



An
Bord
Pleanála

Inspector's Report PL88.247454

Development

Permission for the continuance of use for existing 24m telecommunications structure, carrying associated telecommunications equipment, associated cabin, cabinets, including existing access track (as per Planning ref P09-922) and permission for additional telecommunications equipment and cabinet, all within existing secure compound.

Location

Monteensudder Td, Glengarriff, Co. Cork

Planning Authority

Cork County Council – West Cork Section

Planning Authority Reg. Ref.

16/499

Applicant(s)

Signal

Type of Application

Permission

Planning Authority Decision

Grant subject to conditions

Type of Appeal	Third Party
Appellant(s)	Donal Deasy
Observer(s)	None
Date of Site Inspection	08/12/2016
Inspector	A. Considine

1.0 Site Location and Description

- 1.1. The subject site is located to the north of the town of Glengarriff in West Cork. Access to the site is from the east of the town and over a narrow rural road and ultimately over a poorly surfaced laneway. The area in the vicinity of the site comprises woodlands and there are a number of residential properties noted. The site itself is located approximately 40m off the laneway and existing trees screen, to a great extent, the lower elements of the development.

2.0 Proposed Development

- 2.1. Permission is sought for the continuance of use for existing 24m telecommunications structure, carrying associated telecommunications equipment, associated cabin, cabinets, including existing access track (as per Planning ref P09-922) and permission for additional telecommunications equipment and cabinet, all within existing secure compound all at Monteensudder Td, Glengarriff, Co. Cork

3.0 Planning Authority Decision

3.1. Decision

Cork County Council decided to grant permission for the proposed development, subject to 7 standard conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The Planning officers report considered the proposed development in terms of policy, planning history, engineering issues and heritage issues. The report notes the third party submissions and submits that the issue of the use of the private road is a matter for the parties themselves. The report concludes that the development is acceptable in terms of heritage – the site is located within the Glengarriff Harbour and Woodland Special Area of Conservation (SAC Site Code 000090) and recommends that planning permission be granted.

- The Senior Planning Officer also presented a report for the file, concurring with the recommendations and conclusions of the Planning Officer. The submissions from the Heritage Officer, Area Engineer and Environment Officer are also noted.

3.2.2. Other Technical Reports

- Area Engineer: Submits that the road issue is a matter for the parties and raises no objection to the proposed development subject to conditions.
- Environment Section: This report submits that any solid waste should be recycled on site or taken to a licenced waste recycling facility off site. Any end of life equipment should not be allowed to accumulate on site. No objection to the granting of planning permission subject to conditions.
- Heritage Unit: This report notes the location of the site within the Glengarriff Harbour and Woodland Special Area of Conservation (SAC Site Code 000090) as well as the planning history associated with the site. The report notes the screening report submitted with the original planning application. The Heritage Office presents a Screening Report and concludes that as the construction of the additional cabinet within the compound will be on existing hardcore area, it will not result in the loss of any habitat for which the SAC is so designated. The Screening Conclusion finds that potential for significant impacts on the SAC have been ruled out.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

There are two third party submissions as follows:

- Hans & Connie De Groot live past the site on the laneway and advise objections to further development unless the road is put in proper condition and will be maintained.
- Mr. Donal Deasy advises that he owns part of the access track and no permission has been given for the applicant, or previous owners, to use the track. It is further submitted that there is no right of way, written, legal or established

over the track. It is further noted that part of the track has been included in the site boundary, without consent. Finally, it is submitted that the site and access track as submitted varies considerably from those on the previous application 09/922. The application should be invalidated.

4.0 Planning History

PA Ref 09/922: Permission granted for the construction of a 24m high lattice telecommunications support structure with 3no. 2.1m panel antennas and 1 no. 0.6m radio link dish attached, equipment cabinet, fencing, extension to access track and associated site works. Permission was granted for a period of 7 years.

5.0 Policy Context

5.1. National Guidelines

The relevant national guidelines relating to the proposed development is the Telecommunications Antennae and Support Structures Guidelines for Planning Authorities, July 1996.

