



An
Bord
Pleanála

Inspector's Report

PL09.248015

Development	Wireless Radio Antennae to rear elevation of an existing domestic garage measuring 1.8metres above existing garage ridgelines at Kiltel, Naas, Co. Kildare.
Planning Authority	Kildare Co. Co.
Planning Authority Reg. Ref.	16/1200
Applicant(s)	Nicholas Boran
Type of Application	Permission
Planning Authority Decision	Refuse
Appellant(s)	Nicholas Boran
Observer(s)	James and Anne Lombard William Donohoe
Date of Site Inspection	28 th of April 2017
Inspector	Caryn Coogan

1.0 SITE LOCATION AND DESCRIPTION

- 1.1 The site is located within Killeel village, Co. Kildare. There is linear development out of Killeel village on elevated sites along the western axis of road going through the village. The properties have commanding views east towards the Dublin Mountains and rolling countryside.
- 1.2 There is a bungalow on the subject site, which is flanked on either side by other dwellings (a dormer bungalow to the south-west and a two storey to the north-east). The dwelling is positioned at an angle to the road, therefore screening the shed to the rear from public view. To the rear of the bungalow is a detached store/ shed, which is a tall store approximately 6metre in height with a tiled roof. On the rear elevation of the shed is the antennae the subject of this appeal. It is 1.8metres above the ridge height of the roof.

2.0 DEVELOPMENT

- 2.1 The applicant is seeking retention of a broadband telecommunications antenna for his own personal use and use of his family living in Killeel. It is to provide a stable and fast broadband uplink which is essential for calving times on their farms and for family members to work from home.

3.0 PLANNING AUTHORITY DECISION

3.1 DECISION

Kildare Co. refused the retention of the antenna structure for two reasons:

1. It is contrary to Policy TL11 which aims to discourage the development of individual telecommunications support structures and antennae for private use. The retention of the development would set an undesirable precedent for future similar developments and would seriously injure the amenities of the area.
2. The site is located in the Eastern Uplands which is designated as a Highly Sensitive Landscape in Kildare Co. development Plan 2011-2017. There are a number of sites and monuments in the immediate vicinity of the site. The retention of the structure is contrary to Policy TL 9 of the development plan which seeks to minimise the provision of over ground masts and antennae in areas of Amenity/ Sensitive Landscapes.

3.2 TECHNICAL REPORTS

Transportation Department

No objections

Roads

No objections

Water Services

No objection

Irish water

No objection.

Planning Report:

- The proposed development will not have an adverse impact on the integrity of the Natura 2000 site
- The antenna is for private use by the applicant.
- The structure is located within a highly sensitive landscape – The Eastern Uplands designation, and is surrounded by a number of significant monuments and sites.
- Refusal recommended.
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3.3 THIRD PARTY SUBMISSIONS

A third party submissions opposed the proposal because of visual amenity, unauthorised nature of the development, development plan policy, nearby monuments \and impacting on their mobile phone.

4.0 PLANNING HISTORY

There is no relevant planning history.

5.0 POLICY CONTEXT

5.1 National Policy

There is no relevant policy

5.2 Development Plan

Kildare County Development Plan 2011-2017

Chapter 8 – Energy and Communications

TL9:

To minimise the provision of overground masts and antennae within the following areas:

- Areas of High Amenity/ Sensitive Landscape
- Areas within or adjoining the curtilage of protected structures
- On or within the setting of Archaeological sites

TL11:

To discourage the development of individual telecommunications support structures and antennae for private use.

Chapter 14.4.1 The Eastern Uplands designation**6.0 THE APPEAL**

6.1 The antenna is to provide broadband for the applicant's own personal use and a number of family members in Kiltel. It is to provide a stable and fast broadband service which is essential during calving on their farms, and this service currently does not exist in the area. Kiltel currently has no stable broadband service. It area is served by the Kilbridge Telephone Exchange which is not wired for fibre broadband. The primary source of broadband in the area is mobile broadband dongle which are notoriously unreliable, and it is not uncommon for a signal to drop for days or weeks in the area.

6.2 Over the years broadband grants have been offered to various companies to operate in rural areas. These companies would typically bring a temporary satellite broadband service to the more densely populated areas of rural Kildare and neglect the more sparsely populated Kiltel. These companies only operate for a few months until their grant period has expired.

6.3 The applicant has taken the initiative to install the antenna to the roof of his domestic garage in order to rectify the major infrastructural issues of Kiltel. Mr. Boran works within the telecommunications industry and has the expertise to take on such an initiative.

