



An
Bord
Pleanála

Inspector's Report ABP-301987-18

Development	The construction of an 30m multi-user lattice telecommunications structure carrying antenna and dishes enclosed within a 2.4m high palisade fence compound, associated ground equipment access track and site works.
Location	Commons, Thurles, Co. Tipperary
Planning Authority	Tipperary County Council
Planning Authority Reg. Ref.	18600451
Applicant(s)	Cignal Infrastructure Ltd.
Type of Application	Permission.
Planning Authority Decision	Grant subject to conditions
Type of Appeal	First Party v condition Third Party v permission
Appellant(s)	Cignal Infrastructure Ltd. Towercom.
Observer(s)	None.
Date of Site Inspection	30/08/2018.
Inspector	Auriol Considine

1.0 Site Location and Description

- 1.1. The proposed development site is located within the rural area to the south of the town of Thurles, in the townland of Commons. The site is approximately 1.5km from the town and is to be set back 800m from the R660, Regional Road and 200m to the west of the railway line. Access to the site is over existing agricultural tracks with the final 290m stretch to be constructed as part of the development.
- 1.2. This area of Thurles is rural in nature with agricultural lands comprising the wider landscape. The closest house to the site is 250m to the east. The site has a stated area of 0.01ha.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of an 30m multi-user lattice telecommunications structure carrying antenna and dishes enclosed within a 2.4m high palisade fence compound, associated ground equipment access track and site works, all at Commons, Thurles, Co. Tipperary.
- 2.2. The development will include the telecommunication structure and all associated ground equipment cabinets all located within a compound covering 144m². The compound will be enclosed by a 2.4m high palisade fence.
- 2.3. The application includes the relevant plans and particulars, as well as the following
 - A covering letter and planning report.
 - Technical Justification report
 - Letters of support from Imagine and Eir
 - ICNIRP Declaration
 - Plans and particulars

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission for the proposed development subject to 5 standard conditions including condition 5, which requires the payment of a development contribution in the amount of €17,200.00.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The planning Report formed the basis for the Planning Authority decision to grant permission. The report notes the submissions and observations made in relation to the proposed development, as well as the relevant policy requirements. The report recommends that permission be granted subject to 8 conditions.
- The report included screening for Appropriate Assessment which concluded that there is no potential for significant effects arising from the proposed development.

3.2.2. Other Technical Reports

None.

3.3. Prescribed Bodies

Irish Aviation Authority: No observations on this application

3.4. Third Party Observations

One third party objection to the proposed development is noted on the PA file from Towercom. The issues raised are summarised as follows:

- Existing Towercom structure is 26m in height is available at Castle Park, Thurles, which is used by a number of providers.
- There are other masts in Thurles.

- While in very dense urban environments, sites can be within 2km of each other, this is not true in rural areas such as that surrounding the town of Thurles.
- The letters from providers do not state that they require the site and would use it.
- It is noted that there is no letter of support from Three or Vodafone which shows a lack of requirement for the site.
- While there is coverage problems on the railway line, the proposed site will only solve a small section of the line.
- With regard to the coverage problems with a number of businesses, it is submitted that the solution is site specific for those businesses rather than building a new site.
- One of the main principles of The Guidelines for Planning Authorities 1996, Telecommunications Antennae and Support Structures, is sharing facilities or co-location. Existing masts should be fully shared before new sites are constructed.
- No justification for the site has been put forward.

4.0 Planning History

There is no relevant planning history pertaining to this site or the immediate vicinity.

5.0 Policy Context

5.1. National Policy

- Telecommunications Antenna and Support Structures – Guidelines for Planning Authorities 1996.
- DoEHLG Circular Letter PL07/12
- Development Contributions, Guidelines for Planning Authorities, January 2013

