



An
Bord
Pleanála

Inspector's Report PL27.248163

Development	Retention of 30m high telecommunications structure, antennas, equipment containers and associated compound.
Location	Ballard Upper, Kilbride, Co. Wicklow.
Planning Authority	Wicklow Co. Council
Planning Authority Reg. Ref.	16/524
Applicant	Vodafone Ireland Limited
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant	Vodafone Ireland Limited
Observers	None
Date of Site Inspection	24 th of May 2017
Inspector	Siobhan Carroll

1.0 Site Location and Description

- 1.1.1. The appeal site is located at the townland of Ballard Upper, Kilbride, Co. Wicklow. It is located in an upland area 1.4km to the west of the M11 Motorway. There are a number of dwellings along the local road in the vicinity of the site. The village of Barndarrig is situated 1.9km to the south.
- 1.2. The site has an area of 0.029 hectares and it is situated on the northern side of Ballycapple Hill at roughly 230m above sea level. The site contains a 30m high lattice telecommunications mast which contains antennae and link dish. It is surrounded by a palisade fence and the compound also accommodates an equipment container and cabinets. There is a rough track which runs from the public road to the site which provides access.
- 1.3. The land surrounding the site is in the ownership of Coillte and was previously planted with conifers. The tree planting has been felled. There are panoramic views out from the site to the north and east.

2.0 Proposed Development

- 2.1. Retention of 30m high telecommunications structure, antennas, equipment container and associated equipment within a fenced compound.

3.0 Planning Authority Decision

3.1. Decision

Permission was refused for 1 no. reason.

1. Having regard to the nature of the proposed development, its location on an elevated site with a designated Area of High Amenity (South East Mountain Lowlands) and the failure of the applicants to demonstrate that they have the ability to ensure that this development can be effectively assimilated into this landscape, it is considered that this development has the potential to result in the formation of a strident and obtrusive feature in the rural landscape, which would negatively impact upon the areas visual amenities and rural character. This development would therefore be contrary to the guidelines and objectives

of the County Development Plan, which require that all development shall have regard to the County landscape classification hierarchy and which seek to ensure that telecommunications structures are provided at appropriate locations that minimise and/or mitigate any adverse impacts on communities, and the built or natural environment. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Further information was sought in relation to screening around the site and whether the applicant had sufficient control over the lands to retain the trees. It was stated that a cordon of 10m of trees around the site would be appropriate.
- Clarification of further information was sought in relation to the applicant's control over the surrounding lands and the status of the area in relation to the existing planting/felling carried out. Alternatively, the applicant was required to demonstrate that the existing mast and the clear felling of trees will not have a significant impact upon the visual amenities of the area.
- The Planning Authority were not satisfied with the details provided and considered that the applicant had failed to demonstrate that they have the ability to ensure that the development can be adequately and permanently screened so that the mast can be assimilated into the landscape to an acceptable degree.

3.2.2. Other Technical Reports

None

3.3. Third Party Observations

- 3.3.1. The Planning Authority did not receive any submissions/observations in relation to the application.

4.0 Planning History

Reg. Ref. 09/1023 – Permission was granted for the retention of the 30m antenna support structure carrying telecommunications equipment together with associated telecommunications exchange containers and palisade fencing. Condition no. 2 limited the permission to a period of five years.

Reg. Ref. 03/8985 – Permission was granted for retention of 30m Antenna support structure and associated equipment shelter in a fenced compound. Condition no. 2 limited the permission to a period of five years.

Reg. Ref. 96/4460 – Permission was granted for 30 metre antennae structure and equipment shelter.

5.0 Policy Context

5.1. Development Plan

5.1.1. The operative plan for the area is the Wicklow County Development Plan 2016 - 2022.

- Chapter 9 – refers to Infrastructure
- Section 9.4.3 Telecommunications Objectives
- T2 – The development of new masts and antennae shall be in accordance with the development standards set out in Appendix 1 of this plan.
- T3 – To ensure that telecommunications structures are provided at appropriate locations that minimise and /or mitigate any adverse impacts on communities, and the built or natural environment.
- Volume 3 – Appendix 1 - Development and Design Standards
- Rural locations

Masts and base stations should be sited in a manner which respects the landscape and which limits the intrusion on the landscape. Notwithstanding coverage obligation issues

- Hilltops shall generally be avoided, except in exceptional circumstances, where technical or coverage requirements make it essential
 - Locations in the direct line of listed views or prospects shall be avoided;
 - Along major tourist routes, care shall be taken to avoid terminating views;
 - The location of structures, archaeological sites and sites designated for nature conservation reasons (e.g., NHAs, SACs, SPAs) shall be considered against the conservation objectives of these sites;
- Forested locations are likely to be preferable, subject to the nature of the forestry and its felling programme. In such cases, the applicant must be in a position to maintain a suitable cordon of trees around the site and bonded undertakings to that effect will be required to be submitted;
 - Permissions for antennae support structures and associated base stations shall only be granted for 5 years;
 - Further permissions for the facility at the end of the 5 year period shall be conditional on the provision of evidence, as necessary, to justify the continued need for the facility, given changes in technology and development of other sites in the meantime;
 - Where a subsequent permission does not include any alterations to the permitted facility, the applicant shall be required to show that no new changes in technology have come about that would allow the design (height, width, no of antennae etc.) or environmental impacts of the installation to be improved;

5.2. National Policy

5.2.1. National Guidelines

Telecommunications Antennae and Support Structures Guidelines for Planning Authorities, July 1996

- The guidelines essentially support the development of telecommunication services in the country and provide guidance on site selection and minimising environmental impacts.

