



An
Bord
Pleanála

Inspector's Report ABP-300904-18

Development

THE ERECTION OF A 30M. MULTI-USER MONOPOLE TELECOMMUNICATIONS SUPPORT STRUCTURE CARRYING 9 NO. ANTENNA(S), 9 NO. COMMUNICATION DISHES, 1 NO. LIGHTNING FINIAL AND 4 NO. OUTDOOR CABINETS ALL ENCLOSED WITHIN A SECURITY COMPOUND BY A 2.4M HIGH PALISADE FENCE WITH A 4M ACCESS GATE. THE DEVELOPMENT WILL PROVIDE ACCOMMODATION TO METEOR FOR THE PROVISION OF VOICE AND MOBILE BROADBAND SERVICES IN THE AREA

Location

GRACEFIELD GAA, TULLAMORE ROAD (R420), PORTARLINGTON, CO OFFALY

Planning Authority

Offaly County Council

Planning Authority Reg. Ref.

17/474

Applicant(s) Signal Infrastructure Ltd

Type of Application Permission

Planning Authority Decision Grant

Type of Appeal First Party

Appellant(s) Signal Infrastructure Limited

Date of Site Inspection No site inspection

Inspector Colin McBride

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	5
3.3. Prescribed Bodies	5
3.4. Third Party Observations	5
4.0 Planning History.....	6
5.0 Policy Context.....	6
5.1. Development Plan.....	6
5.2. National Policy	6
5.3. Natural Heritage Designations	7
6.0 The Appeal	7
6.1. Grounds of Appeal	7
6.2. Planning Authority Response	8
7.0 Assessment.....	8
8.0 Recommendation.....	9
9.0 Reasons and Considerations.....	10

1.0 Site Location and Description

1.1. The appeal site, which has a stated area of 0.01 hectares, is located to the north west of Portarlinton and on the northern side of the R420 Regional Route. The appeal site is located within the curtilage of Gracefield GAA grounds. To the west is a housing development and to the north and east are agricultural lands.

2.0 Proposed Development

2.1. Permission is sought for the erection of a 30m multi-user monopole telecommunications support structure carrying 9 no. antenna(s), 9 no. communication dishes, 1 no. lightning finial and 4 no. outdoor cabinets, all enclosed within a security compound by a 2.4m high palisade fence with a 4m access gate. The development is to provide accommodation for Meteor for the provision of voice and mobile broadband services in the area. The structure is located within the grounds of Gracefield GAA club, which consist of a clubhouse, two playing pitches and a large parking area.

3.0 Planning Authority Decision

3.1. Decision

Permission granted subject to 9 conditions. Of note is the following condition.

9. Prior to the commencement of development, a contribution shall be payable to Offaly County Council, in accordance with the Council's Development Contribution Scheme, in respect of public infrastructure and facilities benefiting development in County Offaly, that is provided or that is intended will be provided by, or on behalf of, the Council.

The amount of the development contribution is set out below and is subject to annual revision with reference to the Wholesale Price Index (Building and Construction) and

interest for late payment, in accordance with the terms of the Council's Development Contribution Scheme:-

	Class of Infrastructure	Amount
H	New communications Masts (other than those in 2.5 paragraph n) per mast.	€16,080
	Total	€16,080

Reason: It is considered reasonable that the developer should contribute towards the expenditure incurred or proposed to be incurred by Offaly County Council in respect of the provision/improvement of public services/infrastructure benefiting development in the area of the Planning Authority.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning report (22/01/18): The proposal was considered compliant with Development Plan policy, national policy and satisfactory in terms of visual impact and adjoining amenities. A grant of permission was recommended subject to the conditions outlined above.

3.2.2. Other Technical Reports

Water Services (09/01/18): No objection subject to conditions.

Roads (11/01/18): No objection.

3.3. Prescribed Bodies

IAA (04/01/18): No observations.

3.4. Third Party Observations

No third party observations.

4.0 Planning History

001121: Permission granted for flood lighting to existing pitch.

Relevant decisions include

PL10.248622: Development contribution appeal concerning telecommunications infrastructure granted for Cignal International Ltd. at Barrowmount Td, Goresbridge, Co. Kilkenny. Development contribution condition was omitted.

5.0 Policy Context

5.1. Development Plan

The relevant Development Plan is the Offaly County Development Plan 2019.

5.2 National policy

Telecommunications Antenna and Support Structures – Guidelines for Planning Authorities 1996.

DoEHLG Circular Letter PL07/12 - The Circular referred to the then Draft Guidelines for Development Contribution Schemes, and the requirement that all future Development Contribution Schemes must include waivers for broadband infrastructure provision.

Development Contributions Guidelines for Planning Authorities -Department of the Environment, Community and Local Government January 2013 – Chapter 2 of the Guidelines notes that planning authorities are required to include waivers for broadband infrastructure (masts and antennae).

5.3 Natural Heritage Designations

None in the vicinity.

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal has been lodged by Signal Infrastructure Ltd. The grounds of appeal are as follows...