5.2. Development Plan

- 5.2.1. The North Tipperary County Development Plan 2010, as varied, is the relevant policy document pertaining to this appeal.
- 5.2.2. Chapter 9 of the plan deals with Transport, Water Services & Environmental Management and Section 9.9 deals with Communications. The Plan notes that the provision of broadband services is an important aspect of attraction economic development and enhancing quality of life for residents in the county, noting the availability of high speed broadband infrastructure in towns across the county. Section 9.9.2 notes that there is a balance between facilitating the provision of mobile telecommunications infrastructure and the need to protect residential, visual amenity and the natural and built environment.
- 5.2.3. It is the stated policy of the Council, Policy TI14: Telecommunications refers, 'to facilitate proposals for masts, antennae and ancillary equipment in accordance with Telecommunications Antennae and Support Structure: Guidelines for Planning Authorities, DEHLG, 1996. Development proposals will be facilitated, where it can be established that there will be no significant adverse impact on the surrounding areas and the receiving environment, particularly in the following locations:
- (i) Primary and secondary amenity areas or locations that would be detrimental to designated listed views.
 - (ii) Within significant views or setting of national monuments or protected structures.
- 5.2.4. It is the stated objective of the Council, Objective SO09-6 refers, 'to work with and support key stakeholders to secure the implementation of the National Broadband Plan and seek to ensure that fast and effective broadband facilities are available in all parts of the county.

5.3. Development Contribution Scheme 2015-2019

- 5.3.1. The Development Contribution Scheme was adopted on the 12th of January, 2015, running from the 1st of March, 2015 to the 31st December, 2019, unless amended, reviewed or replaced. Section 6 of the Scheme identifies classes of development for which Development Contributions are payable and Class 22 states

‘the provision of telecommunication mast’, while Class 23 states ‘the provision of telecommunications antennae, dish and other apparatus/equipment for communication purposes.

5.3.2. Section 10 of the Scheme deals with Exemptions and Reductions, stating Where full development contributions have been levied and paid for telecommunications apparatus on foot of a 5 year permission (as recommended by the DoEHLG Guidelines on Telecommunications 1996) contributions will not be payable on any subsequent applications for the same structure save where a discount was applied in recognition of the temporary permission. Any new development i.e. additions/attachments etc. will be subject to development contributions. Where masts and antennae, dish and other apparatus/equipment for communication purposes form part of the National Broadband Plan or a subsequent Government endorsed initiative as defined by the Department of Communication, Energy and Natural Resources (DCENR) they will not be subject to development contributions. Development Contributions will be waived for co-located antennae, dish and other apparatus/equipment for communication purposes. In the case of broadband ‘only’ providers, subject to such operators demonstrating to the satisfaction of the Planning Authority that their infrastructure provides services to customers who would not otherwise be able to avail of an adequate broadband service such infrastructure will not attract development contributions.

5.3.3. The Board will note that the Development Contributions, Guidelines for Planning Authorities, January 2013, in Section 2 states that ‘planning authorities are required to include the following in their development contribution schemes:

- waivers for broadband infrastructure (masts and antennae)

5.4. Natural Heritage Designations

The subject site is not located within any designated site. The closest Natura 2000 site lies approximately 1km to the south being the Lower River Suir SAC, Site Code 002137.

6.0 The Appeal

6.1. Grounds of Appeal

This is a multiple appeal as follows:

6.1.1. First Party against condition 5 attached to the PAs grant of permission. Condition 5 relates to the requirement to pay a development contribution. The appeal is summarised as follows:

- The proposed development supports broadband communications for all three mobile operators, Eir, Three and Vodafone, as well as Imagine Broadband.
- The proposed structure should be exempt from the requirement to pay development contributions under Section 10 (Exemptions and Reductions – Masts, Antennae, Dishes and other Apparatus/Equipment for Communication Purposes) of the current Tipperary County Development Contribution Scheme 2015-2019.
- The applicant proposes to deliver upon the Governments National Broadband Plan by installing the required infrastructure to facilitate broadband provision and voice connectivity to the wider catchment.
- The Development Contribution Scheme has not been correctly applied and no contribution should be payable in respect of the proposed development.

6.1.2. The second appeal relating to this application is a third party appeal against the decision of the Planning Authority to grant permission for the proposed mast. The grounds of appeal are similar to those issues raised in the course of the PAs assessment of the proposed development and are summarised as follows:

- Existing Towercom structure is 26m in height and has capacity of between 35 and 38% to accommodate additional telecommunications antennae.
- One of the main principles of The Guidelines for Planning Authorities 1996, Telecommunications Antennae and Support Structures, is sharing facilities or co-location. Existing masts should be fully shared before new sites are constructed.
- No effort to share existing masts has been made.

- No justification for the site has been put forward and the applicant has failed to provide justification for the mast by using generic letters of support.

