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**Planning and Development Acts 2000 to 2020**

**Planning Authority: Kerry County Council**

**Planning Register Reference Number: 21/326**

**Appeal** by Ontower Ireland Limited care of 4site of 4site House, Raheen Business Park, Limerick against the decision made on the 19<sup>th</sup> day of May, 2021 by Kerry County Council to grant subject to conditions a permission in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Retention permission of an existing telecommunications support structure previously granted under Local Authority Reference Number 10/472 (An Bord Pleanála Reference Number PL 08.237225) together with associated ground equipment cabinets, security fence and access track at Gortbreagoge, Annascaul, County Kerry.

**Decision**

Having regard to the nature of the condition 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 condition number 2 and the reason therefor.

## Reasons and Considerations

Having regard to the:

- (a) The Kerry County Council Development Contribution Scheme 2017 which includes a reduction of 100% for 'masts and antennae, dish and other apparatus/equipment for communications purposes which form part of the National Broadband Scheme as defined by the Department of Communication, Energy and Natural Resources (DCENR)',
- (b) Circular Letter 07/12 issued from the Department of the Environment, Community and Local Government and Circular and PL03/2018 issued by the Department of Housing, Planning and Local Government under Section 28 of the Planning and Development Act 2000 (as amended), which requires that planning authorities revise their development contribution schemes in order that a waiver be provided for broadband and mobile phone infrastructure (masts and antennae) being deployed as part of a Government endorsed telecommunications strategy, plan of initiative from the requirement to pay development contributions, and
- (c) The information submitted in support of this appeal,

it is considered, based on the evidence submitted, that the proposed development constitutes infrastructure and equipment for communication purposes that form part of a government endorsed telecommunications strategy for the roll out of broadband and mobile services and that the terms of the planning authority's Development Contribution Scheme have not been properly applied. The condition requiring the payment of the contribution should, therefore, be removed in order to comply with Section 48(2)(c) of the Planning and Development Act 2000, as amended.

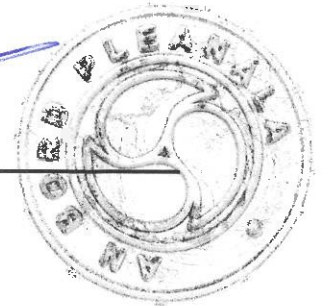
### **Matters Considered**

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.

  
Paul Hyde

Member of An Bord Pleanála

duly authorised to authenticate  
the seal of the Board



Dated this 29<sup>th</sup> day of NOVEMBER 2021