



An  
Bord  
Pleanála

## Inspector's Report ABP-300627-18

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<b>Development</b>	24m Telecommunications Structure
<b>Location</b>	Termonfeckin, County Louth
<b>Planning Authority</b>	Louth County Council
<b>Planning Authority Reg. Ref.</b>	17/520
<b>Applicant(s)</b>	Three Ireland (Hutchison) Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Three Ireland (Hutchison) Ltd.
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	23 <sup>rd</sup> March 2018
<b>Inspector</b>	Niall Haverty

## **1.0 Site Location and Description**

- 1.1. The appeal site, which has a stated area of 0.01 ha, is located immediately to the west of Termonfeckin village, on the northern side of local tertiary road L-62812, which also appears to be known as Nunnery Lane.
- 1.2. The appeal site forms part of a larger agricultural field, which is elevated relative to the local road. An area of forestry plantation is located to the west and north of the appeal site, with agricultural and commercial premises to the south east. A nursing home is located to the north east and a single pole electricity line traverses the field.
- 1.3. A small stream or watercourse runs from north to south along the western boundary of the field within which the appeal site is located. This stream appears to be a tributary of the Ballywater River, which runs through the centre of the village.

## **2.0 Proposed Development**

- 2.1. The proposed development consists of the construction of a 24m telecommunications lattice support structure carrying antennae and transmission dish, with associated equipment units, security fencing and access track.
- 2.2. The 'red line' site boundary was amended on foot of a request for further information, in order to facilitate an alternative access point from that originally proposed. While the original access point was an existing agricultural entrance at the south west corner of the field, the revised access point was a different agricultural entrance at the south east corner of the field.
- 2.3. The application was accompanied by photomontages, a 'Radio Technical Justification Report' and a planning report.
- 2.4. The applicant is a leaseholder of the appeal site, and a letter of consent was provided from the landowner, James McEvoy. The site location map indicates that the appeal site forms part of a significantly larger landholding.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

3.1.1. The Planning Authority decided to refuse permission for the following reason:

- In order to facilitate the provision of a 5m dwell area and provide safe access to the site the proposed development would require work to lands beyond the site outlined in red. In the absence of control over the third party lands required to facilitate safe access to the site it is considered that the proposal would endanger public safety by reason of traffic hazard and obstruction of road users.

### **3.2. Planning Authority Reports**

3.2.1. The Planning Officer's reports can be summarised as follows:

- The LCDP acknowledges the importance that telecommunications structures make to the overall economic and social development of the County.
- The embankment up to the field from the public road screens the lattice when travelling along Nunnery Lane.
- Structure is set back 200m from the public road, which helps to reduce its visual impact.
- Proposed lattice will be viewed against the backdrop of a forest, which aids its integration into the landscape.
- Termonfeckin is located in a dip and is heavily treed, therefore only long distance glimpses of the structure shall be available from within the settlement.
- Design and setting is not unduly obtrusive and will not cause detrimental harm to the character of the rural area.
- Proposed track is parallel with the existing field boundary and will not have a significant visual impact.

- Proposed development is unlikely to have a significant effect on the conservation objectives of the SPA or SAC and an Appropriate Assessment is not required.
- Site is not located within an area of known flood risk.
- Infrastructure section recommended that planning be granted subject to the provision of a 5m dwell area and safe access to the site. Having inspected the revised site layout, the applicant would not be able to carry out the works within the red line and the two conditions would not be enforceable. The development would therefore endanger public safety.

### **3.3. Other Technical Reports**

- 3.3.1. Infrastructure Directorate: No objection subject to conditions.
- 3.3.2. Environment Section: No objection subject to conditions.

### **3.4. Prescribed Bodies**

- 3.4.1. None.

### **3.5. Third Party Observations**

- 3.5.1. One third party observation was made by Nunneryland Residents Committee. The issues raised in the observation can be summarised as follows:

- Inadequate sightlines.
- Traffic safety issues.
- Residents Committee has contributed €30,000 over the last 9 years towards upgrading the road surface, providing lay-bys, signage and grass verge maintenance.
- Road is not designed to accommodate construction traffic.
- Proposed development will damage road, be an eye-sore and devalue property in the locality.

## 4.0 Planning History

### 4.1 Appeal Site

4.1.1. I am not aware of any planning history on the appeal site.

### 4.2 Surrounding Area

4.2.1. **Ref. PL15.123081 (Reg. Ref. 00/1047):** Permission granted in 2001 for change of use of farmyard shed to farm shop, new toilet and percolation area. This relates to the farm and commercial premises to the south east of the appeal site.

