



An  
Bord  
Pleanála

## Inspector's Report ABP.300339-17

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<b>Development</b>	24m multi-operator monopole with antenna and dishes attached, equipment cabinets, fencing and access track.
<b>Location</b>	Knockroe, Rathvilly, Co. Carlow
<b>Planning Authority</b>	Carlow County Council
<b>Planning Authority Reg. Ref.</b>	17/48
<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>	As above
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	29 <sup>th</sup> March 2018
<b>Inspector</b>	Kenneth Moloney

## Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision.....	4
3.1. Planning Authority Reports .....	5
3.2. Third Party Observations .....	6
4.0 Planning History.....	6
5.0 Policy Context.....	6
6.0 Local Area Plan .....	7
7.0 National Policy / Guidance.....	8
8.0 The Appeal .....	8
9.0 Responses.....	11
10.0 Assessment.....	11
11.0 Recommendation .....	20
12.0 Reasons and Considerations .....	20

## 1.0 Site Location and Description

- 1.1. The subject site is situated on the outskirts of Rathvilly, Co. Carlow, however the location of the appeal site is strongly rural in character.
- 1.2. The appeal site is currently in use for rough grazing and the gradient of the subject site slopes gently upwards away from the public road.
- 1.3. There is a mature hedgerow located along the boundary of the site adjoining the public road and to the rear of the site.
- 1.4. The subject site is currently accessed by a farm gate.
- 1.5. The size of the appeal site (red line boundary) is approximately 0.01ha, i.e. 0.0247 acres, and the shape of the site is irregular. The field in which the proposed development is located is also owned by the applicant.
- 1.6. There is a line of sporadic rural houses located along the road from Rathvilly to the appeal site.

## 2.0 Proposed Development

- 2.1. The proposed development comprises of telecommunications infrastructure comprising of the following;
  - 24 metre high multi-operator monopole with antenna and dishes
  - Cabin and cabinets
  - Fencing and access track
- 2.2. The proposed access gate is approximately 4m wide and the access track from the gate to the public road is finished in gravel. The proposed monopole structure and cabin and cabinets are enclosed within a 2.4 metre high palisade fence. The proposed cabin structures are approximately 3m in height.

- 2.3. The proposed development is designed to support broadband communications with antennas, transmission dishes and equipment for all three mobile operators, Eir, Three and Vodafone.
- 2.4. The local authority sought additional information from the applicant. The applicant was requested to submit details outlining the rationale for the location of the proposed development given the proximity of residential uses in the locality.
- 2.5. Clarification of additional information was sought requesting the applicant to consider alternative sites in the area as part of the selection process and secondly why these sites were ruled out / not considered feasible.

### 3.0 Planning Authority Decision

Carlow County Council decided to **refuse** planning permission for the following reasons;

1. The proposed development would materially contravene stated policies Telecom Policy 1 and 11.18.1 of the Carlow County Development Plan, 2015 – 2021, which requires a reasoned justification for the proposed development at the particular location in the context of the operator's overall plans, consideration of alternative sites and written consultation with other operators. Based on the details submitted the need for a telecommunication structure at this location proximate to a significant number of residential properties has not been adequately demonstrated nor have options regarding alternative sites or co-location been fully considered. The proposed development would therefore seriously injure the amenities of the area, or depreciate the value of property in the vicinity and would therefore be contrary to the proper planning and sustainable development of the area.

2. The proposed development located in close proximity to existing residential properties at the edge of and in close proximity to Rathvilly village would be contrary to the provisions regarding the location of such structures as detailed in the Telecommunications Antennae and Support Structures – Guidelines for PA 1996 (DoEHLG) and Circular PL 07/12 particularly in respect of Section 4.3 which stated “Only as a last resort should free-standing masts be located within or in the immediate surrounds of smaller towns or villages”. The proposed development would therefore, be contrary to the proper planning and sustainable development of the area.

