



An  
Bord  
Pleanála

## Inspector's Report PL93.248129

### Development

To retain the existing 15m high telecommunications monopole support structure (previously granted permission under reference 11/9 which was a temporary permission for a period of 5 years which has expired), carrying antennas and link dish together with ground based equipment units & security fencing.

### Location

Ballynamertinagh, Ardmore, Co. Waterford.

### Planning Authority

Waterford City & County Council

### Planning Authority Reg. Ref.

16/798

### Applicant(s)

Three Ireland Services (Hutchison) Ltd.

### Type of Application

Permission for Retention

### Planning Authority Decision

Grant subject to conditions

### Type of Appeal

Third Party v. Decision

### Appellant(s)

Thomas Troy & Others

**Observer(s)**

None.

**Date of Site Inspection**

31<sup>st</sup> May, 2017

**Inspector**

Robert Speer

## 1.0 Site Location and Description

The proposed development site is located in the rural townland of Ballynamertinagh, Co. Waterford, approximately 1.9km north of the village of Ardmore and 420m north of the R673 Regional Road. It is situated at an elevation of 73m above sea level, has a stated site area of 0.038 hectares, and forms part of a cluster of 2 No. telecommunications installations located within the south-western corner of an agricultural field. The site is accessed via a right of way over an existing track which extends south-westwards from the public road through a nearby farmyard and adjacent fields for a distance of approximately 760m.

## 2.0 Proposed Development

2.1. The proposed development consists of the retention of a 15m high monopole-type telecommunications support structure and associated antennae. The structure is situated within an enclosed compound of 19m x 20m defined by 2.4m high palisade fencing and an associated access gateway. Adjacent to the support structure and within the compound it is proposed to retain an existing equipment which houses ancillary apparatus associated with the operation of the facility (*N.B.* There is a second equipment cabinet on site, although this is indicated as being in the ownership of another operator). The site is accessed via a right of way over an existing track which extends south-westwards from the public road.

## 3.0 Planning Authority Decision

### 3.1. Decision

On 9<sup>th</sup> February, 2017 the Planning Authority issued a notification of a decision to grant permission for the retention of the proposed development subject to 5 No. conditions which can be summarised as follows:

Condition No. 1 - Refers to the submitted plans and particulars.

Condition No. 2 – Refers to the removal of the telecommunications structure and subsequent site reinstatement.

Condition No. 3 – Requires the transmitter output and antennae type to accord with the submitted details.

Condition No. 4 – Prohibits any material change of use of the proposed mast without the benefit of a prior grant of planning permission.

Condition No. 5 - Requires the developer to facilitate the co-location of other licensed mobile telecommunications operators.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

Refers to the contents of Circular Letter: PL07/12 with regard to the ‘*Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities, 1996*’ before subsequently recommending a grant of permission for the retention of the proposed development subject to conditions.

#### **3.2.2. Other Technical Reports**

None.

### **3.3. Prescribed Bodies**

None.

### **3.4. Third Party Observations**

A total of 3 No. submissions were received from interested parties, the contents of which are reiterated in the grounds of appeal.

## **4.0 Planning History**

### **On Site:**

PA Ref. No. PD01/433 / ABP Ref. No. PL24.130180. Was granted on appeal on 21<sup>st</sup> January, 2003 permitting Esat Digifone Limited permission for a development comprising the erection of a 12 metre monopole (telecommunications structure) together with ancillary equipment container, timber fencing and access track at Ballynamertinagh, Ardmore, Co. Waterford.

PA Ref. No. 11/9. Was granted on 10<sup>th</sup> June, 2011 permitting Telefonica O<sub>2</sub> Ireland Ltd. permission for the retention of an existing 12m high telecommunications monopole structure with extension pole (15m overall height) carrying antennas and link dishes together with ground based equipment, security fence and access track.

On Adjacent Sites:

PA Ref. No. 09/521. Was granted on 9<sup>th</sup> February, 2010 permitting Tetra Ireland Communications Limited permission for a 15m support pole with attached 3 No. 3.1m radio aerials (these will extend above the height of the support pole to a total height of 18.1m) and 2 No. dishes together with associated equipment, 2 No. 4 m gantry poles, cabling, GPS timing antenna, fencing, cabinet and proposed extension to existing access track for use by the emergency services (Garda, ambulance and fire brigade) for a new national digital radio service, all at Ballynamertinagh, Ardmore, Co. Waterford.

