

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2016

Mayo County

Planning Register Reference Number: P16/659

An Bord Pleanála Reference Number: PL 16.247527

APPEAL by ESB Telecoms Limited against the decision made on the 12th day of October, 2016 by Mayo County Council to grant subject to conditions a permission in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: The continued use of the existing 36 metres high, free standing lattice type communications structure, carrying antennae and communications dishes, within a 2.4 metre high palisade compound (previously granted temporary permission under planning register reference number 11/540) at Electricity Supply Board's existing Dalton 110kV substation, in the townland of Clare, Claremorris, County Mayo.

DECISION

Having regard to the nature of the conditions the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 to REMOVE conditions numbers 2 and 5 and the reasons therefor.

REASONS AND CONSIDERATIONS

Condition Number 2

The requirement of condition number 2 as imposed by the planning authority would serve to annul the exempted development provisions of Class 31(h) of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended. In the absence of any justification for such a measure, the Board was not satisfied that the requirements of condition number 2 of the planning authority notification of decision to grant planning permission were justified.

Condition Number 5

The proposed development is for continuance of use of an existing telecommunications mast and mobile phone infrastructure. In the absence of any specific provision in the Mayo County Council Development Contribution Scheme for the levying of financial contributions in respect of telecommunications masts and mobile phone infrastructure, it is considered that the terms of the Scheme have not been properly applied by the planning authority in this instance. Furthermore, it is considered that it would be inappropriate to attach a development contribution condition under Section 48 of the Planning and Development Act, 2000, as amended in this instance as development contributions have been paid for this development at this site under planning register reference numbers 02/492 and 07/586 and to apply a development contribution condition in this instance would amount to double charging. Accordingly, the Board decided that it would be appropriate to remove condition number 5 as attached to the planning authority notification of decision to grant planning permission.

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 2017.