### 3.1. Planning Authority Reports

- 3.1.1. The main issues raised in the planner’s report are as follows;

#### Area Planner

- It is noted that the subject site was chosen on technical viability grounds.
- No clear identification of alternative sites and / or the feasibility of co-location with other operators has been submitted.
- The proposed development is near established residential uses.
- The proposed development is contrary to Telcom Policies 1 and 11.18.1 of the Carlow County Development Plan, 2015 – 2021, and the Telecommunications Antenna and Support Structures – Guidelines for PA, 1996.

- 3.1.2. Environment; - No objections.

- 3.1.3. Roads; - Grant of permission recommended.

- 3.1.4. Water Services; - No objections.

3.1.5. Area Engineer; Clarification sought in relation to truck turning movement and the runoff water from the site will be prevented from running onto the public road.

3.1.6. Submissions; - There is a submission from HSE who have no objections. There is also a submission from the IAA who have no objections.

### 3.2. **Third Party Observations**

There are twenty-three third party submissions and the issues raised have been noted and considered. A short summary the main issues include the following;

- Proposal is contrary to national guidelines in terms of location.
- Proposal located adjacent to heritage site.
- Adverse health implications
- Low lying site
- Fencing / cabin tower will be an eyesore
- Inadequate ground conditions
- Adverse impact on wildlife
- Adverse impact on landscape
- Traffic impacts
- Environmental disruption
- Adverse impact on residential amenity
- Devaluation of property

## 4.0 **Planning History**

- There is no previous planning history on the subject site.

## 5.0 **Policy Context**

### 5.1. **Development Plan**

- 5.1.1. The operational development plan is the Carlow County Development Plan, 2015 – 2021. Some of the key provisions in relation to telecommunication structures include the following.
- 5.1.2. Section 6.11.3 ‘Telecommunications’ sets out guidance in relation to mobile phone infrastructure and the following is some of the recommended guidance.
- 5.1.3. It is advised that the mobile phone infrastructure must be developed in a strategic way that minimises the impact on the environment and takes public opinion into account.
- 5.1.4. Good siting and design is recommended in environmentally sensitive locations.
- 5.1.5. Options to reduce negative visual effect of mobile phone structure include;
- mast and/or site sharing
  - installation on existing buildings and structures
  - camouflaging / disguising techniques to integrate structures.
- 5.1.6. The local authority will use the sequential test for proposed telecommunications masts near residential areas, education facilities, hospitals, child care facilities or nursing homes. The following criteria will be used;
- Is an existing utility site available
  - Has the mast / antenna been designed and adapted for a specific location
  - Are retail or commercial sites available
  - Is an existing tall building or structure available

## 6.0 Local Area Plan

The appeal site is located outside the confines of the Rathvilly LAP, 2010 - 2016.

## 7.0 National Policy / Guidance

7.1. Department of the Environment Telecommunication Guidelines, 1996

7.1.1. As part of the planning application, operators should furnish a statement of compliance with the International Radiation Protection Association Guidelines.

7.1.2. Section 4 of the Guidelines relates to development control. The applicant should be asked to explore the possibility of using other available designs where these might be an improvement. Similarly, location would be substantially influenced by radio engineering factors. In most cases the applicant will have only limited flexibility.

## 8.0 The Appeal

The following is the summary of a first-party appeal;

In summary it is requested that the Board overturn the reasons for refusal on the grounds that;

- The development is of strategic / national importance
- There are conflicting and unclear objectives in the Carlow County Development Plan.
- The proposed development encourages co-location.
- A comprehensive technical justification has been provided demonstrating technical and locational requirements for this development.

### Grounds of appeal to refusal reason no. 1

- The purpose of the proposed development is to facilitate co-location. This type of development was not a scenario envisaged in the current national guidelines.