PA Ref. No. 14/600363. Was granted on 17<sup>th</sup> February, 2015 permitting Tetra Ireland Communications Limited permission for continuance of use of the existing 15m support pole and attached 3 No. 3.1m radio aerials (which extend above the height of the support pole to a total height of 18.1m) and 2 No. dishes, together with associated equipment, 2 No. 4m gantry poles, cabling, GPS timing antenna, fencing, cabinet and the existing access track for use by the emergency services (Garda, ambulance and fire brigade) for the National Digital Radio Service (NDRS), all at Ballynamertinagh, Ardmore, Youghal, Co. Waterford.

## 5.0 Policy Context

### 5.1. National and Regional Policy:

*Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities, 1996:*

These guidelines detail the various technical and other criteria to be considered in the assessment of applications for telecommunications apparatus. They provide details of the technical specifications of such apparatus in addition to advising on suitable locational options.

*Circular Letter: PL 07/12: 'Telecommunications Antennae and Support Structures Guidelines':*

This Circular was issued by the Department of Environment, Community and Local Government on 19<sup>th</sup> October, 2012 under Section 28 of the Planning and Development Acts, 2000-2012 to update certain sections of the *'Telecommunications Antennae and Support Structure Guidelines, 1996'*. It advised planning authorities of the following changes:

- Where a renewal of a previously temporary permission is being considered, the planning authority should determine the application on its merits with no time limit being attached to the permission. Only in exceptional circumstances where particular site or environmental conditions apply, should a permission issue with conditions limiting their life.
- Planning authorities should not specify minimum separation distances between telecommunications structures and houses and schools as they can inadvertently have a major impact on the roll out of a viable and effective telecommunications network.
- Having reviewed experience since 1996 and the limited number of sites that have become obsolescent in that time, it is considered that the lodgement of a bond or cash deposit is no longer appropriate. It is therefore advised that, in general, future permissions should simply 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.

In addition to the foregoing, the Circular advises that a register of approved telecommunications structures supported by relevant databases be created and maintained by each planning authority in cooperation with operators. Furthermore, on the issue of health and safety, it is reiterated that planning authorities should not include monitoring arrangements as part of planning permission conditions nor should they determine planning applications on health grounds. In this respect it is stated that planning authorities are to be primarily concerned with the appropriate location and design of telecommunications structures as they do not have the relevant competence for health and safety matters in respect of telecommunications

infrastructure. These are regulated by other codes and such matters should not be additionally regulated by the planning process.

Finally, with regard to development contributions, the Circular refers to the then Draft Guidelines on Development Contributions issued under section 28 of the Act which require that all future Development Contribution Schemes must include waivers for broadband infrastructure provision and that these waivers are intended to be applied consistently across all local authority areas.

## 5.2. **Waterford County Development Plan, 2011-2017:-**

### Chapter 7: Infrastructure:

#### Section 7.21: *Telecommunications:*

Telecommunications development has been the key driver of the Irish economy over the last decade. The provision of a modern, efficient and reliable telecommunication network is vital for the Waterford economy to compete for jobs and investment in an increasingly global market place, and to provide the citizens with quality access to information, education and entertainment. Waterford County Council recognises the importance of the continued development of the existing network, and will support and encourage a balanced spread of telecommunications infrastructure throughout the County. In the consideration of proposals for telecommunication masts, antennae, and ancillary equipment developers will be required to submit details of:

- The potential for co-location of equipment on the existing mast infrastructure; and
- The visual impact of the proposed equipment on the natural and built environment, particularly in areas of sensitive landscape or cultural/historical importance.

The development of telecommunication masts and antennae in urban areas should be avoided where alternative locations are available.

*Policy INF 24:* The Council will facilitate proposals for the provision of telecommunication masts, antennae, underground infrastructure and ancillary equipment subject to normal planning considerations having regard to the DoEHLG publication

'Telecommunications Antennae and Support Structures - Guidelines for Planning Authorities' (1996).

*Objective INF 11:* It is the objective of the Council to encourage the clustering and co-location of telecommunication masts, antennae or ancillary equipment and more favourable consideration will be given to their location near existing similar type structures.

*Objective INF 12:* It is the objective of the Council to ensure that where a permission is granted for telecommunication masts that it will generally be for a temporary period not exceeding 5 years. This will enable the Planning Authority to review the situation considering changing technology and the effect of the development on the amenities of the area. Subsequent applications may be for such longer periods as the Planning Authority may direct.

