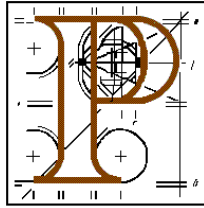


# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

**Kerry County**

**Planning Register Reference Number: 16/367**

An Bord Pleanála Reference Number: PL 08.246889

**APPEAL** by Three Ireland Services (Hutchison) Limited care of Peadar McQuaid of 5 Harbourmaster Place, IFSC, 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 15<sup>th</sup> day of June, 2016.

**PROPOSED DEVELOPMENT:** Retention of an existing 24 metres high telecommunications support structure (previously granted permission under planning register reference number 09/922, An Bord Pleanála reference number PL 08.234888 which was a temporary permission for a period of five years which has expired) carrying antennas and link dishes together with associated equipment units and security fencing, all at Graigue, Lispole, Dingle, 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:

- (a) Kerry County Council Development Contribution Scheme 2011,
- (b) Circular Letter 07/12 issued by the Department of the Environment, Community and Local Government under Section 28 of the Planning and Development Act 2000, as amended, in 2012 which required that planning authorities when reviewing their Development Contribution Schemes should provide a waiver for broadband infrastructural provision from the requirement to pay development contributions, and
- (c) the Development Contributions Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in January, 2013 which require planning authorities in reviewing their Development Contributions Schemes to include waivers for broadband infrastructure (masts and antennae) and which state 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 under section 48 of the Planning and Development Act, 2000, as amended, in this instance as a development contribution has been paid for this development for this site under planning register reference number 09/922, An Bord Pleanála reference number PL 08.234888 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.

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

**Dated this      day of                      2016.**