- The applicant's interest is to develop infrastructure which will be used by other operators. This will reduce to proliferation of tower sites and reduces overall costs.
- The justification for the proposed development was outlined in the original application.
- It is submitted that there is a clear absence of existing telecommunications support structures in this part of the country. The 'Comreg Map' in the original application demonstrates this.
- It is contended that the proposal is consistent with Telecoms Policy 1 on a number of fronts.
- In terms of landscape proposals, a monopole structure is chosen instead of a lattice tower as it is more suitable in the local area.
- The proposal will appear amongst existing floodlight structures of the neighbouring GAA pitch, in the wider landscape. The landscape has no designation of any significant importance.
- The proposal encourages shared use and co-location.
- Rathvilly currently experiences inadequate coverage.
- There has been exceptional growth on mobile data coverage. The subject site will also facilitate high quality coverage along the N81.
- The proposal meets industry demands for increased and improved communications services.
- The proposal will have minimum impact on the natural environment and the design of the proposal ensures that the receiving environment is capable of absorbing development with minimum impact.
- The proposal is not located within the curtilage of a protected structure, within the setting of an archaeological site or within a Natura 2000 site.
- Additional technical justification is provided within Appendix B.
- The proposed monopole structure will reduce potential visual impact.

- It is submitted that considering the dispersed nature of residential development in this part of the country that it would not be feasible to locate infrastructure in close proximity to residential property, towns and villages.
- It is submitted that previous planning inspector's reports on the appeal cases appeal ref. 243341, appeal ref. 222321, appeal ref. 236307 acknowledges that there is no evidence to demonstrate that masts have an adverse impact on property prices.
- The 2011 Census indicates that County Carlow lags behind the state in terms of broadband provision.

#### Grounds of appeal to refusal reason no. 2

- The guidelines recommend only as a last resort shall free-standing masts be located within or the immediate surrounds of smaller towns or villages.
- It is submitted that it has been demonstrated that there is a technical need to locate the development in close proximity to the village.
- The guidelines also recommend co-location or the use of existing facilities. The proposal is consistent with this.
- The potential visual impact of any proposal is considered in the initial stages by the applicant. It is contended that the receiving environment has moderate capacity to absorb development as such a monopole structure is proposed rather than a lattice structure.
- The justification for a monopole structure is increased considering, (a) the varying levels and the undulating topography, (b) the established screening afforded by the landscape, (c) the orientation of nearby houses, (d) the presence of existing tall floodlights at the GAA grounds.
- It is contended that the subject site is located at a distance from the local road and the village has the capacity to absorb development.
- The structures will be most visible from the local road from which it serves.
- The proposal will not have a disproportionate or dominating visual impact on the surrounding area as seen from areas of the public realm as the

intervening landscape topography screens the proposed structure from wider views of the site.

- It is submitted that the grey monopole will assimilate against the skyline.
- The technical suitability of the site is a key factor in determining the location for the proposed development. The guidelines recommend that decisions should not be made on visual impact alone.

## 9.0 Responses

The local authority submitted a response stating that they had no further comments.

## 10.0 Observations

There were a number of observations from the following parties;

- Winnie McGrath
- Patricia Faulkner
- Deirdre & Eoghan McCarthy
- Annette Heydon
- Martina & Mervyn Block
- Martina Byrne
- Joe Wall
- Rita & Joe Golding
- Irish Aviation Authority
- Neil & Patricia Ryan

The following is a summary of the principle issues raised;

- Rathvilly has many local attractions and is a picturesque village.

- The attraction included Rathvilly moat. The moat is listed in the architectural inventory of County Carlow.
- There is a stream containing wildlife situated in close proximity to the proposed monopole.
- The proposed development would result in the devaluation of local property.
- It contended that the alternative sites were not adequately considered. The appeal site is owned by one of the board of directors of the company for the telecommunications structure and therefore the choosing of the subject site is not dealt with on its merit.
- The proposed development will give rise to health concerns.
- It is submitted that the argument by the applicant that the monopole has been chosen over the lattice tower as it would appear amongst the existing floodlight structures at the GAA pitch is without merit.
- The volume of traffic will increase tenfold.
- The local area will not cope an increase in traffic.
- The subject site is located in close proximity to a school.