*Variation No.1 - Development Management Standards:*

*Section 8.0: Non- Residential Development:*

*Section 8.9: Telecommunications:*

In evaluating application for telecommunications installations, Waterford City & County Council will have regard to "*Telecommunications Antennae & Support Structures Guidelines for Planning Authorities (1996)*". Co-location of such facilities on the same mast or cabinets by different operators is favoured to discourage a proliferation.

### **5.3. Natural Heritage Designations**

None.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- The Planning Authority failed to address the legitimate concerns raised by the appellants in their original objection to the proposed development.



- An Environmental Impact Statement should have been requested by the Planning Authority in its assessment of the subject application.
- The proximity / siting of the proposed development to adjacent third party lands in the absence of any prior consultation constitutes a breach of fair procedures and has a detrimental impact on the amenity of those lands.
- Contrary to the requirements of Circular PL07/12, which specifies a minimum separation distance of 1km between telecommunications structures and dwelling houses, the subject proposal will be sited approximately 350m from the dwelling house of Mr. Michael Keane.
- Having regard to the recommendations of the *'Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities, 1996'* in relation to the siting of such infrastructure etc. adjacent to lands which are considered to be of high amenity value, it is submitted that those lands to the south of the application site in the ownership of Mr. Keane, in addition to those lands to the west in the ownership of Mr. Thomas Troy, are of 'high amenity value' with views towards Ardmore Bay, Youghal Bay and the village of Ardmore.
- The location of the subject proposal will negatively impact / undermine the development potential of the landholdings of Mr. Michael Keane & Mr. Thomas Troy.
- Further clarity is required as regards the specific nature, design and operation of the proposed development including:
  - The number of antennae on site;
  - The number of service providers operating from the site;
  - The limit, if any, on the number of antennae that may be installed on site;
  - The licensing of the facility; and
  - The arrangements for the monitoring of (non-ionising) radiation emissions from the facility.
- There are concerns with regard to the public health impact of the proposed development.

- The existing telecommunications base station causes interference with radio reception in the locality.
- The proposed development should be relocated to an alternative position within the landholding in order to avoid impacting on adjacent third party lands.

## 6.2. Applicant's Response

- The subject proposal does not comprise a class of development prescribed for the preparation of an Environmental Impact Statement as set out in the Planning and Development Act, 2000, as amended.
- The site in question has been operational since March, 2004 and provides the local community with fast and efficient voice, data and mobile broadband connectivity. It provides seamless coverage to businesses and homes in the village of Ardmore, surrounding townlands, and persons travelling along the N25 National Road, the R673 Regional Road and the local road network.
- The existing installation has an established function & presence in the area and is fully integrated into the applicant's local network.
- The existing site is shared by other mobile service providers (i.e. Vodafone and Meteor).
- The removal of the subject installation from the network will result in significant coverage and capacity deficiencies across all three networks and may also result in a complete loss of service to the area.
- The proposed development has been fully assessed in terms of its visual impact, proximity to dwellings, and its benefit to the area by the Planning Authority pursuant to PA Ref. Nos. 01/433 (ABP Ref. No. PL24.130180), 11/9 & 16/798. In each case, the site was found to comply with national / local policy and to accord with the proper planning and development of the area. Furthermore, it is not proposed to alter the existing installation as part of the subject proposal and, therefore, it is considered that the assessments of previous applications on site remain valid.

- It is a condition of the applicant's operating licence to ensure that levels of non-ionising radiation are within the limits specified by the International Commission of Non-Ionising Radiation Protection Agency (ICNIRP) and the telecommunications regulatory agency i.e. Comreg.
- Comreg has responsibility for ensuring that all mobile operators comply with the aforementioned guidance and in this regard it carries out regular audits of base stations throughout the country in order to ensure compliance. Details of these audits are available on Comreg's website ([www.comreg.ie](http://www.comreg.ie)).

### 6.3. Planning Authority's Response

None.