## 5.0 Policy Context

### 5.1 Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities, 1996

5.1.1. These Guidelines set out the criteria for the assessment of telecommunications structures. The relevant points to this case are summarised below.

- An authority should indicate any locations where telecommunications installations would not be favoured or where special conditions would apply. Such locations might include high amenity lands or sites beside schools (Section 3.2).
- In rural areas towers and masts can be placed in forestry plantations provided of course that the antennae are clear of obstructions (Section 4.3).
- 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 (Section 4.3).
- An access road may sometimes cause greater visual impact than the actual installation. It should normally be a condition of permission that such roads are grubbed up at the end of the construction period (Section 4.4).

- The sharing of installations and clustering of antennae is encouraged as co-location will reduce the visual impact on the landscape (Section 4.5).

## 5.2. Circular Letter PL07/12

- 5.2.1. This Circular Letter revises elements of the 1996 Guidelines. In particular, Section 2.2 advises Planning Authorities to cease attaching time limiting conditions to telecommunications masts, except in exceptional circumstances. Section 2.4 advises that the lodgement of a bond or cash deposit is no longer appropriate and instead advises that a condition be included stating that when the structure is no longer required it should be demolished, removed and the site re-instated at the operators' expense.

## 5.3. Louth County Development Plan 2015-2021

- 5.3.1. Termonfeckin is designated as a Level 3 settlement under the Louth County Development Plan 2015-2021, and the appeal site comprises unzoned lands outside of the development boundary for the village.
- 5.3.2. Chapter 13 of Appendix 2 of the Plan sets out policies and guidance in relation to Termonfeckin, and the following Policies are noted:
- **TERM 1:** To support Termonfeckin in its role as a local rural service centre for its population and that of its rural hinterland where the principles of environmental, economic and social sustainability including protection of the village's heritage, the natural and built environment are enshrined.
  - **TERM 8:** To preserve the views of the St Fechin's and the Church of the Immaculate Conception.
- 5.3.3. In relation to telecommunications, Section 9.10 states that "the provision of telecommunications services is essential to promoting commercial and industrial development, enhancing social inclusion and interaction and improving personal and household security. Therefore, investment in the telecommunications sector is critical to further both the economic and social development of the County. Broadband internet services provide high access speeds and is consequently an advantage for businesses, attracting new businesses , students and home users. Government

policy recognises the need to provide high levels of broadband connectivity to strengthen economic and social prosperity.”

5.3.4. Section 9.11.7 states that Louth County Council recognises the importance of high quality telecommunication infrastructure as a prerequisite for a successful economy and accepts the critical importance of a high quality telecommunications service at national, regional and local level. It also states that due to the physicality of the structures in addition to the materials utilised, these telecommunication structures can significantly impact on the landscape, both urban and rural. Therefore in dealing with applications for such development it is essential that care and consideration is afforded to discreet siting and good design.

5.3.5. The following telecommunications-related Policies are noted:

- **EnCo 33:** To secure the provision of high quality broadband and telecommunication infrastructure within the County in the interests of promoting economic growth and competitiveness.
- **EnCo 34:** To support a programme of broadband connectivity throughout the County and facilitate the expansion of broadband in more remote areas.
- **EnCo 36:** To ensure the orderly development of telecommunications throughout the County in accordance with the requirements of the “Telecommunications Antennae and Support Structures-Guidelines for Planning Authorities 1996, except where they conflict with Circular Letter PL 07/12 which shall take precedence, and any subsequent revisions or expanded guidelines in this area.
- **EnCo 37:** To promote best practice siting and design in relation to the construction of telecommunication structures and in particular secure a high quality of design of masts, towers and antennae and other such infrastructure in the interests of visual amenity and the protection of sensitive landscapes subject to engineering parameters.
- **EnCo 38:** To operate a presumption against the location of antennae support structures where such structures would have a serious negative impact on the visual amenity of sensitive sites and locations.

- **EnCo 39:** To require co-location of antennae support structures and sites where feasible. Operators shall be required to submit documentary evidence as to the non feasibility of this option in proposals for new structures.
- **EnCo 42:** The planning authority shall include a condition on any planning permission that in instances where the telecommunications structure is no longer required, that it shall be demolished, removed and the site re-instated at the operator's expense.
- **EnCo 43:** To support the co-ordinated and focused development and extension of broadband infrastructure throughout the County and co-operate with the Department of Communications, Energy and Natural Resources DCENR and public and private agencies where appropriate, in improving high quality broadband.