## 11.0 Assessment

I would consider that the main issues to be considered in this case are: -

- Principle of Development
- Location
- Visual Impact
- Impact on Residential Amenities
- Vehicular Access
- Appropriate Assessment

Firstly, however the Board will note that, the Planning Authority's first reason for refusal stated that the proposal would "materially contravene" Policy Objective Telecom Policy 1 and Section 11.18.1 of the Carlow County Development Plan, 2015 – 2021. Although the Board is constrained by Section 37(2) of the Planning and Development Act, 2000 (as amended), the proposed development is not, in my view, a material contravention of the Carlow County Development Plan 2015 – 2021, and the approval of the proposal, should the Board be so minded, is not of a significance which undermines the provisions or relevant objectives of the Development Plan.

### 11.1. **Principle of Development**

- 11.1.1. It is government policy to increase the amount of mobile phone operators in Ireland to enhance the availability, price and quality of telecommunications services.
- 11.1.2. Section 6.11.3 of the Carlow County Development Plan, 2015 – 2021, sets out guidance and policy objectives in relation to telecommunication masts and it is acknowledged in this section that an efficient telecommunications system is important in the development of the economy. The guidance recommends that *'good sitting and design need to become an integral part of the planning system, respecting not only environmentally sensitive areas, but the wider context'*. The guidance also recommends mast sharing and a sequential approach in locating masts and an overall theme of the guidance is to ensure a balance between facilitating the provision of telecommunications infrastructure and in the interest of social and economic progress, and sustaining residential amenity and environmental quality.
- 11.1.3. The application documentation includes a 'Technical Justification' for the proposed development. This document outlines that there is a coverage blackspot in the village of Rathvilly, the surrounding areas and the section of the N81 national road that passes through the village. The ESB pylon at Knockboy does not provide adequate coverage for indoor / in-car coverage, to the village and the N81. The

document also outlines a consideration of alternative sites and I would consider that alternative sites have been adequately considered. Finally, the document includes a number of maps that outline existing and predicted coverage levels and I would consider that it is evident from the submitted Figure 6 that the proposed development would address an established weakspot for coverage.

11.1.4. The applicant submits that the reasoning behind the proposed development is to address mobile phone coverage deficient in the local area and also to facilitate mast sharing. Both of these reasons are recognised as important factors in the DOELG Guidelines, 1996.

11.1.5. In general, the principle of a proposed telecommunications structure for the purpose of enhancing mobile phone coverage and promoting mast sharing would be acceptable in strategic terms. However, in local area terms the key considerations in this case are whether the location of the proposed development is consistent with local and national policy guidance, and also the likely impacts on residential amenities and visual amenities.

## 11.2. Location

11.2.1. The national guidelines 'Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities, 1996', are relatively specific in terms of guidance on location for telecommunication structures in rural areas. The DOELG Telecommunications Guidelines, 1996, outline that in rural areas that the softening of the visual impact of proposed masts can be achieved when masts are placed in forests. The national guidelines further recommend that that only as a last resort should free-standing masts be located within or in the immediate surrounds of smaller towns or villages.

11.2.2. This national guidance is supported by the Carlow County Development Plan, 2015 – 2021, as the local policy guidance recommends that in areas outside towns / villages, similar to the current appeal site, that masts should be placed in tree

groupings or forestry plantations where features exist. The County Development Plan guidance recommends that the preferred location for a telecommunications structure on the outskirts of a town / village is a forested area. The proposed development is located on the outskirts of Rathvilly but not within a forested area. The County Development Plan recommends in unforested areas the softening of visual impact should be achieved through judicious choice of colour scheme and through planting of shrubs.