- The appeal relates to the imposition of condition no. 9, which relates to a Section 48 development contribution of €16,080 for the proposed development. The appeal is based on the grounds that the terms of the Offaly County Council Development Contribution Scheme 2014-2020 have not been properly applied.
- The appellants note that on page 8 of the scheme that a contribution of €16,080 is payable for telecommunication structures. The appellant notes under Section 2.5 of the scheme the Planning Authority may allow for a full or partial exemptions from payment at its discretion in respect of
(n) Broadband Infrastructure
Masts and antennae, dish and other apparatus/equipment for communication purposes which form part of the National Broadband Scheme (NBS) as defined by the Department of Communication, Energy and Natural Resources (DCENR)-(100% exemption).
- The appellant refers to the development Contributions Guidelines for Planning Authorities published by the Department in 2013 and the direction that waivers for broadband infrastructure should be provided for. It is noted that the proposed development constitutes equipment for the communication purposes that form part of the National Broadband Scheme and such should be exempted from a development contribution.
- The appellant outlines their history and role in terms of the telecommunications industry noting that their approach to infrastructure is in accordance with the national policy which seeks to improve

telecommunication services. It is noted that the proposal is consistent with the objectives of the National Broadband Scheme.

- The appellants refer to a previous Board decision under PL10.248622 where the proposed development constituted equipment for communication purposes that form part of the National Broadband Scheme and that the terms of the Development Contribution Scheme had not been properly applied resulting in omission of Development Contribution condition.

6.2. Planning Authority Response

Response from Offaly County Council.

- Offaly County Council have no further comment to make.

7.0 Assessment

- 7.1. This is an appeal in relation to the application of a development contribution only. The Board will not determine the application as if it was made to it in the first instance and will only determine the matters under appeal.
- 7.2. An appeal may be brought to the Board under section 34 considers the terms of the Development Contribution Scheme have not been properly applied in respect of any condition laid down by the planning authority. In this appeal, the issue is considered whether the terms of Scheme have been properly applied.
- 7.3. The current proposal is for the erection of a 30m multi-user monopole telecommunications support structure carrying 9 no. antenna(s), 9 no. communication dishes, 1 no. lightning finial and 4 no. outdoor cabinets, all enclosed within a security compound by a 2.4m high palisade fence with a 4m access gate. The site is within existing GAA grounds in Portarlinton, Co. Laois. A development contribution of €16,080 has been applied under Class H of the Offaly County Council Development Contribution Scheme 2014-2020 (€16,080 per mast).
- 7.4. The appellants note that the proposed development constitutes equipment for communication purposes that form part of the national Broadband Scheme as defined by the Department of Communication, Energy and Natural Resources and

notes that the 2013 Development Contribution Guidelines for Planning Authorities require that planning authorities include waivers for broadband infrastructure (mast and antennae). The Council's development Contribution scheme appears to have been adopted after the publication of these guidelines and does note under Section 2.5 that "the Planning Authority may allow for full or partial exemptions from payment at its discretion", for a number of development including (n) Broadband Infrastructure, masts and antennae, dish and other apparatus for communication purposes which form part of the National Broadband Scheme (NBS) as defined by the Department of Communication Energy and Natural resources (DCNER)-(100% exemption).

- 7.5. The National Broadband Plan (formerly identified as National Broadband Scheme) aims to improve broadband availability nationwide through a combination of commercial and state led investment. I am satisfied that the nature of proposed development and the applicant/appellants are providing equipment that would constitute equipment for communication purposes that form part of the National Broadband Scheme as defined by the Department of Communication, Energy and Natural Resources. It is notable that under Section 2.5 of the Development Contribution Scheme that "the Planning Authority may allow for full or partial exemption from payment at its discretion". I would note that in case there is clearly a case for the development to fall under the exemption (Section 2.5(n)) and the Planning Authority have failed to acknowledge such or provide logic for not applying the exemption allowed for as well as providing no substantive response for failing to consider such in their response to this appeal. I am satisfied that the development proposed is consistent with the category of development for which a 100% exemption from development contributions is allowed and in this case I would consider that the Planning Authority failed to correctly apply the terms and conditions of the Development Contribution Scheme.

8.0 Recommendation

- 8.1. I recommend that Offaly County Council be directed to remove condition no. 9 on the grounds that the terms of Development Contribution Scheme 2014-2020 have not been properly applied.

9.0 Reasons and Considerations

- 9.1 Having regard to the provisions of the Offaly County Council Development Contribution Scheme 2014-2020 which includes an exemption for Broadband Infrastructure, masts and antennae, dish and other apparatus for communication purposes which form part of the National Broadband Scheme (NBS) as defined by the Department of Communication Energy and Natural resources (DCNER)-(100% exemption). The Board considers that the proposed development constitutes part of a government endorsed national roll out of broadband service, and that the terms of the Development Contribution scheme have not been properly applied.

Colin McBride
Planning Inspector

01st May 2018