#### 5.4. Natural Heritage Designations

- 5.4.1. The closest Natura 2000 sites are the Boyne Coast and Estuary SAC (Site Code 001957), which is located c. 2.2km to the east, the Boyne Estuary SPA (Site Code 004080), which is located c.3km to the south east, and the River Boyne and River Blackwater SAC (Site Code 002299) which is located c. 5km to the south west.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- 6.1.1. A first party appeal was lodged by Three Ireland (Hutchison) Ltd. The grounds of appeal can be summarised as follows:
- Taking on board the Council's decision, the applicant has revised the site access layout to allow for a 20m long dwell area which will accommodate all visiting traffic to the site.
  - The proposed access gates will be set back 20m along the access track to give sufficient space for construction and maintenance traffic to safely exit off the public road and dwell on the private access track.



- Additional fencing and gate will be erected to secure the land owners yard adjacent to the proposed track.
- All proposed revisions to the access layout are within the red line boundary.
- Proposed development generates minimal traffic movements. Apart from the initial one week construction stage, traffic movements will be limited to 2/3 trips annually for maintenance purposes.
- Daily agricultural traffic movements using the same entrance are considerably greater in volume in comparison to the proposal.
- Required sightlines can be achieved in both directions. The site entrance was previously assessed and deemed acceptable by the Planning Authority (Reg. Ref. 07968 and 001047) and the Board (Ref. PL15.123081).
- Planning Authority has no other concerns regarding the development in terms of design, location or need.
- The purpose of the proposed development is to provide 2G, 3G and 4G voice, data and broadband connectivity to 'Three' customers. Failure to secure the appeal site will result in continued coverage issues in the Termonfeckin area.

6.1.2. The appeal was accompanied by three drawings showing sightlines, site entrance details and access gate details, respectively.

## 6.2. Planning Authority Response

6.2.1. The Planning Authority's response to the appeal can be summarised as follows:

- Having examined the revised drawings submitted with the appeal, the Planning Authority is now satisfied that the proposal will not result in a traffic hazard.
- The Planning Authority request that the Board grant permission subject to specified roads and traffic related conditions.

## 6.3. Observations

6.3.1. None.

## 6.4. Further Responses

6.4.1. None.

## 7.0 Assessment

7.1. I consider that the key issues in determining the appeal are as follows:

- Principle of proposed development.
- Roads and traffic.
- Visual impact.
- Surface water.
- Other issues.
- Appropriate Assessment.

## 7.2. Principle of Proposed Development

7.2.1. Policy regarding telecommunications structures and broadband provision is contained under Sections 9.10 and 9.11 of the County Development Plan. The rationale for the proposed development, as outlined by the applicant, is to improve the coverage and capacity of mobile telephony and broadband services in the Termonfeckin area, which is a location noted by the applicant as being deficient as such. I consider that the proposal to improve telecommunications and broadband services is consistent with the Policies set out under Sections 9.10 and 9.11 of the County Development Plan and the recommendations under national policy as set out under the Telecommunications Antennae and Support Structures Guidelines for Planning Authorities (1996).

7.2.2. Policy EnCo 39 of the Development Plan requires co-location of antennae support structures and sites where feasible. It states that Operators shall be required to submit documentary evidence as to the non-feasibility of this option in proposals for new structures. Similarly, the Guidelines state that 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.

- 7.2.3. The applicant set out the technical justification for the proposal in the planning report and associated 'RF Technical Justification Report' submitted with the planning application. The applicant states that the proposal is a direct replacement for an existing rooftop installation at Barnhill, to the north of Termonfeckin, which can only accommodate voice calls. The applicant contends that the proposed development has been carefully sited to provide improved voice and data coverage and to cater for next generation 4G and 5G technologies to serve Termonfeckin, Baltray and road and rail users in the vicinity.
- 7.2.4. The planning report considers and discounts a number of alternative sites in the area, either on the grounds of insufficient elevation for rooftop solutions, or proximity to residential properties. With regard to the issue of co-locating with another service provider, the applicant notes that the only existing base station in the vicinity utilises a 9m wooden pole and is unsuitable for this and other technical reasons. The RF Technical Justification Report includes a series of coverage maps to demonstrate the improvements in coverage that will arise as a result of the proposed development. Having reviewed the information submitted, I am satisfied that there is a technical justification for the proposed development at the appeal site.
- 7.2.5. Notwithstanding the technical justification and the general objectives under the County Development Plan and national guidelines encouraging improved telecommunications infrastructure, the appropriateness of the location in the context of the planning issues identified in Section 7.1 above shall be examined in the remainder of this report.

