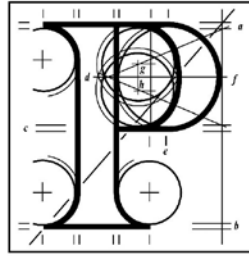


# An Bord Pleanála



## Inspector's Report

**Development:** Retention of broadband mast at Cloonreddan, Cooraclare, Co. Clare.

### Application

Planning authority: Clare County Council  
Planning application reg. no. P15/417  
Applicant: Mr. B. Sexton of Clare Broadband  
Type of application: Retention permission  
Planning authority's decision: Grant, subject to 4 conditions

### Appeal

Appellant: Angela Collins  
Type of appeal: Third party -v- Decision  
Observers: None  
Date of site inspection: 7<sup>th</sup> July 2016

**Inspector:** Hugh D. Morrison

## **Site**

The site is located 4.5 km west of Kilmihil and some 300m south of the R484, which links Kilmihil to that portion of the R483 that runs between Cooraclare and Creegh. This site is situated within an area of rolling countryside and it lies at the top of a local hill, Burren Hill, which is 108m OD. The site lies beside the compound of two small reservoir tanks and a utility building. This compound accommodates two masts, which serve Clare FM radio. Both the site and the compound are accessed by means of a single lane track to the south, which connects with the L6117.

## **Proposal**

The proposal is to retain a 10m high wooden pole with 2m antennas fixed on both sides towards the top of this pole, which is secured by means of guy ropes. The resulting broadband mast serves the surrounding area. This mast is sited to the north of the Clare FM radio masts and it approximates to them in height.

## **Planning authority's decision**

Following receipt of further information, permission was granted subject to 4 conditions.

## **Technical reports**

HSE: Recommends that monitoring of emissions from the subject mast and the adjacent radio masts be undertaken and that WHO guidance on public consultation be undertaken.

## **Grounds of appeal**

- The mast appears to be similar in height to the adjacent radio masts, which are 18m high. From certain vantage points the subject mast appears, like one of the other two radio masts, to be not quite vertical, thus accentuating its visual impact.
- The submitted plans are inadequate as they show neither contours nor the two radio masts.
- The applicant has replied in an unsatisfactory cursory manner to the planning authority's request for further information on mast sharing.
- Following the refusal of application reg. no. 00/1909, the applicant concerned applied to erect a 20m high mast on Drumellihy Hill, 4 km to the west of the appeal site. Permission was duly granted and has subsequently been renewed (application reg. nos. 02/1902, 08/480, and 13/521). Under the latest application, the applicant concerned indicated that their masts were available for co-location where technically feasible.

- The site lies within the Landscape Character Type “Farmed Rolling Hills” within which infrastructure can be highly visible. This site also lies within a “Settled Landscape” within which development should avoid visually prominent locations.
- The Telecommunications Antennae and Support Structures Guidelines address visual impact and mast sharing, two considerations that led to the aforementioned refusal. Considerations pertaining to the appeal site on Burren Hill and the alternative more suitable site on Drumellihy Hill have not changed over the years. Thus the latter site is more favourable as it is not as visible from the regional road network and it is in an area of forestry.
- The applicant has appended a letter from her consultant neurologist concerning a personal health matter that is said to be linked to the subject mast.

## **Responses**

The planning authority affirms its draft permission.

The applicant has responded to the above grounds of appeal as follows:

- Clare Broadband is a line of sight provider and so to relocate the subject mast would mean that the coverage of the Leitrim/Creegh area would be lost.
- The subject mast serves the surrounding locality only and so it uses minimal power. No alternative broadband provision is insitu for this area.
- The timber mast was selected to complement the adjacent timber radio masts.
- Clare Broadband is licenced by the Commission for Communications Regulation (CCR) and it is monitored by this body with respect to emissions.
- Equipment attached to the mast operates within the 5 ghz frequency and it is licenced by the EU.
- Clare Broadband is a member of the Internet Service Providers Association of Ireland (ISPAI), which along with the CCR operate a Code of Practice to which the applicant adheres.

## **Planning history**

The site

- Warning letter dated 30<sup>th</sup> September 2014 served on owner/operator of the broadband mast.