11.2.3. Section 11.18.1 'Telecommunications Mast' of the County Development Plan sets out relevant guidance for the proposed development. It is stated that *'the preferred location for telecommunication structures is in industrial estates, areas of zoned for industry, within forest plantations, or in areas already developed for utilities. The use of tall buildings or other existing structures is always preferable to the construction of independent telecommunications support structures. Operators should seek to co-locate their services by sharing a single mast, or if necessary, locating additional masts in cluster form'*.

11.2.4. Overall, I would conclude that the location of the proposed development on a rural site contiguous to a small town / village is not consistent with the guidance as set out in Section 6.11.3 Telecommunications' of the Carlow County Development Plan, 2015 – 2021, or the 'Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities, 1996'.

### 11.3. **Visual Impact**

11.3.1. The proposed telecommunications structure is 24m high and is approximately 0.6m – 0.8m wide. The appeal site nor the immediate area to the appeal site is protected by a landscape designation in accordance with the provisions of the County Development Plan. The general character of the local area is rolling countryside.

11.3.2. The Carlow County Development Plan, 2015 – 2021, advises that options to reduce negative visual impacts include;

- mast and/or site sharing
- installation on existing building / structures
- camouflaging / disguising techniques

11.3.3. The proposed development would promote mast sharing however there is no established structure on the appeal site and a grant of planning permission would introduce a new structure to the site.

11.3.4. The DOELG Telecommunications Guidelines, 1996, advise that the some masts will be noticeable despite best precautions however the following should be considered;

- masts maybe visible but might not terminate views and in this case the impact is not seriously detrimental
- along scenic routes views of the mast maybe intermitted and incidental and may not intrude overly on the general view or prospect
- local factors should be taken into account in determining the extent to which an object is noticeable or intrusive, i.e. buildings, trees, topography and scale.

11.3.5. I have reviewed the submitted visual impact assessment which includes photomontages of the proposed development. I would consider that it is reasonable to conclude that the submitted visual impact assessment demonstrates that the proposed development will not unduly impact on established visual amenities from local vantage points designated in the submitted visual impact assessment. However, the proposed mast is located approximately 90 metres from the nearest residential property. This residential property is situated to the immediate west of the appeal site. There are also two residential properties located on the opposite side of the public road from the appeal site and set back approximately 150 metres from the proposed mast. I would consider, having regard to the height of the proposed development and the proximity to the residential properties that the proposed development would adversely impact on established residential amenities in terms of visual impact.



11.3.6. Overall, I would conclude in terms of visual impact that the proposal is not consistent with the County Development Plan policy or national policy guidance as the location of the proposed development is not a forested area nor is there a proposal to provide a planting scheme, however this can be the subject of a condition, should the Board favour to grant permission.

#### 11.4. **Residential Amenities**

11.4.1. The primary concerns for local residents include health and safety, devaluation of residential property and adverse impacts on a local archaeological feature, i.e. Rathvilly Moat. The residents also outlined concerns in relation to visual impact.

11.4.2. Firstly, in relation to visual impact I would consider, as outlined in paragraph 10.3.5 above, that the proposed development would seriously injure established residential amenities due to the adverse visual impact of the proposed development on local residential amenities.

11.4.3. I would acknowledge that there is no direct evidence which concludes that the siting of a telecommunications mast would have an adverse impact on property values. Therefore, in the absence of any compelling link in relation to the location of a telecommunications mast and property prices I would consider that any argument that property prices are adversely linked to the location of a telecommunications structure is unfounded.

11.4.4. The third-party submissions to the Local Authority raise concerns that the proposed antennas would have an adverse health impact on adjacent residents. I would note that the Commission for Communications Regulations (ComReg) monitors emission limits from antennae support structures and a licence to provide telecommunications services is subject to compliance with strict emissions control. The limits are specified by the International Commission for Non-Ionizing Radiation Protection (ICNIRP). The applicant submits with their application a declaration which demonstrates full compliance with the International standards set by ICNIRP. This is

in accordance with the DOELG Telecommunications Guidelines, 1996. Accordingly, I would consider that the public health issues have been dealt with adequately.