### **7.3. Roads and Traffic**

- 7.3.1. The sole reason for refusal was that the provision of a 5m dwell area in order to provide safe access to the site would require works on lands beyond the red line site boundary. In the absence of control over the third party lands, the Planning Authority considered that the proposed development would endanger public safety by reason of traffic hazard and obstruction of road users.

- 7.3.2. Proposals for a revised site access arrangement were submitted with the first party appeal, and the Planning Authority has indicated that these revised proposals are acceptable to them, and they request that planning permission be granted.
- 7.3.3. The local road from which access to the appeal site is proposed is a cul de sac serving a number of individual houses and farms. The road terminates c. 1km to the west of the appeal site, and it has relatively poor horizontal alignment as one progresses westward from the appeal site. I note that the speed limit on the road in the vicinity of the proposed site entrance is 50 km/hr, increasing to 80 km/hr a short distance to the west.
- 7.3.4. The revised proposal entails the removal of the existing farm gate at the south east corner of the field, and the creation of a c. 20m long dwell area off the public road. This dwell area will be fenced with stockproof fencing, and will have a 3m wide farm gate to the north, providing access into the existing agricultural premises, and a 4m wide farm gate to the west, providing access to the proposed access track serving the telecommunications compound.
- 7.3.5. It is also proposed to remove a 5m length of existing hedgerow to the west of the access point from the local road and to reinstate the hedgerow at a set back from the road edge to improve sightlines. This proposal results in achievable sightlines of 75m to the west and 69m to the east (i.e. to the junction with the R166).
- 7.3.6. The applicant states that the construction stage will last one week. However, I consider that it is likely to be somewhat longer than this, noting that a c. 450m long access track must be constructed, as well as hedgerow planting along this entire length and construction of the telecommunications compound itself. Notwithstanding this, having regard to the nature of the development, I am satisfied that the duration of construction will be relatively limited and that the level of construction traffic generated will be relatively low. Having regard to the nature of the development, I am also satisfied that traffic generation during the operational phase will be minimal.
- 7.3.7. In my opinion, the revised proposal for the access point from the local road represents an improvement on the existing farm gate access, and I consider that the provision of a 20m long off-road dwell area will serve both existing agricultural vehicles and vehicles associated with the proposed development.

7.3.8. In conclusion, having regard to: the relatively low speed limit on the local road; the cul de sac nature of the road and the low level of traffic that it experiences; and the low level of traffic associated with the proposed development; I concur with the Planning Authority that the revised proposals for the site access are adequate and I consider that the proposed development would not result in the creation of a traffic hazard or otherwise impact on public safety.

#### 7.4. **Visual Impact**

- 7.4.1. The proposed telecommunications support structure and compound would be located to the west of Termonfeckin village, in the corner of a large agricultural field, with forestry plantations to north and west.
- 7.4.2. The proposed c. 450m long access track runs parallel to the mature hedgerow along the southern and western boundaries of the field, with a proposed additional hedgerow to be planted along the inside edge of the track. Having regard to this screening and the relatively flat topography of the area, I do not consider that the access track will be readily visible from outside the site, and where it is visible it will be similar to a typical farm track.
- 7.4.3. The fenced compound will be completely screened to north and west by the existing forestry planting and will not be readily visible or noticeable from the east or south due to the local topography of the field, which falls slightly from the centre towards the north, where the compound is proposed to be located. Glimpsed views will be available in some areas, albeit against a backdrop of mature forestry, and I recommend that if the Board is minded to grant permission that a condition be included requiring the colours of the equipment and fencing be agreed with the Planning Authority.
- 7.4.4. With regard to the 24m high lattice support structure itself, the base of the structure will not be readily visible due to its distance of c. 200m from the nearest public road, the upper section of the structure will, however, be visible from a relatively wide area. The applicant submitted photomontages of the proposed development from a number of viewpoints, and having inspected the site I would concur that these form a reasonably representative sample of the views of the structure that will be available.

