



An
Bord
Pleanála

Inspector's Report ABP-300020-17

Development	Antennae, link dishes, associated equipment cabinet, and ancillary works
Location	University Hospital Limerick, St. Nesson's Road, Dooradoyle, County Limerick
Planning Authority	Limerick City & County Council
Planning Authority Reg. Ref.	17/749
Applicant(s)	Vodafone Ireland Ltd.
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	First Party
Appellant(s)	Vodafone Ireland Ltd.
Observer(s)	None
Inspector	Kevin Moore

1.0 Site Location and Description

- 1.1. The proposed development would be located at rooftop level on an existing block at the south-east end of the campus at University Hospital Limerick on St. Nessian's Road, Dooradoyle, County Limerick.

2.0 Proposed Development

- 2.1. The proposed development would comprise the provision of antennae, link dishes, associated equipment, equipment cabinet, and ancillary works. It is intended that the proposed base station would form a part of Vodafone Ireland Ltd.'s 3G network and 4G Next Generation Broadband network, addressing poor levels of service in the hospital campus.
- 2.2. Details submitted with the application included a covering letter explaining the need for the development, a conservation method statement with reference to a protected structure, 'The Chapel', on the hospital campus some 85-90m away from the proposed development, radio engineering comments, a declaration of conformity with ICNIRP Public Exposure Guidelines, and a letter from the Health Service Executive consenting to the making of the planning application.

3.0 Planning Authority Decision

3.1. Decision

On 27th September, 2017, Limerick City & County Council decided to grant permission for the development subject to 4 conditions.

Condition no. 2 of the decision was as follows:

- "2. *The developer shall pay to Limerick City & County Council a financial contribution of €15,000.00 (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 (as amended). The contribution shall be paid prior to the 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.

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.”

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner considered the proposed development would not be visually prominent and would benefit the hospital and wider area. Noting development contributions to be levied in line with the 2017-2021 Development Contribution Scheme at a rate of €5000 per structure, it was determined that the development provides for 3 antennae structures and, therefore, a contribution of €15,000 was required. A grant of permission subject to conditions was recommended.

4.0 Planning History

I note from the Planner’s report the extension range of planning applications relating to the hospital site.

5.0 Policy Context

5.1. Southern Environs Local Area Plan

Zoning

The site is zoned Educational and Community.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of the appeal may be synthesised as follows:

- The planning authority has incorrectly attempted to apply a development contribution relating to a telecommunications mast to the proposed development. There is no telecommunications mast applied for. The development is for antennae and dishes. The antennae are attached to individual support poles that are fixed to the building face.
- The proposed antennae and support poles would be considered exempted development if it was not for the existing protected structure within the hospital grounds and given the location within an Architectural Conservation Area.
- The Council set a precedent in a similar telecoms application on the same site where development contributions have not been applied – P.A. Ref. 17/353.
- With P.A. Ref. P13/367 / ABP Ref. PL 11.242892, an incorrect application of the development contribution scheme was confirmed.
- The Department of Environment Guidelines on development contributions require development contribution schemes to include waivers for broadband infrastructure provision.

6.2. Planning Authority Response

The planning authority response may be summarised as follows:

- The proposed development is not exempted development, being located within an architectural conservation area and within the attendant grounds of a protected structure.
- The application relates to 3 no. antennae, which constitute telecommunication structures. Development contributions were, therefore, applied as set out under Category 9 – *Other Categories of Development* in the Development Contribution Scheme.

7.0 Assessment

- 7.1. The appeal relates solely to the proper application by the planning authority of the terms of its development contribution scheme adopted under section 48 of the

Planning and Development Act. It is considered appropriate that the Board determines the appeal in relation to the disputed condition only (Condition 2 of the planning authority’s decision) which relates to the financial contribution of €15,000 being sought by the planning authority. The provisions of section 48(10)(b) and (c) apply in this instance.

7.2. I note the following from the Limerick City & County Council “Development Contribution Scheme 2017-2021”:

“19. Rates of Contributions

The rates of contributions for Limerick City & County are set out on the attached Appendix A ...

Appendix A

Other Categories of Development

Category	Rate
<i>9. Telecommunications Structures</i>	<i>€5,000 per mast</i>

7.3 Further to the above, I note the following from the *Development Contributions Guidelines for Planning Authorities* issued by the Department of the Environment, Community and Local Government in January 2013:

In Chapter 2 entitled “Supporting Economic Development”, it is stated:

“... planning authorities are required to include the following in their development contribution schemes: ...

- waivers for broadband infrastructure (masts and antennae); ...”*

7.4 I also note that, under P.A. Ref. 17/353, Limerick City & County Council granted permission to Three Ireland (Hutchinson) Limited as recent as July 2017 for the

installation of 3 no. panel antennae and one RT link dish and associated equipment cabinet on a building within the complex of University Hospital Limerick. The antennae were proposed to be mounted onto ballast support poles. The decision to grant permission for the development was subject to 6 no. conditions. None of the conditions required the making of a development contribution.

7.5 Having regard to the nature and extent of the proposed development and to recent relevant planning history to which the proposed development can reasonably relate to, the following observations may be made:

- The proposed development does not include a telecommunications mast. A mast generally ranges in height from 12m to 60m and generally comprises a pole or lattice tower that is fixed to a reinforced concrete raft foundation. Such a structure is not proposed to support the proposed antennae.
- The planning authority has been inconsistent in its approach to development contributions under its current development contribution scheme.
- The current Limerick City & County Council “Development Contribution Scheme 2017-2021” does not require the making of a development contribution for antennae, link dishes, an equipment cabinet, and other associated equipment.

Having regard to these observations, I conclude that the terms of the development contribution scheme have not been properly applied and a development contribution condition should not be included in this instance.

8.0 Recommendation

8.1. I recommend that Condition No. 2 of the planning authority’s decision is removed as follows:

Having regard to the nature of condition number 2 the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and directs the

said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 to REMOVE the said condition number 2 and the reason therefor.

9.0 **Reasons and Considerations**

It is considered that the proposed development does not include the provision of a telecommunications mast and, thus, it does not comprise a category of development for which a development contribution is required to be made under the Limerick City & County Council Development Contribution Scheme 2017-2021. The terms of the development contribution scheme have, thereby, not been properly applied and a development contribution condition should not be included in this instance.

Kevin Moore
Senior Planning Inspector

15th February 2018