## Adjacent sites

- 93/565: Two 18m high wooden poles for transmission and reception purposes granted retention permission.
- 00/1909: 18m high slim line lattice mast with associated telecommunications equipment enclosed in a palisade fence: Refused on the grounds of visual amenity and contravention of the Planning Authority's mast sharing policy.

## Development Plan

Under the Clare County Development Plan 2011 – 2017 (CDP), the site is shown as lying within a rural area under strong urban pressure. Objective 10.15 of the CDP addresses telecommunications infrastructure and Objectives 10.16 and 10.17 address the provision of ICT and broadband. The CDP also shows this site as lying within a settled landscape, wherein the Landscape Character Type and the Landscape Character Area is Farmed Rolling Hills and Kilrush Farmland, respectfully.

## National planning guidelines

Telecommunications Antennae and Support Structures and DoECLG Circular Letter PL07/12

## Assessment

I have reviewed the proposal in the light of national planning guidelines, the CDP, relevant planning history, and the submissions of the parties. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Standard of submissions,
- (ii) Visual amenity,
- (iii) Public health, and
- (iv) AA.

### (i) Standard of submissions

1.1 The appellant draws attention to the submitted plans, which show neither the contours of the site nor the other two masts. She also draws attention to the applicant's response to the planning authority's request for further information, which fails to address the question of mast sharing.

1.2 The applicant has not addressed the appellant's former point. I note in this respect that the submitted plans formed part of the current application that was validated by the planning authority, the only body empowered so to do. I note, too, from my site visit that, as the proposal is for the retention of the subject

mast, the elevation of the site and the relationship of this mast to the two adjacent ones is clearly visible. Thus, while it is regrettable that the applicant has not more fully depicted their proposal, the submitted plans do clearly denote the subject mast and local residents have the opportunity to view this mast within its context.

1.3 I, therefore, conclude that the Board is in a position to assess and determine the current proposal in the normal manner.

## **(ii) Visual amenity**

2.1 The appellant draws attention to the subject mast. She contends that, as it is similar in height to the adjacent 18m high masts, this mast is greater than the 10m in height that the submitted plans depict. She also draws attention to the off vertical standing of the subject mast and she questions the need for it on the basis that a previous proposal for Burren Hill was refused, partly on the grounds of failure to mast share, and so the applicant in question subsequently gained permission to erect a mast on the wooded Drumellihy Hill to the west.

2.2 The submitted plans clearly show the subject mast as being 10m in height. Application 93/565 describes the two adjacent masts as being 18m in height. During my site visit, I observed that all three masts are similar in height. Thus, two scenarios may be at play, i.e. the adjacent two masts may have been erected to only 10m in height or the subject mast may have been incorrectly depicted as being 10m in height in the submitted plans. Insofar as the current proposal is for the retention of a mast 10m in height, if indeed the subject mast is in excess of this height, then any retention permission would not regularise the same. The Board may wish to request clarification on this height question under a request for further information.

2.3 Revised plans were submitted under further information. They show additional equipment on the subject mast, i.e. an antenna (AirMax Sector 5G/20/90), two dishes (MANT30 series) and a further dish (StationBox XL). The description of the proposal simply refers to the retention of a broadband mast without itemising the equipment installed upon it. As the further information was the subject of a public consultation exercise, I consider that it in order for any decision on the current application to include the additional equipment itemised above. In the event that the Board grants retention permission then a condition could be attached requiring that any extra equipment in the future be the subject of a further application.

2.4 The applicant has stated that the coverage afforded by Burren Hill would not be replicated by mast sharing on Drumellihy Hill. He has not addressed the possibility of mast sharing on either or both of the two adjacent masts. The

Board may wish to raise this matter with the applicant under a request for further information.

2.5 During my site visit, I availed of the opportunity to view the subject mast from the R484, to the north of the site, and from the R483, to the west of the site. I also viewed this site from closer range along the L6117 and from the track that leads up to it from the south. I observed that the subject mast is seen in conjunction with the adjacent two Clare FM radio masts, the more northerly of which appears to be leaning to one side. From closer range, the guy wires that support the three masts are visible and these masts are seen in conjunction with a row of ESB poles and wires that serve the reservoir utility building. Thus, longer range views are composed of the three masts, which read as a cluster of comparable items, while shorter range views are composed of the three masts and ESB poles with their attendant wirescapes.

