



An  
Bord  
Pleanála

## Inspector's Report PL02.249227

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<b>Development</b>	Communication Infrastructure comprising 36m tower, fencing, cabinets and access road.
<b>Location</b>	Cabra, Kingscourt, Co Cavan
<b>Planning Authority</b>	Cavan County Council.
<b>Planning Authority Reg. Ref.</b>	17/287
<b>Applicant(s)</b>	Signal Infrastructure Ltd
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Signal Infrastructure Ltd.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	07 <sup>th</sup> of December 2017.
<b>Inspector</b>	Karen Hamilton.

## 1.0 Site Location and Description

1.1. The site is an area of woodland adjacent to the Dun na Ri Forest Park located within the townland of Cabra at Kingscourt, Co Cavan. The proposed development is to the north west of the forest park accessed from the main R179, to Castleblaney and is behind the Kingspan factory and to the rear of a Scout den which is set in the middle of the forest. The appeal site is at the top of the forest park and is densely covered with mature spruce trees.

## 2.0 Proposed Development

2.1. The proposed development is for a telecommunications tower and associated works as summarised below:

- 36m lattice tower,
- Compound (10m x 10m) containing four cabinets,
- Fire break around compound,
- 4m wide access road with length c. 220m,
- 2.4m high palisade fence around the compound and all other associated works.

## 3.0 Planning Authority Decision

### 3.1. Decision

Decision to refuse permission as the proposed mast is located within the development envelope of Kingscourt, on lands zoned as Amenity/ Recreation and within the Dun na Ri Forest Park which is designated as an Area of Special Landscape Interest, a County Heritage Site, a Forest park and a documented walk. The proposed development would adversely impact on the use of the site for amenity and recreation and prevent future development for the same use.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The report of the area planner reflects the decision to refuse permission and refers to:

- The policies of the development plan in relation to telecommunications infrastructure and the protection of the Dun na Ri Forest park for the purposes of tourism and recreation.
- The unacceptable principle of the proposed development at this location.
- The photomontages submitted with the application.
- The acceptable distance from the ringfort (c. 270m) and the access past the Scouts Den.
- There is insufficient information submitted with the application to suggest that the location of the mast within a village envelope should be permitted.

#### 3.2.2. Other Technical Reports

Municipal District Engineer- No objection.

#### 3.3. **Prescribed Bodies**

None received.

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

8 no third party submissions were received which may be summarised as follows:

- There are health and safety concerns over Electromagnetic Fields and the location of the mast adjacent to a factory and the residents of Kingscourt.
- The proposal is a material contravention of the zoning on the site.
- The proposal is contrary to objective No 4 of the Kingscourt LAP in relation to the protection of Dun a Ri Forest Park.
- There is poor drainage in the surrounding fields and a high water table and the proposed works and clearing of the site will have significant environmental implications.
- There is insufficient detail on the proposed access to the site and the construction.

- The proposal will have a significant visual impact on the surrounding area.

## 4.0 Planning History

### 11/278

Permission granted for 6<sup>th</sup> Cavan Kingscourt group to construct a two storey split level scout building, adjoining camping area, seated campfire, climbing tower, carpark set down, entrance, proprietary waste water treatment system, percolation area, landscaping etc.

## 5.0 Policy Context

### 5.1. Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities (1996)

**Section 4.3-** Visual Impact is an important consideration and care should be taken sensitive and designated landscapes.

Only as a last resort should free-standing masts be located within or in the immediate surrounds of smaller towns or villages. If such location should become necessary, sites already developed for utilities should be considered and masts and antennae should be designed and adapted for the specific location. The support structure should be kept to the minimum height consistent with effective operation.

**Section 4.6-** Inclusion of a certificate of compliance from the International Commission for Non-Ionising Radiation Protection (ICNIRP) in relation to emission control.