5.2.2. Circular Letter: PL 07/12

The Circular letter updates certain sections of the Telecommunications Antennae and Support Guidelines (1996)

- Only in exceptional circumstances where particular site or environmental conditions apply, should a permission issue with conditions limiting their life.

5.3. Natural Heritage Designations

5.3.1. Deputy's pass Nature Reserve SAC (Site Code 000717) is situated 3.44km to the north.

5.3.2. Magherabeg Dunes SAC (Site Code 0001766) is situated 6km to the east.

5.3.3. Buckroney-Brittias Dunes and Fen SAC (Site Code 000729) is situated 6.5km to the south-east.

5.3.4. Vale of Clara (Rathdrum Wood) SAC (Site Code 000733) is situated 6.5km to the west.

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal was lodged by Focusplus Limited on behalf of the applicant Vodafone Ireland Ltd. on the 14th of March 2017. The main issues raised are as follows;

- The 30m high lattice mast carrying antennae and link dishes has been in place for 21 years. It has been granted permission on three occasions under Reg. Ref. 96/4460, Reg. Ref. 03/8985 and Reg. Ref. 09/1023.
- The Planning Authority refused permission for the retention of the structure on the basis that the applicants had failed to demonstrate that they have the ability to ensure that the development can be effectively assimilated in the landscape. It was considered that the development has the potential to result in the formation of a strident and obtrusive feature in the rural landscape

which would negatively impact upon the visual amenities and rural character of the area.

- The site at Ballycapple Hill was part of a 6.1 hectare plantation of Sitka Spruce and Douglas Fir. The planting has now been felled. The trees close to the mast were felled as they would be in danger of blowing over once the surrounding trees were removed.
- The root system of the Douglas Fir trees was unsuitable to be permanently located outside the Vodafone compound due to the growth of the root system it could damage the foundation of the compound.
- The area was felled under the terms of a felling licence. Under the licence Coillte are obliged to replant the area. They are planning to replant the area with Broadleaf trees in spring 2018.
- The Broadleaf trees to surround the compound will never be felled again and will be continually managed. Therefore, the new planting will provide a suitable cordon of trees around the site which will assimilate the development into the existing landscape.
- It is noted that there are a number of existing relatively high structures in the area including 5 pylons within a 1km radius of the site. 3 of the pylons are at a higher level than the subject site.
- There is a 30m lattice tower located 1.6km from the site at a higher level than the appeal site. It is considered that the visual impact would be mitigated by the presence of the existing structures.
- The existing structure provides 2G, 3G and 4G coverage to Ballycapple, Redcross, Kilbride and along the N11/M11 in the vicinity. In the absence of the structure there would be a significant loss of service in the area to customers of 3 networks. There are no other existing structures in the area which could meet Vodafone's service provision obligations and accommodate three providers.
- It is considered due to the nature of the landscape in the area that it would be difficult to secure an alternative site which would satisfy the requirements of the Wicklow County Development Plan 2016-2022.

- A letter from the National Estates Risk Manager at Coillte was included with appeal. It is stated in the letter that the area indicated on the accompanying map containing a mature forest of Sitka Spruce and Douglas Fir was clear felled by Coillte in 2016 as standard practice. Coillte state that the area around the mast will be replanted in 2018 with Broadleaves including Oak, Alder and Birch. It is stated in the letter that the planting will provide a biodiversity area which will never be felled again and will be managed under a continuous cover forest regime.
- The applicants request that the Board overturn the decision of the Planning Authority and grant permission for the subject development.

6.2. Planning Authority Response

A response was received from the Planning Authority on the 6th of April 2017.

- As detailed in the refusal reason issued the Planning Authority is concerned about visual impact. The Planning Authority considers that the visual impact could have been addressed by adequate tree planting outside the site boundary.
- The first party has included a letter from Coillte dated the 10/03/17 with the appeal. It states that Coillte will maintain a Broadleaf screen 10m wide around the compound to screen the development.
- While the letter does not show that the applicant has sufficient interest in the lands outside the site boundary to plant and maintain the screening, it would be reasonable to accept the statement from Coillte given their historical involvement with the site.
- If the screening is provided and maintained the Planning Authority would consider that the visual impact would be adequately mitigated.
- The Planning Authority supports the provision of telecommunications infrastructure and accepts that a certain visual impact would occur.
- The majority of applications for telecommunications infrastructure are structured in the same way. The Planning Authority has endeavoured to

contact Coillte and Vodafone to ensure that a better structure application can be submitted, where an application site includes an area for screening and which the applicant has full control of.