6.4 Response to Reason No. 1 of Refusal

Policy TL11 of Kildare County Development Plan states it is policy to discourage the development of individual telecommunications support structures and antenna for private use. On 1st of July 2016, a report on the Unit Nations Human Rights Council stated that access to the internet was a basic human right. The telecommunications mast Mr. Boran has erected is absolutely essential for his farming practices.

6.5 **Response to reason No. 2 of Refusal**

Policy TL9 of the Kildare CDP states

To minimise the provision of overground masts and antennae within the following areas:

- Areas of High Amenity/ sensitive landscape areas
- Areas within or adjoining the curtilage of protected structures
- On or within archaeological sites

The site is located within an Area of Highly Sensitive Landscape, the antennae structure measures 1.8metres above the ridge line of Mr. Boran's domestic garage and cannot be seen from the public road. The development has minimised impact on the surrounding landscape, as there is no broadband services available in the locality. Should broadband become available in the locality, he will remove the structure. It is highly likely Killeel will have access to a modern and reliable broadband network capable of supporting current and future generations.

Section 14.8.3 *Upland Character Areas : East Kildare Uplands* Policy LU1 states:

The planning authority has not given due consideration to the structure of the antennae in terms of its impact on the surrounding landscape.

6.6 Kildare Co. Co. and the department of Communications have to date, neglected the needs of the residents of Killeel and many areas of rural Ireland. The efforts of the government to provide grants to various companies to operate in certain areas has failed. The only method in such rural areas to ensure stable broadband services is via personal satellite dishes or antennae.

6.7 In the Planner's Report the issue of ownership is queried. The landowner is Mr. Boran and the antenna is owned by his son, Nicholas Boran. The Warning letter was issued to both parties. The son applied for the permission. The applicant has taken the initiative to provide broadband to family members who rely on a reliable service. The antenna erected is of low visual impact on the landscape, and its removal would have a detrimental impact on the farmers.

6.8 **RESPONSES**

6.9 ***James and Anne Lombard***

The Board is urged to uphold the planning authority's reason for refusal. The height of the antenna mast is 7.5-8metres above ground level on an

elevated site in an historic area. It is highly visible and intrusive from windows and patio areas of their dwelling.

6.10 **William Donohoe**

The applicant, Mr. Nicholas Boran may not be the owner of the property. On a previously planning application lodged, 12/235, the applicant's address was given at Johnstown, Co. Kildare. The applicant should be required to confirm ownership of the property and provide documentary evidence of same. A letter of consent should be submitted from the landowner and failing this, the application should be deemed invalid.

There is a history of unauthorised developments associated with the site. Prior to the antennae there was a large radio antenna erected without planning permission.

The application was made on foot of enforcement action.

There are a number of Historic Monuments and Regional Historic Monuments within 300metres of the site. The planning application fails to address this important issue. The site lies within 250m of Kilteel Woods which is an NHA.

There is no technical data relating to the development, as the applicant's mobile phone services would appear to be adversely affected by the antennae.

The development could be used for commercial purposes and not just his family.

Chapter 8 of the development plan relates to Telecommunications Policy of the County Development Plan.. The development contravenes PL9 which is to minimise the provision of overground masts and antennae. TL11 is to discourage the development of individual telecommunications support structures and antennae for private use.

The planning application does not appear to reference the presence of National and Regional Monuments. The application should be accompanied by an Appropriate Archaeological/ Conservation Assessment.

The applicant cannot decide to provide a service for the general public in the area as it would lead to a proliferation of such structures throughout the country. The provision of broadband must be and is properly regulated for good reason. Nobody has a right to internet it is a laudable aspiration. The removal of the structure does not preclude Mr. Boran from obtaining an alternative broadband service.

The Department of Communications, Climate Action and Environment plan to ensure all citizens and businesses have access to high speed broadband. Until such a strategy has been implemented it cannot allow people a carte blanche to erect telecommunications equipment to the detriment of the community and neighbours.

The Planner's Report dated 20/01/2017 is well considered and deals fully with the issues the centre of the application.

Allegedly the applicant has made some changes to the antennae to make it more acceptable. However, the alterations do not lessen the nuisance of the structure, and it should be removed.

7.0 ASSESSMENT

7.1 I wish to examine this appeal under the following headings:

- Development Plan policy
- Impact on Landscape
- Impact on monuments sites
- Impact on residential amenity
- Other Matters

7.2 Development Plan Policy

The applicant has erected the antennae on the rear wall of a shed/ garage to the rear of dwelling on the same site. The house and property is owned by the applicant's father. The antennae is to provide a fast and reliable service broadband service to family members which is essential during calving periods and for those family members who work from home. According to the appeal file Kiltel has no reliable broadband service and the local exchange is not wired for fibre broadband. The family members have to use a dongle and this has proved to be unreliable in times of need is unreliable.