2.6 If the pre-existing context of the site is considered, then it has been developed in a manner that the subject mast extends. Thus, this mast does not read as being anomalous and incongruous, but simply more of the same. While the resulting cluster is clearly visible within the surrounding landscape, the addition of the subject mast reinforces the visual impact rather than taking it in any new direction.

2.7 The Telecommunications Antennae and Support Structures Guidelines promote mast sharing. The CDP's Objective 10.15 undertakes to have regard to these Guidelines and Objective 10.17 undertakes to support the provision of broadband services throughout Clare. The applicant has stated that the mast sharing sought by the appellant on Drumellihy Hill would not provide the required local broadband coverage and their equipment needs to be sited on Burren Hill. He has not stated why mast sharing on this Hill has not taken place. I consider that an explanation in this respect is of importance as it relates directly to the issue of visual amenity.

2.8 I, therefore, conclude that, in the absence of a comprehensive answer to the question of mast sharing, it would be premature to take a view on the compatibility or otherwise of the subject mast with the visual amenities of the area.

### **(iii) Public health**

3.1 The applicant has referred to a personal health issue that her consultant neurologist considers is linked to "the mast near her home" in the townland of Leitrim to the north of the site. The HSE advises that monitoring of emissions from this mast and the adjacent radio masts be undertaken.

- 3.2 The Telecommunications Antennae and Support Structures Guidelines advise that, whereas health and safety matters are not to be assessed under the planning process, applicants should be required to “furnish a statement of compliance with the International Radiation Protection Association (IRPA) Guidelines (Health Physics, Vol. 54, No. 1 (Jan) 1988) or the equivalent European Pre-standard 50166-2 which has been conditioned by the licencing arrangements with the Department of Transport, Energy and Communications and to furnish evidence that an installation of the type applied for complies with the above Guidelines.”
- 3.3 The planning authority raised the above cited matter with the applicant under a request for further information. He responded that this matter was not an issue as the subject mast is in compliance with SI No. 240/2001 entitled “European Communities (Radio Equipment and Telecommunications Terminal Equipment) Regulations, 2001. He has also forwarded copies of letters from the Commission for Communications Regulation that state that he/Clare Rural Broadband Ltd is authorised to provide an electronic communications network or electronics communication service.
- 3.4 I have examined the aforementioned SI No. 240/2001 and letters. These documents do not appear to equate to the record of compliance envisaged by the Guidelines. The Board may wish to seek such a record from the applicant under a request for further information.
- 3.5 I, therefore, conclude that the applicant has failed to demonstrate that the subject mast is compliant with relevant health and safety standards.

**(iv) AA**

- 4.1 The site is not located within a Natura 2000 site and the nearest such sites are at some considerable remove to the west. Given the nature and scale of the subject mast, I do not consider that it has any significant effect upon the conservation objectives of these sites.
- 4.2 Having regard to the nature and scale of the subject mast and the distance between it and the nearest Natura 2000 sites, no Appropriate Assessment issues arise and it is not considered that the mast has a significant effect individually or in combination with other plans or projects on a European site.

**Recommendation**

In the light of my assessment, I recommend that the proposed retention of the broadband mast at Cloonreddan, Cooraclare, Co. Clare, be refused.

## **Reasons and considerations**

The applicant has failed to submit sufficient information to enable the proposal to be properly assessed. Thus, (a) clarification of the height of the mast proposed for retention relative to that of adjacent radio masts, (b) an explanation as to why the equipment installed on this mast cannot be installed on adjacent masts, and (c) the submission of a record of its compliance with the International Radiation Protection Association (IRPA) Guidelines (Health Physics, Vol. 54, No. 1 (Jan) 1988) or the equivalent European Pre-standard 50166-2, are all required. To accede to the retention of the subject mast in the absence of this information would risk contravention of Objective 10.15 of the Clare County Development Plan 2011 – 2017 and, as such, it would be contrary to the proper planning and sustainable development of the area.

Hugh D. Morrison

Inspector

15<sup>th</sup> July 2016