### **Circular Letter PL07/12**

The letter sets out to revise sections 2.2 to 2.7 of the 1996 Guidelines. Of relevance to this appeal are the following changes:

- Section 2.6 requires that planning authorities do not include monitoring arrangements as part of planning permission conditions nor determine planning applications on health grounds as this is regulated by other codes and they do not have the competence for health and safety matters.

## 5.2. Cavan County Development Plan 2014-2020

The site is zoned within Kingscourt (large town) for Amenity and Recreation, where it is an objective *“to provide and maintain recreational and amenity spaces for communities”*

**Permitted uses:** Only community facilities and other recreational uses will be considered by the Planning Authority. The primary uses in these areas include playgrounds, parks, other areas for outdoor activities, sports centres, sports pitches, outdoor recreation training centres and landscaped areas.

### Section 4.8 Telecommunications- Location of Masts

**PIO119:** In Special Policy Landscape and Amenity Areas the presumption will be that all applications must meet the co-location requirement or be supported by a ‘Visual Impact Assessment Report’ that will demonstrate that the development can be satisfactorily absorbed into the landscape.

**PIO120** Masts will only be permitted within towns and villages of the County when accompanied by satisfactory proposals for dealing with dis-amenities and incompatible locations.

**PIO121** Masts will only be permitted if supported by an acceptable ‘Visual and Environmental Impact Assessment Report’.

**PIO122** Shared use of existing support structures will be preferred in areas where there are a cluster of masts.

**PIO125** To submit a reasoned justification as to the need for the particular development at the proposed location, in the context of the operator’s overall

plans to develop a network and the plans of other operators. To provide details of what other sites or locations were considered and include a map showing the location of all existing telecommunication structures, whether operated by the applicant or by a competing company, within 1km of the proposed site and reasons why these sites were not feasible.

### 5.3. Natural Heritage Designations

The site is located c. 22km from the edge of Stabannon/ Braganstown SPA.

The report of the area planner refers to the location of the site within **Dun na Ri Forest Park** which is designated as an Area of Special Landscape Interest in the development plan, therefore the following policies will be discussed:

**NHEP20** To require that any necessary assessments, including landscape and visual impact assessments, are provided when undertaking, authorising, or approving development

**NHEO26** To maintain the scenic and recreation value of these areas by restricting all adverse uses and negative visual impacts

Dun a Ri Forest Park is also designated as a **County Heritage Site**, therefore the following policies apply:

**NHEO27** To restrict incompatible development in order to protect the amenity, scientific and historical values of these areas.

Specific Objectives No 4 in the Kingscourt town plan in relation to the Dun a Ri Forest Park may be summarised below:

1. The Planning Authority will ensure the protection and conservation of Dun a Ri Forest Park in recognition of its cultural and historical importance to the town and as an important urban amenity with strong tourism value. The Planning Authority will:

- a. Liaise with Coillte Teoranta on matters relating to Dun a Rí Forest Park and encourage the use of part of Dun na Rí Forest Park as an amenity area.
- b. Protect Dun a Rí Forest Park and regulate development to ensure compatibility with recreational and amenity uses (including commercial forestry).
- c. Require any development on lands adjoining Dun a Rí Forest Park to be sited and designed to take cognisance of this Park and maximise habitat preservation and conservation.
- d. Protect the Dun a Rí Forest Parks looped walk which connects the Park to the Town of Kingscourt and other existing walks within the Park.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The grounds of appeal are submitted from an agent on behalf of the applicant and the issues raised may be summarised below:

#### Telecommunications

- The development is of strategic and national importance in regards the provision of mobile telecommunications services and rural broadband.
- The proposal allows co-location of mobile operations on forested lands as per the national telecommunications guidelines.
- A comprehensive technical justification provided, demonstrates the overriding technical and locational requirements for this development.

#### Development Plan

- There are conflicting and unclear objectives in the Cavan County Development Plan in that it seeks to provide quality telecommunications services and the objectives of the site do not preclude telecommunications installations.
- The proposed development will not compromise the future development of any lands for recreational and amenity purposes.

