickmoyler, County Laois. The development will continue to form part of Vodafone Ireland Limited existing GSM and 3G broadband telecommunications networks.

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 6 and directs the said Council to REMOVE condition number 6 and the reason therefor.

REASONS AND CONSIDERATIONS

Having regard to the fact that in the case of the current appeal a financial contribution had already been paid and the structure has not been materially altered, the Board concluded that the terms of the scheme had not been properly applied by the planning authority in respect of condition number 6 as attached to the planning authority notification of decision to grant planning permission. In these circumstances, the Board considered that the attachment of the condition would amount to double charging for the same infrastructure and would be unwarranted.

Having considered the provisions of the Laois County Council Development Contribution Scheme 2013 – 2017, the Board considered that the ‘Exclusion’ in the case of applications for retention planning permission stated in the final bullet point of Section 6.5 of the scheme in respect of ‘Exemptions and Reductions’ that might otherwise apply under the terms of the scheme is a general exclusion that does not override nor negate the specific provision contained within Section 6.5 of the scheme as it applies to Telecommunications/Broadband infrastructure (masts and antennae). The specific provision in respect of Telecommunications/Broadband infrastructure (masts and antennae) provides that where a development contribution has already been paid, contributions will not be payable on any subsequent structure unless the existing structure is to be materially altered.

In not accepting the Planning Inspector’s recommendation to attach condition number 6, the Board considered that the specific provision contained within the scheme in respect of telecommunications masts was not negated by reference to the more general provision contained within the scheme in respect of retention planning permissions.

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 2016.