



An
Bord
Pleanála

Inspector's Report ABP-301215-18

Development	Replacement of 37.5m high telecommunications mast with a 40m high mast and associated equipment
Location	Knockfierna, Kilmacow, Ballingarry, County Limerick.
Planning Authority	Limerick City & County Council
Planning Authority Reg. Ref.	17/1230
Applicant(s)	Cellcom Ltd.
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Knockfierna Heritage Society & Folklore Group
Observer(s)	None
Date of Site Inspection	11 th July, 2018
Inspector	Kevin Moore

1.0 Site Location and Description

- 1.1. The site of the proposed development is at the top of Knockfierna, approximately 3.5km east of the village of Ballingarry in south-west County Limerick. It is accessed from the R518 regional road via a minor road and laneway. The area is mainly agricultural in use and the location of the proposed development is an established telecommunications site with an existing lattice tower and associated equipment that is enclosed by fencing. The site is adjoined by a large religious cross. Many of the laneways in the vicinity have been developed as walking routes for amenity purposes.

2.0 Proposed Development

- 2.1. The proposed development comprises the replacement of a three-leg 37.5m high lattice tower carrying antennae and dishes, together with adjacent cabins and equipment, with a 40m high multi-user structure carrying the telecommunications equipment transferred from the obsolete structure, together with associated exchange cabinets. The development would be installed within the footprint of the existing compound.
- 2.2. Details submitted with the application included a report outlining the application details, the proposed development, the need for the development and compliance with policy and guidelines. Photomontages, a construction plan, an appropriate assessment screening report, and letters from service providers were also included.

3.0 Planning Authority Decision

3.1. Decision

On 23rd February, 2018, Limerick City & County Council decided to grant permission for the proposed development subject to 6 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner noted development plan and telecommunications documents and the objection received. It was stated that the existing structure did not appear to have planning permission and is in place prior to the 1990s. It was noted that it is visible and in a prominent point in the landscape. An existing cairn and religious cross to the north-west of the site was referenced and the shared use of the access track was noted. It was concluded that the proposed mast, being 2.5m higher than the existing mast, would not significantly detract from the landscape and would be at the same elevated location as the existing mast. A grant of permission was recommended.

3.2.2. Other Technical Reports

The Environment Engineer recommended the attachment of a condition should permission be granted.

3.3. **Third Party Observations**

An objection to the proposal was received from Knockfierna Heritage Society. The grounds of the appeal reflect the principal planning concerns raised.

4.0 **Planning History**

I have no record of any previous planning application or appeal relating to this site.

5.0 Policy Context

5.1. Limerick County Development Plan 2010-2016

Telecommunications Antennae

The plan provisions include the following:

The Planning Authority shall adhere to The Department of Environment, Heritage and Local Government publication entitled 'Telecommunications Antennae and Support Structures - Guidelines for Planning Authorities' when assessing planning applications.

The plan acknowledges that the nature of the telecommunications network is a requirement for elevated sites, often in upland areas that can be of high scenic value and protected by some form of environmental designation. Particular constraint will be exercised in or around Protected Structures, Recorded Monuments, Areas of Archaeological importance and other environment designated areas such as the Special Areas of Conservation (SACs), Special Protection Areas (SPAs) and Natural Heritage Areas (NHAs).

Every effort is required to be made to distance developments from residential areas, schools, hospitals or other buildings used for residential or work purposes on a daily basis. Every effort is required to be made by the developer to minimise their visual intrusion in the landscape. This will vary depending on their location.

In order to avoid unnecessary proliferation of masts, opportunities for co-location or sharing facilities should be thoroughly investigated by the developer. The applicants shall indicate in the application whether they are willing to share the proposed masts with other telecommunication operators.

Monopole structures are preferable to lattice tripod or square type structures. The design of the antennae support structure should be simple and well finished. Support structures should be provided at minimum height while ensuring effective operation.

Colours of mast structures and fencing should be in harmony with their surroundings and appropriate landscaping and screening will be required.

Due to rapid changes in the technology and design of radio antennae as well the design of support structures, permission generally shall be granted for a temporary period not exceeding 5 years. At the end of the 5 year period permission to retain such equipment will be conditional on the replacement of obsolete structures with more modern, environmental friendly designs and the number of telecommunication masts in the area. Facilities shall be removed and land reinstated to its former condition within 6 months of the expiry of the permission.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of the appeal relate to the use of the walkways to Knockfierna Hill. The applicant is asked to use the landowner's access route to the hill for construction work and maintenance and to avoid the walkways. It is submitted that it not safe for other users of the hill.

6.2. Applicant Response

In response to the appeal, the applicant submits that the planning process cannot resolve the appellant's concerns over shared use of the access route, it falls outside of the scope of the planning process and is *ultra vires* the Board's powers. The Board is asked to dismiss the appeal. The applicant submits that, in response to the appellant's concerns, it has arranged for the construction traffic to use an alternative route for the duration of the build, to lessen perceived impact on other users and states that this route is available for the construction period only. The volume of operational traffic for maintenance purposes is considered moderate and manageable, with fewer than three visits per month from the 10 occupants.

6.3. Planning Authority Response

I have no record of any response to the planning appeal from the planning authority.

7.0 Assessment

- 7.1. The existing mast and telecommunications site has no record of having received planning permission. The local authority's Planner has stated in her report: "The existing structure does not appear to have planning permission ..." The planning application form received from the applicant specifically asks if the applicant is aware of any valid planning applications previously made in respect of the land/structure and the applicant has clearly indicated that it is not aware of any valid planning application. The existing mast is, therefore, unauthorised. It is noted that the applicant makes reference, in response to the third party appeal, to the development of the religious cross adjoining the site as being "... a development for which we can find no planning record ..." The issue of the unauthorised nature of development at this location is, thus, not a new issue now before the Board.
- 7.2. Having regard to the above, it is apparent that the proposed development seeks to consolidate, enhance and expand the operation of an unauthorised development. The Board is in no position to grant permission for the proposed development based on the understanding of the unauthorised nature of the mast and other structures on this site. A refusal of permission can be the only rational conclusion to the proposed application for replacement development.

8.0 Recommendation

- 8.1. I recommend that permission is refused for the following reason and considerations.

9.0 Reasons and Considerations

On the evidence submitted, it appears to the Board that the proposed development relates to a site the use of which is unauthorised for the carrying on of telecommunications and that the proposed development would facilitate the consolidation and intensification of the said unauthorised use. Accordingly, it is considered inappropriate that the Board should consider the grant of permission for the proposed development in such circumstances.

Kevin Moore
Senior Planning Inspector

26th July 2018