- The Planning Authority has been informed that Coillte have created a new company which deals with these type of sites and that Coillte are no longer involved.

7.0 Assessment

Having regard to the above, and having inspected the site and reviewed all documents on file, the following is my assessment of this case. Issues to be considered in the assessment of this case are as follows:

- Visual Amenity
- Appropriate Assessment

7.1. Visual Amenity

- 7.1.1. The Planning Authority refused permission for the retention of the 30m high lattice telecommunications mast on the basis that the applicants had failed to demonstrate that they have the ability to ensure that the development can be effectively assimilated into this landscape. The site is situated on Ballycapple Hill at roughly 230m above sea level and located within a designated Area of High Amenity.
- 7.1.2. Appendix of the 1 of the Wicklow County Development Plan 2016 – 2022 provides Development and Design Standards. In relation to masts it states that they should be sited in a manner which respects the landscape and which limits the intrusion on the landscape. Forested locations are considered preferable, subject to the nature of the forestry and its felling programme and also that the applicant is in a position to maintain a suitable cordon of trees around the site.
- 7.1.3. The subject mast was originally granted permission in 1996 under Reg. Ref. 96/4460. Permission was subsequently granted for the retention of the structure under Reg. Ref. 03/8985 and Reg. Ref. 09/1023. Conditions were attached in each case limiting the duration of the permissions to a period of five years. Condition no. 2 of Reg. Ref. 09/1023 specified that the tree plant indicated on the submission of

the 12th of April 2010 be carried out in the next planting season in order to assimilate the development into the site.

- 7.1.4. On inspection of the site I observed that the area in the vicinity of the mast had been felled. There are some semi-mature broadleaf trees to the east and north of the mast. The applicant does not have control of the lands outside the site and therefore the Planning Authority have concerns that satisfactory screen planting will be provided and maintained.
- 7.1.5. In response to the appeal the Planning Authority stated that while the letter issued by Coillte to Vodafone in relation to the site does not show that the applicant has sufficient interest in the lands outside the site boundary to plant and maintain the screening, it would be reasonable to accept the statement from Coillte given their historical involvement with the site. It was concluded in the appeal response that if screening is provided and maintained the Planning Authority would consider that the visual impact would be adequately mitigated.
- 7.1.6. As set out in the appeal, under the terms of their felling licence Coillte are obliged to replant the area which has been felled. Coillte have stated that the area will be replanted with Broadleaf trees including Oak, Alder and Birch in spring 2018. They confirmed that area will be managed under a continuous cover forest regime. This will ensure that there will be continuous and uninterrupted maintenance of the forested area and with no future felling taking place. The applicants consider that the new planting will provide a suitable permanent cordon of trees around the site which will assimilate the development into the existing landscape.
- 7.1.7. Having regard to the planning history of the site the requirement for the continued provision of telecommunications infrastructure to serve the area and the undertaking provided by Coillte in relation to the replanting of the area and the policy to provide a continuous cover forest regime, I consider that it would be appropriate to grant retention permission.
- 7.1.8. Having regard to the location and visual sensitivity of the site and the issue relating to the planting I consider that it would be appropriate to attach a condition limiting the duration of the permission to a period of three years. Therefore, I consider the matter of the visual sensitivity of the site constitutes an 'exceptional circumstance' justifying the granting of a temporary planning permission in accordance with Circular letter

PL07/12 dated 19th, October 2012 issued by the DoECLG. Furthermore, this will also provide scope to fully explore the replacement of the existing mast with a less visually obtrusive structure on a permanent basis.

7.2. Appropriate Assessment

- 7.2.1. The site is not located within a Natura 2000 site and the nearest such site Deputy's pass Nature Reserve SAC (Site Code 000717) is situated 3.44km to the north. Three other Natura 2000 sites Magherabeg Dunes SAC, Buckroney-Brittis Dunes and Fen SAC and Vale of Clara (Rathdrum Wood) SAC are located 6km from the appeal site. 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.
- 7.2.2. 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.

8.0 Recommendation

- 8.1. Having read the submissions on file, visited the site, had due regard to the provisions of the Development Plan and all other matters arising, I recommend that permission should be granted for the following reasons.

9.0 Reasons and Considerations

Having regard to:

- a) the nature and extent of the proposed development,
- b) the national strategy regarding the improvement of mobile communications services,
- c) 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,
- d) the general topography and landscape features in the vicinity of the site,

- e) the existing character and pattern of development in the vicinity,
- f) the letter issued by Coillte confirming the replanting of the surrounding area with Broadleaf trees to be managed under a continuous cover forest regime and
- g) the planning history 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 visual 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 and completed 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 prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. This permission shall apply for a period of three 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.

4. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Siobhan Carroll
Planning Inspector

15th of June 2017