In the first reason for refusal Kildare Co. Co. cited policy TL11 of the development plan which states it is policy to:

To discourage the development of individual telecommunications support structures and antenna for private use.

The planning authority considered the development would set an undesirable precedent for other individuals to erect antenna. The applicant's states that disconnecting people from the internet is against international law and that an internet connection is a basic human right.

In my opinion, Kiltel is in close proximity to the Dublin Metropolitan area, and it is also within clear views of a plethora of company telecommunications masts along the ridge line of Saggart Hill. I am most surprised that broadband services are poor within Kiltel. However, that is not the fault of the applicant. I tend to agree with his argument, especially in terms of assisting farming practices such as calving, an internet service is an essential component of everything life. A lot of banking and essential services are now internet dependent, and living in a rural village the

community should not be deprived of such services. The planning authority's assessment fails to acknowledge that the subject site is located within a village. The subject structure has the ability to serve a number of family members and not just one individual house. The policy is to '*discourage the development of individual telecommunications support structures and antenna for private use* ', it is not to prohibit. Given the circumstances of this particular case, I do believe the proposal is not contrary to the development plan policies.

7.3 Impact on Landscape

The second reason for refusal states the site is located in the Eastern Uplands which is designated as a Highly Sensitive Landscape in the Kildare County Development Plan, and the retention of the antennae would be inappropriate in this highly sensitive landscape.

The Board should be clear that although the site and the general area is within the Eastern Uplands designation, the site is in fact located within a settlement, Killeel village. There are houses either side of the subject site. There is a dwelling house fronting the site of the subject antennae. The result been, the antennae is NOT visible form the surrounding road network. The land drops away in a south-eastern direction, and the antennae is not visible form the surrounding landscape or the adjoining road network. In my opinion, there is no material impact on the sensitive landscape as a result of the antennae as it is screened from public view by the dwelling house and the shed. In fact the televisions aerial on the bungalow on the house creates a greater visual impact on the surrounding area than the subject antennae.

7.4 Impact on monuments sites

The second reason for refusal also cites the antenna is inappropriate in the vicinity of a number of sites and monuments, and would seriously injure the amenities of the area. There are no protected structures adjacent to the antennae. There are a number of sites located on the opposite side of the road to the dwelling house and positioned blow the level of the site and the road. These includes a cross, gatehouse, unclassified castle, bridge, graveyard, religious house, etc. The subject antennae is not visible and has no material impact on any of the structures. To the north of the site there is an earthworks site, however this site is located to the rear of a number of houses. The earthworks site significantly predates the houses within Killeel village and yet these have been granted permission. The impact of the antenna on the earthworks is significantly less than the permitted and constructed dwellings.

The Board should dismiss Reason No. 2 of the permission as it is unwarranted and unsubstantiated as a reason for refusal, the development has no material impact on the landscape or monuments sites in the general vicinity and will not detract from the visual amenities of the area.

7.4 Impact on Residential Amenities

The structure is approximately 1.8metres above the ridge height of the shed. The shed is a tall structure exceeding 6metres in height, located to

the rear of a residential unit. There is not apparent or material impact on existing residential amenities.

An observer has stated that the structure has impact negatively on the reception of his mobile phone and his broadband access. He resides on the adjoining site. Again this issue has been unsubstantiated by technical data to demonstrate the subject antennae is responsible.

7.5 Other Matters

The land is owned by the applicant's father who has given his consent to the structure been placed on the shed.

The structure can be permitted for a period of three years only as it is likely a village such as Killeel may have fibre optic broadband in the coming years as it is national policy to ensure all citizens have access to high speed broadband.

8.0 RECOMMENDATION

The planning authority's decision to refuse planning permission for the proposed development should be overturned and granted a temporary permission by the Board.

REASONS AND CONSIDERATIONS

Having regard to the national strategy regarding the improvement of mobile communications services and the fact that existing services are poor in the locality and with the settlement of Killeel, and the fact the structure is not visible from the adjoining road network and wider landscape to the east and south, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. This permission is for a period of three years from the date of this order. The telecommunications structure and any ancillary structures shall then be removed unless, prior to the end of that period, planning permission shall have been granted for their retention for a further period on foot of an application which shall comprehensively examine alternative site locations for them.

Reason: To enable the impact of the development to be re-assessed.

2. No material change of use shall be made to the development or material alteration hereby granted without a prior grant of planning permission.

Reason: In the interest of orderly development.

Caryn Coogan

Planning Inspector

10/5/2017