6.2. First Party Response to Third Party Appeal

The response provides an introduction to the development and the applicant, noting the first party appeal, and is summarised as follows:

- The proposed development, and Cignals approach to infrastructure provision is wholly in accordance with national policy and the provision of the tower will ensure that rural blackspots can be addressed in a cost-effective way while minimising the number of towers required.
- Notwithstanding the existing masts in Thurles, there is an additional coverage requirement to the south of these masts to improve coverage on the railway line, the N62 and other commercial and business premises as outlined in the application.
- The appellants tower, or the other existing towers in Thurles, do not provide coverage to the identified blackspot areas.
- The theoretical approach proposed by the appellant is not supported by evidence.
- Letters of support from service providers advise that they are actively looking to expand their services in the area.
- The applicant has submitted sufficient justification for the proposed development.

6.3. Planning Authority Response

The Planning Authority has not responded to this appeal.

6.4. Observations

There are no observations noted.

7.0 Assessment

7.1. The first party appeal is submitted under S48(10) of the Planning & Development Act, 2000 as amended, which is an appeal against the inclusion of a development contribution condition. However, given that there is also a third party appeal, the Board is required to consider the full development. Having regard to the nature of the proposed development, together with the information presented in support of the proposed development, I consider it appropriate to assess the proposal under the following headings:

- Principle of the proposed development & compliance with the Development Plan
- Development Contribution
- Other Issues
- Appropriate Assessment
- Environmental Impact Assessment

7.2. Principle of the proposed development & compliance with the Development Plan.

7.2.1. The proposed development seeks to erect an 30m high lattice structure to carry telecommunications equipment.

7.2.2. Chapter 9 of the North Tipperary County Development Plan 2010, as varied deals with Transport, Water Services & Environmental Management and Section 9.9 deals with Communications. The Plan notes that the provision of broadband services is an important aspect of attraction economic development and enhancing quality of life for residents in the county, noting the availability of high speed broadband infrastructure in towns across the county. Section 9.9.2 notes that there is a balance between facilitating the provision of mobile telecommunications infrastructure and the need to protect residential, visual amenity and the natural and built environment. In this regard, it may be considered that the proposed development accords with the stated policy requirements of the County Development Plan.

7.2.3. It is the stated policy of the Council, Policy TI14: Telecommunications refers, 'to facilitate proposals for masts, antennae and ancillary equipment in accordance with Telecommunications Antennae and Support Structure: Guidelines for Planning Authorities, DEHLG, 1996. Development proposals will be facilitated, where it can be established that there will be no significant adverse impact on the surrounding areas and the receiving environment, particularly in the following locations:

- (i) Primary and secondary amenity areas or locations that would be detrimental to designated listed views.
- (ii) Within significant views or setting of national monuments or protected structures.

In terms of the above, I am satisfied that the proposed development is acceptable.

7.2.4. In addition to the above, Objective SO09-6 is also considered relevant in that it is the stated objective of the Council 'to work with and support key stakeholders to secure the implementation of the National Broadband Plan and seek to ensure that fast and effective broadband facilities are available in all parts of the county.' Having regard to the proposed location of the proposed structure, it is considered reasonable that this objective be considered.

7.3. Development Contribution

7.3.1. In considering the first party appeal, I note that the Board is bound by the terms of the adopted Development Contribution Scheme and Supplementary Development Contribution Scheme and cannot deviate from same. The merits or appropriateness of any adopted Development Contribution Scheme is not open for interpretation by the Board as referenced in Cork City Council –v- An Bord Pleanala (2006). Rather, the Board is required to assess whether the terms of the scheme, as written, have been correctly applied.

7.3.2. The proposed development seeks the construction of a telecommunications mast with associated antennae and transmission dish, equipment units and ancillary developments. Condition 5 of Tipperary County Councils decision to grant requires the payment of €17,200 as a development contribution in accordance with the Councils Development Contribution Scheme, 2015-2019.

7.3.3. The Development Contribution Scheme was adopted on the 12th January, 2015, came into effect on the 1st March, 2015 and will be valid until the 31st December, 2019. The Scheme identifies Class 22 as the provision of a telecommunications mast and Class 23 as the provision of telecommunications antennae, dish and other apparatus/equipment for communications purposes.