Circular Letter PL 07/12 dated 19th October 2012.

5.2. Development Plan

The Cork County Development Plan, 2014 is the relevant policy document and chapter 9 deals with Energy & Digital Economy and section 9.7 deals with Telecommunications Infrastructure. The following policy objectives are relevant:

ED 7-1: Telecommunications Infrastructure

Support the provision of telecommunications infrastructure that improves Cork County's international connectivity.

Facilitate the provision of telecommunications services at appropriate locations within the County having regard to the DoEHLG

"Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities".

Have regard to environmental and visual considerations when assessing largescale telecommunications infrastructure.

ED 7-2: Information and Communication Technology

Facilitate the delivery of a high capacity ICT infrastructure and high speed broadband network and digital broadcasting throughout the County.

Support a programme of improved high speed broadband connectivity throughout the County and implement the National Broadband Strategy in conjunction with the Department of Communications, Marine & Natural Resources.

5.3. **Natural Heritage Designations**

The subject site is located within the Glengarriff Harbour and Woodland Special Area of Conservation (SAC Site Code 000090). Permission was previously granted for the development of telecommunications infrastructure at the site, and as such, the site is a brownfield sit.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

This is a third party appeal from Mr. Declan Deasy. The grounds of appeal are the same as those issues raised during the Planning Authoritys assessment of the planning application and relate to the ownership of the private road and the lack of permission to use the road.

6.2. **Applicant Response**

The first party has responded to the third party appeal providing a background to the application and the previous operators. In addition, the first party has submitted Folio Details for Coilte and Mr. Deasy, and submits that the folio which covers Mr. Deasys lands includes a clause which gives a right of way to pass over the access track to the applicant, and previous land owners, to get access to their site. The submission also notes that the applicant is not indicating ownership of the access track and have

amended the site location drawing to meet the track rather than include it. It is requested that the decision of Cork County Council be upheld.

6.3. **Planning Authority Response**

The Planning Authority did not respond to the third party appeal.

6.4. **Observations**

There are no observers noted.

6.5. **Further Responses**

Not applicable.

7.0 **Assessment**

This assessment relates to a third party appeal against the decision of the Planning Authority to grant planning permission for continuance of use for an existing telecommunications mast. While the appeal relates solely to the use of the access track to service the site, I propose to consider the development *de novo*. Having regard to the nature of the proposed development and the details submitted with the planning application and appeal documents, I conclude that issues arising for consideration should be addressed under the following headings:

1. The principle of the development & Visual Impact
2. Third Party Appeal
3. Development Contribution issues
4. Other Issues
5. Appropriate Assessment

7.1. **The Principle of the Development & Visual Impact**

- 7.1.1. The Board will note the existing telecommunications structure and associated cabinet on the site and will have regard to the details submitted as part of the

planning application documentation. In terms of the principle of the development at this location, I am satisfied that the proposal is acceptable.

- 7.1.2. The subject site is located within an area of Co. Cork which has been designated as having a High Value Landscape and in this regard, it is the objective of the County Development Plan to protect the visual and scenic amenities of County Cork's built and natural environment – objective GI 6-1: Landscape refers. In addition, this objective seeks to protect skylines and ridgelines from development and discourages proposals necessitating the removal of extensive amounts of trees, hedgerows and historic walls or other distinctive boundary treatments. The subject site is located within a forested area and will not require the removal of any existing trees or vegetation. Overall, the existing telecommunications mast gives rise to very little visual impacts and it is not considered that the proposed development will either.
- 7.1.3. Having regard to the nature of the subject proposed development, and having regard to the fact that the infrastructure has been present in the landscape for many years, I am satisfied that the development as proposed, is acceptable and would not be a significant additional element in the local landscape and would not interfere with its character.

7.2. Third Party Appeal

- 7.2.1. The third party appeal relates to the use of the existing track to service the existing site. While I acknowledge the submission of the third party, it would seem that there are relevant clauses contained in the Folio Details which would suggest that the applicant has rights to access the site over the track. In any case, I am satisfied that this is a civil matter and not an issue for the Board to determine. The applicant, in making the planning application accorded with the requirements of the Planning & Development Act, 2000, as amended and the Planning & Development Regulations, 2001, as amended in that sufficient legal interest in the lands exists to make the planning application. That said, the Board is referred to Section 34(13) of the Act which states that 'A person shall not be entitled solely by reason of a permission under this section to carry out any development.'