## 7.0 Assessment

7.1. From my reading of the file, inspection of the site and assessment of the relevant local, regional and national policies, I conclude that the key issues raised by the appeal are:

- The principle of the proposed development
- Requirement for Environmental Impact Assessment
- The siting of the proposed development
- Visual impact
- Appropriate assessment
- Other issues

These are assessed as follows:

#### **The Principle of the Proposed Development:**

The 'Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities' (DOE, 1996) state that it is national policy to develop a comprehensive mobile telecommunications service within Ireland in order to promote industrial and commercial development, to improve personal and household security, and to enhance social exchange and mobility. This strategic policy is reiterated in the

provisions of both the National Development Plan and the National Spatial Strategy whilst the National Broadband Plan also aims to deliver a high speed broadband network throughout Ireland. Chapter 7 of the Waterford County Development Plan, 2011-2017 recognises the importance of a modern, efficient and reliable telecommunications system for the future development of the county and thus seeks to support and encourage a balanced spread of telecommunications infrastructure in the area. In this respect it is the policy of the Council to facilitate proposals for the provision of telecommunication masts, antennae, underground infrastructure and ancillary equipment, subject to normal planning considerations, having regard to the *'Telecommunications Antennae and Support Structures - Guidelines for Planning Authorities'* (1996). Furthermore, it is a specific objective of the Council to encourage the clustering and co-location of telecommunication masts, antennae or ancillary equipment with more favourable consideration to be given to those locations sited close to existing installations.

Therefore, the provision of a modern telecommunications network is a key objective of both local and national planning policy which necessitates the development of a structured network of base stations and masts throughout the county and in this respect the applicant has set out a case for the subject proposal in the documentation which has accompanied the planning application and the grounds of appeal.

Accordingly, having regard to national policy and county development plan statements which emphasise the importance of improved telecommunications, the planning history of the site, with particular reference to PA Ref. No. PD01/433 / ABP Ref. No. PL24.130180 & PA Ref. No. 11/9, the co-location / sharing of the existing installation with other service providers / operators, and the siting / clustering of the proposed development alongside another telecommunications installation, in my opinion, the subject proposal is acceptable in principle at this location.

**Requirement for Environmental Impact Assessment:**

The subject proposal does not involve a class of development which is prescribed for the purposes of Section 176 of the Planning and Development Act, 2000, as amended, as set out in Parts 1 & 2 of Schedule 5 of the Planning and Development

Regulations, 2001, as amended, and, therefore, it does not necessitate the preparation of an Environmental Impact Statement.

**The Siting of the Proposed Development:**

Concerns have been raised in the grounds of appeal as regards the siting of the proposed development relative to nearby dwelling houses and in this respect I would refer the Board to Circular Letter PL07/12 issued by the Minister for the Environment, Community and Local Government on 19<sup>th</sup> October, 2012 under Section 28 of the Planning and Development Act, as amended, which updates certain sections of the *'Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities, 1996'* and expressly states that planning authorities should not specify minimum separation distances between telecommunications structures and dwelling houses on the basis that the imposition of same can inadvertently have a major impact on the roll-out of a viable and effective telecommunications network.

Accordingly, having regard to the aforementioned guidance, and in light of the site context, with particular reference to its siting in a rural location surrounded by agricultural lands, its positioning set back from the public road, and the available separation distances from nearby housing and those lands identified for development purposes in the relevant Development Plan, it is my opinion that the subject proposal is acceptable at this location and accords with the proper planning and sustainable development of the area. By way of further clarity, I am similarly satisfied that the proposed development will not interfere with the usage of adjacent lands and that there is no requirement in this instance for the installation to be set back from the site boundary shared with adjoining landholdings.

**Visual Impact:**

From a review of the *'Scenic Landscape Evaluation'* contained in the Waterford County Development Plan, 2011-2017, it would appear that although the proposed development site is not located within an identified 'sensitive' area, it is positioned along a visually 'vulnerable' ridgeline. However, whilst I would acknowledge the appellants' concerns with regard to the overall visual impact of the proposed development given that the existing mast is visible from a number of viewpoints along the surrounding road network and within the wider area, it is of particular relevance to note that the subject proposal has been in position for a number of

years having previously been granted planning permission on at least two separate occasions. Furthermore, the existing construction, when taken in conjunction with the second mast located within an adjacent compound to the immediate north, serves to contribute to a clustering of facilities which will reduce the potential for any wider visual impact. Accordingly, on balance, it is my opinion that the subject proposal would not give to such an adverse visual impact as to warrant a refusal of permission.

