



An
Bord
Pleanála

Inspector's Report PL21. 249214

Development	Maintain telecommunications mast
Location	Truskmore, Co. Sligo
Planning Authority	Sligo County Council
Planning Authority Reg. Ref.	PL17/248
Applicant	RTÉ Transmission Network DAC t/a 2RN
Type of Application	Permission
Planning Authority Decision	Grant permission subject to conditions
Type of Appeal	First party vs. financial contribution
Appellant	RTÉ Transmission Network DAC t/a 2RN.
Observers	None
Inspector	Stephen J. O'Sullivan

1.0 Site Location and Description

- 1.1. The site is an established transmission station used for broadcasting and other telecommunications. It lies near the top of a mountain c13km north-east of Sligo, beside the boundary with Co. Leitrim. According to the submitted drawings, the site contains a 175m mast to which various antennae are attached. The mast is supported by cable stays. It is inside a fenced compound that includes other telecommunications equipment, to which a track has been laid from the county road.

2.0 Planning History

Reg. Ref. 07/557 – The planning authority granted permission on 23rd July 2007 for a 175m mast and antennae at the RTE station at Truskmore to replace a previous 125m mast. Condition no. 1 stated that the mast should be removed from the site after a period of 10 years unless a further planning permission was granted for the development. Condition no. 4 required a bond of €20,000 to ensure the satisfactory completion of the development. No financial contribution was required under that permission.

Reg. Ref. 06/303 – The planning authority granted permission on 19th September 2016 to retain a 30m high tower at the RTE station at Truskmore.

3.0 Proposed Development

- 3.1. It is proposed to keep the 175m mast on the site and to continue its use.

4.0 Planning Authority Decision

4.1. Decision

The planning authority decided to grant permission subject to 5 conditions, none of which significantly altered the proposed development. Condition no. 5 required a levy of €15,000 under the contribution scheme adopted by the council pursuant to section 48 of the planning act.

4.2. **Planning Authority Reports**

4.2.1. Planning Reports

The development is acceptable and consistent with the county development plan. The terms of the contribution scheme adopted in 2011 must be applied in this case, notwithstanding the advice in the guidelines from the minister in 2013 might justify changing the terms of the scheme with respect to telecommunications masts. A grant of permission was recommended with a section 48 levy of €15,000.

5.0 **Policy Context**

5.1. **Contribution scheme**

The planning authority made a contribution scheme under section 48 of the planning act for the period 2011-2017 on the 5th September 2011. Section 5.2 of the scheme specifies that a levy of €15,000 is payable for each telecommunications mast.

5.2. **Guidelines**

The minister issued Guidelines for Planning Authorities on Development Contributions in January 2013. Section 2 requires planning authorities to provide waivers in their contribution schemes for broadband infrastructure (masts and antennae).

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- The appeal is against a financial contribution attached to the planning authority's decision to grant permission.
- Transmission began from the site in 1962. The facilities there are currently used by several other telecommunications service providers.
- National policy strongly favours better communications and the provision of infrastructure to support it. The Guidelines for Planning Authorities on Development contributions issued by the minister in January 2013 required

the authorities to review their schemes by March 2013 and to provide a waiver from contributions for broadband infrastructure including masts and antennae. The minister for communications stated that the application of development contributions to telecommunications infrastructure would cease by 2017.

- Condition no. 4 of the previous permission 07/557 required a deposit of €20,000 to ensure the satisfactory completion of the development. It was not a bond for the reinstatement of the site. As the development is complete this bond should be discharged, possibly by offsetting the contribution charge.
- With regard to double counting, a contribution was paid for retention of the 30m mast on the site authorised under 16/303.
- The development contribution on this permission contravenes national policy on telecommunications infrastructure as well as that set out in the development plan.

6.2. Planning Authority Response

The applicable contribution scheme requires the payment of €15,000 for telecommunications masts. The current scheme must be applied. Implementation of the advice in the guidelines can only be addressed when the planning authority itself reviews the scheme.

7.0 Assessment

- 7.1. The applicant has submitted persuasive arguments as to why the imposition of a development contribution on this permission would be contrary to public policy. However this is an appeal to which section 48(10) of the act applies and the board's discretion is therefore limited to consideration as to whether the terms of the scheme made by the planning authority have been properly applied. Whether those terms are themselves correct is not at issue. The terms of the scheme are very clear that a contribution of €15,000 is to be applied to permissions for telecommunications masts. This is a permission for a telecommunications mast. The previous permission for the mast did not levy a contribution, and the permission granted under 16/303 refers to a different mast. So the contribution under appeal does not

constitute double charging. The applicant's comments regarding a previous bond are noted. However it would not be appropriate or useful for a planning condition to specify how a due contribution should be paid, as this is governed by section 48(15) of the act. The decision of the planning authority therefore properly applied the terms of the applicable contribution scheme and should be affirmed.

8.0 Recommendation

8.1. I recommend that a condition be attached to the permission requiring a contribution of €15,000 in accordance with the contribution scheme made by the planning authority as follows-

The developer shall pay to the planning authority a financial contribution of €15,000 (fifteen thousand euro) 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. The contribution shall be paid within three months of the date of this order.

Reason: It is a requirement of the Planning and Development Act 2000 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.

9.0 Reasons and Considerations

The board is obliged to apply the terms of the contribution scheme made by the planning authority under section 48 of the Planning and Development Act, 2000. The contribution scheme made by Sligo County Council for the period 2011-2017 requires a contribution of €15,000 in respect of each telecommunications mast.

Stephen J. O'Sullivan
Planning Inspector

30th November 2017