- The subject site is not actually located within the envelope of Dun a Ri Forest park as illustrated in the development plan.
- There are no zones in the development plan where telecommunications masts are not permitted and it states *“non listed uses that are proposed may be considered, if supported in the context of the proper planning and sustainable development of the area”*
- It has been difficult to gain Greenfield sites due to local opposition.

### Recreational and Amenity

- There are four trails/walks in the forest park which accommodate the highest footfall of walkers and the site is not located on any of these or within the forest park.
- The mast will not be located in such a position as to prevent or cause an obstacle to any walkways and it may indeed act as a navigational aid.
- The route of the access track was amended to take into consideration the reduction of disturbance of the Scout den.

### Technical

- The planners report does not include a technical justification on the need to locate telecommunications infrastructure and the protection of the landscape.
- The Telecommunications guidelines refers to the location of masts and dishes where there are radio engineers factors and also in rural areas towers may be placed in forestry plantations.
- The location of the mast provides telecommunications services for the communities and this structure is to provide a service to an identified blackspot.
- The applicants intend to allow for the co-location of other anchor tenants and therefore can comply with the requirements of the special landscape area.
- Information from a report of the Mobile and Broadband Taskforce is included in the grounds of appeal in relation to the increasing demand for broadband services.



## Visual

- The site was chosen as it complied with the development plan policies and the visual impact would be lessons to the rear of the Kingspan factory.
- The visual impact assessment indicates that the development on forested lands will mean the upper level of the mast will only be visible from the surrounding area. This location has a high capacity to absorb the proposed mast into the landscape.
- The land take associated with the provision of the mast is minimal (10 x 10m compound) and although there is a clearing of trees required, additional planting will allow further screening.

### 6.2. **Applicant Response**

The applicant is the same as the appellant.

### 6.3. **Planning Authority Response**

The response from the planning authority may be summarised as follows:

- The site is located in lands zoned as recreation and amenity which form part of the Forest Park.
- The Coillte map submitted by the applicant identifying the forest park does include the proposed site which is located near the Forest entrance, notwithstanding the circle highlighted in red by the applicant.
- It is requested that the decision to refuse is upheld as the site is zoned to maintain recreational and amenity spaces for communities and the development would compromise the future development of Dun na Ri Forest.

### 6.4. **Observations**

None received.

## 7.0 Assessment

7.1. The main issues of the appeal can be dealt with under the following headings:

- Principle of development
- Need for the development
- Impact on Recreation and Amenity
- Impact on Visual Amenity
- Appropriate Assessment

### 7.2. Principle of development

7.2.1. The proposed development is for a 36m telecommunications tower, compound with cabinets associated with the operation of the tower, access through the forest and other associated works. The site is located within a forest located on the edge of the Kingscourt town on lands zoned for Amenity and Recreation, where it is an objective to provide and maintain recreation and amenity space for use by the community. The zoning refers to community uses and other recreational facilities although it does not list any permitted or non-permitted uses on the recreation zoning, it is noted that telecommunications structures are permitted in principle within those lands zoned as public and community.

7.2.2. The reason for refusal refers to the location of the proposed development within the Dun a Ri Forest Park and those policies and objectives in the development plan which pertain to its protection from any adverse uses, which are not compatible with the recreation and amenity zoning on the site. The grounds of appeal argue that the site is not located within the designated Dun a Ri Forest Park, as per the development plan zoning, and based on other policies in the development plan, such as co-location and visual impact, the proposed development complies with the development plan. The proposed site is outside the designated Dun a Ri forest park although based on the recreation zoning and its location directly adjacent and interconnected I consider some of those policies relating to the protection of the forest park are applicable to the assessment of the proposed development, further assessed below.