**Appropriate Assessment:**

From a review of the available mapping and the data maps available from the website of the National Parks and Wildlife Service, it is apparent that whilst the proposed development site is not located within any Natura 2000 designation, it is situated approximately 2.4km northwest of the Ardmore Head Special Area of Conservation (Site Code: 002123) and c. 3km west-southwest of the Helvick Head to Ballyquin Special Protection Area (Site Code: 004192). In this respect it is the policy of the planning authority, as set out in Section 8.20 of the Waterford County Development Plan, 2011-2017, to conserve the favourable conservation status of species and habitats within Special Areas of Conservation and Special Protection Areas. Objective: *NH 1* of the Plan further states that the Council will comply with Article 6 of the Habitats Directive at each level of the development planning process from County Development Plan, Local Area Plan to project level to ensure that there is no significant adverse impact on the integrity of Natura 2000 sites and that the requirements of Articles 6(3) and 6(4) of the Habitats Directive are fully satisfied. In effect, it is clear that a proposed development may only be authorised after it has been established that the development will not have a negative impact on the fauna, flora or habitat being protected through an Appropriate Assessment pursuant to Article 6 of the Habitats Directive.

Having reviewed the contents of the subject application and the grounds of appeal, including the screening report prepared by the Planning Authority in respect of the subject proposal, in my opinion, given the nature and scale of the development proposed for retention, the nature of the receiving environment, and the proximity of the lands in question to the nearest European site, it is reasonable to conclude on the basis of the information available, which I consider adequate in order to issue a screening determination, that the proposed development, both individually and in

combination with other plans or projects, would not be likely to have a significant effect on any European site and that an appropriate assessment and the submission of a NIS is not therefore required.

**Other Issues:**

**Public Health Considerations:**

In respect of the health and safety concerns associated with telecommunications infrastructure, with particular reference to the emission of electro-magnetic and non-ionising radiation, such matters are regulated by the terms and conditions of the licensing arrangements issued to the operators of such facilities by the telecommunications regulator (ComReg). It is a requirement of any such licensing that operators ensure that the level of non-ionising radiation emitted from any such facility does not exceed the limits set by the International Commission on Non-Ionising Radiation Protection (ICNIRP). Accordingly, as the applicant has indicated that the proposed development will operate within these limits, and in view of the regulatory controls operated by ComReg, I consider this matter to have been satisfactorily addressed.

Furthermore, the '*Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities, 1996*' advise that planning authorities should not include monitoring arrangements as part of planning permission conditions nor should they determine planning applications on health grounds and this advice is reiterated in Section 2.6: '*Health and Safety Aspects*' of Circular Letter PL07/12 which asserts that planning authorities should be primarily concerned with the appropriate location and design of telecommunications structures given that they do not have the competence for health and safety matters in respect of telecommunications infrastructure. Such matters are regulated by other codes and should not be additionally regulated by the planning process.

**Interference with Radio Reception / Signals:**

With regard to the suggestion in the grounds of appeal that the existing installation has given rise to interference with radio reception in the locality, in the absence of any evidence to support such an assertion, and in light of the widespread operation of telecommunication apparatus both locally and nationally seemingly without undue

impact on radio signals, I am unconvinced that any such difficulties have been demonstrated to be directly attributable to the proposed development.

## 8.0 Recommendation

8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission for retention be granted for the proposed development for the reasons and considerations and subject to the conditions set out below.

## 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 antennas and support structures which were issued by the Department of the Environment and Local Government to planning authorities in July, 1996, as updated by Circular Letter PL07/12 issued by the Minister for the Environment, Community and Local Government on the 19<sup>th</sup> day of October, 2012 under Section 28 of the Planning and Development Acts 2000-2012,
- c) the provisions of the Waterford County Development Plan, 2011 to 2017,
- d) the planning history of the site,
- e) the potential for sharing of the structure and site with other operators,
- f) the clustering of facilities at this location, and
- g) the general topography and landscape features in the vicinity of the site,

it is considered that, subject to compliance with the conditions set out below, the development proposed for retention would not seriously injure the amenities of the area, would not be prejudicial to public health and would, therefore, 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 details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority and the development shall be retained in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. Any additional panels or structures, proposed to be attached to the mast exceeding 1.3 metres in any dimension, shall be the subject of a separate planning application.

**Reason:** To regulate and control the layout of the development in the interest of orderly development.

3. The developer shall allow, subject to reasonable terms, other licensed mobile telecommunications operators to co-locate their antenna onto the proposed structure.

**Reason:** In order to avoid the proliferation of telecommunications structures in the interest of visual amenity.

4. 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 as soon as practicable.

**Reason:** In the interest of orderly development.

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Robert Speer  
Planning Inspector

31<sup>st</sup> May, 2017