7.3.4. Section 10 of the Scheme deals with Exemptions and Reductions, and provides that Any new development i.e. additions/attachments etc. will be subject to development contributions. Where masts and antennae, dish and other apparatus/equipment for communication purposes form part of the National Broadband Plan or a subsequent Government endorsed initiative as defined by the Department of Communication, Energy and Natural Resources (DCENR) they will not be subject to development contributions. Development Contributions will be waived for co-located antennae, dish and other apparatus/equipment for communication purposes. In the case of broadband 'only' providers, subject to such operators demonstrating to the satisfaction of the Planning Authority that their infrastructure provides services to customers who would not otherwise be able to avail of an adequate broadband service such infrastructure will not attract development contributions.

7.3.5. From the first line of the above text, it would appear that the proposed development should be subject to a development contribution. However, the following sentences clearly provide for an exemption where masts and antennae, dish and other apparatus/equipment for communication purposes form part of the National Broadband Plan or a subsequent Government endorsed initiative as defined by the Department of Communication, Energy and Natural Resources (DCENR) they will not be subject to development contributions. The applicant submits that the proposed development constitutes 'equipment for communication purposes that form part of the National Broadband Scheme, and should be exempt from the requirement to pay a development contribution'.

7.3.6. The National Broadband Plan seeks to change the broadband landscape in Ireland through a combination of commercial and State led investment, and that the purpose of the Report of the Mobile Phone and Broadband Taskforce is to deliver the Plan in the shortest time possible time. In terms of the proposed development, I am satisfied that this Plan and report from the taskforce comprise Government

endorsed initiative as defined by the Department of Communication, Energy and Natural Resources (DCENR). In this regard, I am satisfied that the applicant has presented a reasonable justification for the proposed infrastructural development and that the exemptions provided for in Tipperary County Councils Development Contribution Scheme can be applied.

7.3.7. I am satisfied that the Development Contribution Scheme has **not** been correctly applied. Should the Board be minded to grant permission in this instance, condition 5 of the Planning Authority's decision to grant should be omitted.

7.4. Other Issues

7.4.1. In terms of other issues, the Board will note that the third party appellants have raised concerns in terms of provision of the mast given that there are existing masts in Thurles with capacity. I have noted the technical justification report submitted with the application form and note that there is a large blackspot area to the south of Thurles in terms of telecommunications coverage. I also note that the existing masts in the area have been considered unsuitable to provide the necessary coverage in the blackspot areas.

7.4.2. The National Broadband Plan, 2012 Department of Communication, Energy and Natural Resources (DCENR), seeks to change the broadband landscape in Ireland through a combination of commercial and State led investment, and the purpose of the Report of the Mobile Phone and Broadband Taskforce is to deliver the Plan in the shortest time possible. In terms of the proposed development, I am satisfied that the applicant has presented a reasonable justification for the proposed infrastructure.

7.4.3. In terms of the potential visual impacts associated with the proposed development, having regard to the context of the site, I would not consider that the impact will be significant. The site lies within a rural area and is located at a remove from existing residential developments. I am satisfied that there are no visual impacts arising should permission be granted.

7.5. Appropriate Assessment

The subject site is not located within any designated site. The closest Natura 2000 site lies approximately 1km to the south being the Lower River Suir SAC, Site Code 002137. Having regard to the nature and scale of the proposed development, I am satisfied that 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.

7.6. Environmental Impact Assessment

Having regard to the nature and scale of the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

8.0 Recommendation

8.1. It is recommended that the proposed development be granted for the following stated reasons and considerations and subject to the stated conditions.

9.0 Reasons and Considerations

Having regard to the nature and the rural location of the subject site, together with the information submitted in relation to the proposed development, the Board is satisfied that, subject to compliance with the following conditions, the development would be acceptable in terms of the policy requirements of the North Tipperary County Development Plan 2010, as varied, and would not injure the existing visual and general amenities of properties in the vicinity of the site. It is further considered that the development would be acceptable in terms of 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, 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. A low intensity fixed red obstacle light shall be fitted as close to the top of the mast as practicable and shall be visible from all angles in azimuth. Details of this light, its location and period of operation shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of public safety.

4. 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.

5. Landscaping of the site shall be carried out in accordance with a landscaping scheme, which shall be submitted to and agreed in writing with planning authority prior to commencement of development.

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

6. No advertisement or advertisement structure shall be erected or displayed on the proposed structure or its appendages or within the curtilage of the site without a prior grant of planning permission.

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

A. Considine
Planning Inspector
25th September, 2018