7.3. Development Contribution Issues

- 7.3.1. The Board has previously considered, in relation to telecommunication mast developments, that it would not be a reasonable interpretation of the Development Contribution Scheme to require further contribution payments for the retention of a mast, which has arisen due to the inclusion of a time limit condition in order to allow for a review of changes in technology in the interim. Based on previous decisions of the Board it might be considered that the continued use of such development should not attract a further contribution under the Cork County Development Contribution Scheme.
- 7.3.2. Circular Letter PL 07/12 dated 19th October 2012, which updates the 1996 Telecommunications Antennae and Support Structures Guidelines supports the above assessment and provides that all future development contribution schemes must include waivers for broadband infrastructure provision and these waivers are intended to be applied consistently across all Local Authority areas and that future permissions should not include a request for development contributions. In accordance with the requirements of the Circular, it may be reasonable to include a condition stating that when the structure is no longer required it should be demolished, removed and the site re-instated at the operators' expense. However, the Guidelines also state "However, no exemption or waiver should apply to any applications for retention of development. Planning authorities are encouraged to impose higher rates in respect of such applications". Given the timing of the making of this application, I am satisfied that no development contribution is applicable in this instance.

7.4. Other Issues

- 7.4.1. Duration of Permission:
Should the Board be minded to grant permission for the proposed development I recommend that the inclusion of a condition permitting the development for a 5 year period. Such a condition would be in line with national guidelines and would be consistent with An Bord Pleanála precedents in relation to similar types of development. In addition, it facilitates reassessment of the installation in terms of

technological advances together with any new information regarding health and safety concerns arising in the interim.

7.5. **Appropriate Assessment**

- 7.5.1. The subject site is located within the Glengarriff Harbour and Woodland Special Area of Conservation (SAC Site Code 000090). Given the nature of the proposed development, being a continuance of the use of the existing mast and associated equipment and cabinets, and the location of the subject site within the existing identified compound associated with the existing telecommunications infrastructure at this location, and the minimal nature of the development works in terms of development of virgin ground, I am satisfied that it is highly unlikely that the proposed development would be likely to have any significant effect, either on its own or in combination with other plans or projects in the vicinity, on a European Site. As such appropriate assessment is not warranted.

8.0 **Recommendation**

It is recommended that planning permission be **GRANTED** for the proposed development, for the following stated reasons and considerations and subject to the stated conditions:

9.0 **Reasons and Considerations**

Having regard to:

- (a) The national strategy regarding the improvement of mobile communications services,
- (b) The guidelines relating to telecommunications antennae and support structures which were issued by the Department of the Environment and Local Government to planning authorities in July 1996,
- (c) The objectives in the current Cork County Development Plan, 2014 to support the provision of telecommunications infrastructure that improves Cork County's international connectivity,
- (d) The general topography and landscape features in the vicinity of the site,

- (e) The existing pattern of development in the vicinity, and
- (f) The planning history of the site,

It is considered that, subject to compliance with conditions set out below, the proposed development would not seriously injure the general or visual amenities of the area, would not be prejudicial to public health and would otherwise be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be retained in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. This permission shall apply for a period of five years from the date of this order. The telecommunications structure and related ancillary structures shall then be removed unless, prior to the end of the period, planning permission shall have been granted for their retention for a further period.

Reason: In the interest of visual amenity and to enable the impact of the development to be re-assessed, having regard to changes in technology and design or any other changes in circumstances during the specified period.

3. The site shall be reinstated on the removal of the telecommunications structure and ancillary structures. Details relating to the removal and reinstatement shall be submitted to, and agreed in writing with, the planning authority at least one month before the date of expiry of this permission.

Reason: In the interest of orderly development.

A. Considine
Planning Inspector
24th January, 2017