7.2.3. Section 4.8 of the development plan includes guidance on the appropriate location of telecommunication masts and poles such as PIO119, 120, 121, 122 and 125 refer to the facilitation of telecommunication infrastructure where the appropriate visual impact assessment can indicate that the development can be satisfactorily absorbed into the landscape and where there is evidence of shared use and co-location of operators, which I have further assessed below.

7.2.4. Having regard to the zoning on the site, location of the mast outside the Dun a Ri Forest Park and the policies and objectives of the development plan, and subject to complying with other policies and objectives of the development plan, detailed below, I consider the principle of development at this location acceptable.

### **7.3. Need for the development**

7.3.1. Policy PIO125 of the development requires the submission of a reasoned justification as to the need for a telecommunications mast at the proposed location and in the context of the operators overall plans to develop a network. The grounds of appeal included information on the technical requirement and justification for the mast at this location and refer to national strategy regarding the improvement of mobile communications services and rural broadband. The applicant submits that the installation is required to provide 2G voice, 3G and 4G data service provision in the area and new structures are required to cover blackspot areas such as Kingscourt. Supplementary documentation with the planning application included investigation on the possibility of co-locating on existing infrastructure, which the applicant concluded would not provide sufficient coverage. I consider the technical justification reasonable to comply with the requirement of the development plan and I note the mast allows for 2 operators to locate on the mast.

### **7.4. Impact on the recreation and amenity**

7.4.1. The proposed mast is located within a compound (10m x 10m) which requires the removal of existing spruce trees. The zoning on the site requires the forest to be retained as a recreation and amenity space for use by the community. The main reason for refusal relates to the zoning and the development plan designations of the site as an Area of Special Landscape Interest, a County Heritage Site and a forest with a documented walk. Objective No 4 of the Kingspan Local Area Plan provides specific guidance for the appropriate protection and development of the Dun a Ri

Forest park, in the interest of recreation and amenity. This objective also requires any development on lands adjoining Dun a Ri, to be sited and designed to take cognisance of the park and maximise habitat preservation and conservations. As stated previously the grounds of appeal state that the site is outside the designated Dun a Ri Forest and therefore the designations do not apply. In addition, the grounds of appeal have submitted documented walks from the Coillte web site which illustrate all formal walks within Dun a Ri forest park, which do not extend to the subject site. I have assessed of the proposed impact on the use of the site and surrounding area for recreation and amenity below.

- 7.4.2. Scout den: The site is located c. 100m to the north of the existing Scout den which is a self-contained unit in the middle of the forest park and upon site inspection it was evident the club uses the wider forest area for recreation, this does not extend up to the proposed site for the mast. Construction traffic and access to the site is proposed along the east of the den to the north. The grounds of appeal have submitted an alternative access location to the proposed site which is not directly adjacent to the den. I do not consider either of the routes would have a negative impact on the use of the scout den as the den would be evening and weekend use, whilst the construction traffic would be restricted normal day. I do not consider there is a requirement for two different access routes to be provided and I consider it reasonable to condition the integration of the access and construction routes as one access.
- 7.4.3. Documented Walks/trails: The site is currently accessible by both informal trail paths past the scout den and formal hard cored tracks around the periphery of the forest. As stated above the site is not part of those “Documented Walks” for Dun a Ri Forest. The location of the mast and associated compound will not prevent any access throughout the forest or prevent further trails/ walks being developed.
- 7.4.4. Having regard to the location of the site outside of the Dun a Ri Forest Park and the limited scale of land take required for the mast and compound, I do not consider the proposed development would have a negative impact on the development plan objectives associated with the Dun a Ri site or would it prevent the existing forest being used by the community for recreation and amenity purposes.
- 7.5. **Impact on visual amenity.**