- 7.4.5. There is a large amount of mature tree and hedgerow planting in and around Termonfeckin village which serves to limit the long range views available. Where the structure will be visible due to its 24m height, it is generally against a backdrop of trees due to the site location, or with partial screening provided by mature vegetation in the intervening land. Having regard to these characteristics of the appeal site and the wider area, I do not consider that the proposed development would be unduly intrusive within the landscape or that it would form a dominant or overbearing feature on the skyline.
- 7.4.6. I note that Policy TERM 8 of the Development Plan seeks to preserve the views of the St Fechin's and the Church of the Immaculate Conception. The principal views towards both churches are from the R166 in an eastward direction, while the appeal site is to the west of the R166. Having regard to this relative orientation, and the separation distance of the proposed telecommunications support structure from both churches, I am therefore satisfied that it will not impact upon the preserved views and will not contravene Policy TERM 8.
- 7.4.7. In conclusion, I am satisfied that the proposed development will not result in a significant negative visual impact, will not be unduly intrusive within the landscape and will not impact upon any protected views.

## 7.5. **Surface Water**

- 7.5.1. I noted on my site inspection that a small stream or watercourse flows from north to south along the western boundary of the field within which the proposed development is located. The proposed 3m wide access track runs alongside this stream/watercourse for a length of c. 180m, and the proposed telecommunications compound is also adjacent to it.
- 7.5.2. There is very little detail on the drawings submitted with respect to the construction methodology and build-up of the accesses track or the construction methodology for the compound and associated fencing.
- 7.5.3. Having regard to the presence of the watercourse, I consider that appropriate good practice construction methods for works in the vicinity of a watercourse, such as those set out in the Inland Fisheries Ireland document 'Guidelines on protection of fisheries during construction works in and adjacent to waters' would be necessary to

protect the watercourse from construction-related pollution or contamination. Noting the limited extent and duration of the proposed construction works, I consider that such details for the protection of the watercourse can be addressed by way of condition, as part of a Construction Management Plan to be submitted to the Planning Authority.

- 7.5.4. In summary, subject to the undertaking of the development in accordance with good practice construction methods and an agreed construction management plan, I consider that there will not be a significant impact on the existing watercourse along the site boundary.

## **7.6. Other Issues**

### **7.6.1. Development Contributions**

- 7.6.2. Article 6.1 of the Louth County Council Development Contribution Scheme 2016-2021 relates to 'exemptions' and sets out a series of categories of development that will be exempt from the requirement to pay development contributions under the Scheme.

- 7.6.3. Category 17 is 'Broadband Infrastructure (masts & antennae)'. Having regard to the nature and intended function of the proposed development, I therefore recommend that if the Board is minded to grant permission, that no conditions relating to development contributions should be included.

## **7.7. Appropriate Assessment**

- 7.7.1. Having regard to the nature and scale of the development proposed, the limited extent and duration of the associated construction works, and the distance to the nearest designated sites, namely the Boyne Coast and Estuary SAC (Site Code 001957), c. 2.2km to the east, and the Boyne Estuary SPA (Site Code 004080), c.3km to the south east, 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 a 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

- 9.1. Having regard to:
- (a) the national strategy regarding the provision of mobile communications services,
  - (b) 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, as updated by Circular Letter PL/07/12 issued by the Department of the Environment, Community and Local Government on the 19th day of October, 2012,
  - (c) the policy of the planning authority, as set out in the Louth County Development Plan 2015-2021, to support the provision of telecommunications infrastructure,
  - (d) the nature and scale of the proposed telecommunications support structure, and
  - (e) the low levels of traffic predicted and the revised proposals for the site entrance, as submitted to the Board on the 10<sup>th</sup> day of January 2018,
- 9.2. it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities or landscape character of the area, or the residential amenities of the area, would not result in the creation of a traffic hazard and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted to the planning authority on the 15<sup>th</sup> day of



November 2017 and by the further plans and particulars received by An Bord Pleanála on the 10<sup>th</sup> day of January 2018, 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. Details of the proposed colour scheme for the telecommunications structure, ancillary structures and fencing shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

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

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

4. The site access and the access track serving the proposed development shall comply with the detailed standards of the planning authority for such road works.

**Reason:** In the interest of traffic safety.

5. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of traffic management during the construction phase, details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste, as well as protective measures to be employed during the construction of the access track with respect to the watercourse and boundary hedgerows.

**Reason:** In the interests of public safety and visual and residential amenity.

6. 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.

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Niall Haverty  
Planning Inspector

29<sup>th</sup> March 2018