11.4.5. I would also note that some of the third-party submissions to the local authority argue that the proposed telecommunications mast will adversely impact on the Rathvilly Moat, a local archaeology feature, and local amenities in general. I would note that the proposed development is located some 800 metres from Rathvilly Moat and therefore I would not consider that the proposed development would have an adverse impact on this archaeological feature.

#### 11.5. **Vehicular Access**

I noted from a visual observation of the local area that the sightline provisions from the appeal site in either direction are generally good. I would also note that the Local Authority's Roads Engineer recommends a grant of permission.

11.5.1. Overall the vehicular access to serve the proposed development is acceptable in terms of traffic access and would not give rise to a traffic hazard.

#### 11.6. **Appropriate Assessment**

11.6.1. The nearest designated Natura 2000 Site is the River Slaney SAC (site code 000781) and the appeal site is situated approximately 1.3km – 1.5km to the east of this Natura 2000 designated site.

The qualifying interests include the following;

- Freshwater pearl mussel (*Margaritifera margaritifera*) [1029]
- Sea lamprey (*Petromyzon marinus*) [1095]
- Brook lamprey (*Lampetra planeri*) [1096]
- River lamprey (*Lampetra fluviatilis*) [1099]
- Allis shad (*Alosa alosa*) [1102]

- Twait shad (*Alosa fallax fallax*) [1103]
- Salmon (*Salmo salar*) [1106]
- Estuaries [1130]
- Mudflats and sandflats not covered by seawater at low tide [1140]
- Otter (*Lutra lutra*) [1355]
- Water courses of plain to montane levels with the *Ranunculus fluitans* and *Callitriche-Batrachium* vegetation [3260]
- Old sessile oak woods with *Ilex* and *Blechnum* in British Isles [91A0]
- Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*) [91E0]

11.6.2. There is small watercourse located along the southern boundary of the appeal site and in accordance with the local authority planner's report this watercourse is directly linked to the River Slaney SAC. This pathway is also acknowledged in the applicant's submitted AA Screening Report. This Screening Report includes a number of precautionary measures that will be implemented as part of the project design.

11.6.3. I have reviewed the website [www.npws.ie](http://www.npws.ie) and I would note that both salmon and freshwater pearl mussel are common species in the River Slaney and both of these species are susceptible to small changes in water quality. A significant feature, in my view, is the location of the proposed works at 6m from the stream / watercourse which provides a pathway to the River Slaney. I would consider that based on this separation distance from the proposed works to the pathway and the information available that any impacts on water quality are unknown and as such any impacts of the proposed development during the construction stage and the operational stage are uncertain.

11.6.4. I would recommend to the Board that a Stage 2 Appropriate Assessment Report is required.

## 12.0 Recommendation

12.1. I have read the submissions on the file, visited the site, had due regard to the County Development Plan, and all other matters arising. I recommend that planning permission be refused for the reason set out below.

## 13.0 Reasons and Considerations

1. Having regard to-

- The guidelines relating to telecommunications antenna and support structures which were issued by the Department of the Environment and Local Government to Planning Authorities in July 1996, and
- Policy objective Telecom – Policy 1 of the Carlow County Development Plan, 2015 – 2021,
- Location of the appeal site in a rural area on the edge of a village / small town.
- The height of the proposed telecommunications structure and the proximity to established residential properties.

it is considered that the proposed development would contravene a policy objective of the Carlow County Development Plan, 2015 – 2021, and national policy guidance and the proposed development would also set an undesirable precedent for other such development, as such the proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Based on the information provided with the application and appeal and in the absence of a Natura Impact Statement the Board cannot be satisfied that the proposed development individually, or in combination with other plans or

projects would not be likely to have a significant effect on European site no. River Slaney SAC (site code 000781) in view of the site's Conservation Objectives.

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Kenneth Moloney  
Planning Inspector

25<sup>th</sup> April 2018