- 7.5.1. The forest park is located to the east of Kingscourt town and the site is elevated in the forest, the surrounding area is undulating. Section 4.3 of the Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities (1996) states that the visual impact is an important consideration and care should be taken sensitive and designated landscapes. In addition, Policy PIO121 of the development plan requires an acceptable 'Visual and Environmental Impact Assessment Report' for all masts. Dun a Ri forest park is designated in the development plan as a County Heritage Site and an Area of Special Landscape Interest and whilst already noted that the site is not located within the Dun a Ri forest park, the surrounding Kingscourt area is included within the Area of Special Landscape Interest and the forest is interlinked, and the mast will be visible and have an impact on the setting.
- 7.5.2. A "Photomontage Visual Impact" accompanied the proposed development. A photomontage of the mast was taken at 14 locations along main roads throughout Kingscourt within a radius area of 1km, 2km and 5km and illustrated that the mast will be visible at a distance of 325m to the east of the site, protruding above the surrounding trees. I consider the information in the photomontage reasonable to assess the impact of the proposed development on the surrounding area and the sensitive landscape, and I consider the location of the site within the forest, and the height of the surrounding trees, allows sufficient screening of the mast so that the impact is not seriously detrimental to the surrounding area.
- 7.5.3. Having regard to the information submitted in the photomontage, the location and design of the mast, surrounded by trees, I do not consider the proposed development is well screened from the residential properties in the wider area and Kingscourt town and would not seriously injure the visual amenities of the area or have a significant negative visual impact on the setting of Dun a Ri forest or the surrounding area.

7.6. **Other**

- 7.6.1. Health and Safety: A number of submissions on the planning application refers to that negative impact on the health and safety from Electromagnetic Fields and the location of the mast adjacent to a factory and the residents of Kingscourt. The applicant has submitted a certificate of ICNIRP compliance with the application

although I note Section 2.6 of the Circular Letter PL07/12, amending the 1996 Guidelines, states that planning authorities do not determine planning applications on health grounds as this is regulated by other codes, therefore health concerns are not a planning issue.

## **7.7. Appropriate Assessment**

- 7.7.1. The subject site is a spruce forest located c. 22km from the edge of Stabannon/ Braganstown SPA, therefore, having regard to the nature and scale of the proposed development and the location from any designated sites, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on the conservation objectives of any European site.

## **8.0 Recommendation**

- 8.1. I recommend that planning permission should be granted for the reasons and considerations as set out below.

## **9.0 Reasons and Considerations**

Having regard to the nature and extent of the proposed development, 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 and the DoECLG Circular Letter PL07/12, the objectives and policies of the development plan relating to the location of masts, the general topography and landscape features of the site and the surrounding area, it is considered that, subject to compliance with the conditions below, the proposed development would not seriously injure the visual amenities of the area or prevent the site or the surrounding area being used now or in the future for recreation and amenity purposes and would, therefore be in accordance with the proper planning and sustainable development of the area.

## **10.0 Conditions**

1. The development to be retained shall be 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. The height of the mast shall be strictly in accordance with the dimensions indicated on the drawing and documentation submitted to the Planning Authority. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision amending or replacing them, the configuration of the mast shall not be altered unless otherwise authorised by a prior grant of planning permission.

**Reason:** In the interest of residential amenity

3. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the amenities of property in the vicinity

4. The route for the construction access shall be the same as that for the proposed 4m wide gravel access track as illustrated on Dwg No CIG\_3SR10-01-103.

A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:-

(a) details of all trees to be removed for both construction, access track and the proposed compound and associated works,

(b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;

Reason: In the interest of visual amenity and protection of the environment.

5. Within six months of the cessation of use the telecommunications structure and ancillary structures shall be removed and the site shall be reinstated. Details relating to the removal and reinstatement shall be submitted to and agreed in writing with the planning authority prior to commencement of development. Reinstatement shall be deemed to include the grubbing out of the access track created in association with the development permitted herein.

**Reason:** In the interest of the visual amenities of the area.

6. Surface water drainage arrangements for the proposed development shall comply with the requirements of the planning authority.

**Reason:** In the interest of public health.

7. 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

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Karen Hamilton  
Planning Inspector

18<sup>th</sup> of December 2017