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Bord  
Pleanála

## Inspector's Report ABP-303180-18

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<b>Development</b>	Construction of 24m high Telecommunications Monopole Support Structure carrying Antennae and Transmission Dishes,etc at Tullow, Newport County Tipperary
<b>Location</b>	Tullow, Newport County Tipperary
<b>Planning Authority</b>	Tipperary County Council
<b>Planning Authority Reg. Ref.</b>	18600330
<b>Applicant(s)</b>	Three (Hutchinson Ltd)
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with conditions
<b>Type of Appeal</b>	First Party v Development Contribution
<b>Appellant(s)</b>	Three (Hutchinson Ltd)
<b>Observer(s)</b>	None
<b>Inspector</b>	Caryn Coogan

## 1.0 Proposed Development

- 1.1. Construction of a 24M high telecommunications monopole support structure carrying antennas and transmission dishes with associated equipment units, security fencing and access track at Tullow, Newport, Co. Tipperary.

## 2.0 Planning Authority Decision

### 2.1. Decision

Permission was granted by Tipperary Co.Co. for the mast subject to 6No. conditions. The Condition appealed to the is **No. 6**

The applicant shall pay a development contribution of €172000 in accordance with the adopted development contribution scheme 2015-2019.

### 2.2. Planning Authority Reports

#### 2.2.1. Planning Reports

The report stated the contrition should be levied in accordance with Class 22 of the Tipperary Co. Co. Development Contribution Scheme 2015-2019.

## 3.0 Planning History

There is no relevant planning history associated with the subject site.

## 4.0 Policy and Context

### 4.1. 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).

#### 4.2. **Development Plan**

The North Tipperary County Development Plan 2010 (as varied) is the relevant policy document pertaining to this appeal.

Section 9.9 of the plan deals with Communications, with Section 9.9.2 dealing with Telecommunications Infrastructure. Policy TI14 deals with Telecommunications.

Chapter 10 of the Plan deals with Development Management Guidelines where Section 10.12.5 deals with Satellite Dishes and Telecommunications apparatus.

#### 4.3 **Development Contribution Scheme 2015-2019**

The Development Contribution Scheme was adopted on the 12<sup>th</sup> January, 2015, came into effect on the 1<sup>st</sup> March, 2015 and will be valid until the 31<sup>st</sup> 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.

**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.

#### **4.3. Natural Heritage Designations**

The subject site is not located within any designated site. It is not within 15Km of any Natura 2000 site.

### **5.0 The Appeal**

#### **5.1. Grounds of Appeal**

This is a first party appeal against the inclusion of condition 6, which requires the payment of a development contribution in the sum of €17, 200. The grounds of appeal are summarised as follows:

It is considered that the terms of the development contribution scheme have been incorrectly applied and that the development constitutes a mast, antennae and other apparatus / equipment for communication purposes that form part of an endorsed initiative, following from the National Broadband Scheme which ended after a 68 month operation period in August 2014.

It is considered that the application of the 'broadband infrastructure' exemption contained within Section 10 of the adopted development contribution scheme are applicable to this development.

The 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.

There is history where the Board adjudicated on a similar case in Co. Kilkenny, PL10.248622 refers. There is another similar case which the Board adjudicated on in Tipperary ABP-300853-18.

It is requested that condition 5 be removed.

## 5.2. **Planning Authority Response**

Tipperary Co. co. had no further comment on the appeal.

## 6.0 **Assessment**

6.1 In terms of the first Party appeal the Board is bound by the terms of the adopted Development Contributions Scheme and cannot deviate from same. The proposed development consists of the construction of a 24m high telecommunications support structure carrying antennas and link dishes together with associated equipment units and security fences. The site will also be available for co-locations. The installation is required to provide 2G voice, 3G and 4G data service provisions. The 4G service provides data speed far in excess of 3G services and can outperform fixed line broadband services especially in rural areas. Condition 6 of Tipperary's County Council's decision to grant permission requires the payment of €17,200 as a development contribution in accordance with Class 22 of Tipperary Council Development Contribution Scheme 2015-2019.

6.2 The Development Contribution Scheme was adopted on the 12<sup>th</sup> January, 2015, came into effect on the 1<sup>st</sup> March, 2015 and will be valid until the 31<sup>st</sup> 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.

Section 10 of the Scheme deals with Exemptions and Reductions and provides the following:

### ***Masts, Antennae, Dishes and other Apparatus/Equipment for Communication Purposes***

*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.*

- 6.3 The applicant submits the proposed development is part of the National Broadband Scheme as should be exempt from paying the contribution. In accordance with The Development Contributions Guidelines for Planning Authorities published by the Department of the Environment, Community and Local Government 2013, it stated that waivers for broadband infrastructure are to be included in adopted schemes. Tipperary Co. Co. has complied with this requirement in its adopted Scheme. Therefore, the attachment of Condition No. 6 seems to be unreasonable and not in compliance with the adopted Scheme or government guidelines.

This is consistent with appeal references numbers 300853-18 and 301987-18

#### 6.4 **Appropriate Assessment**

Having regard to the nature and scale of the proposed development in excess of 15km from any Natura 2000 site no appropriate assessment issues arise, and it is considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects, on a European site.

## 6.5 Environmental Impact Assessment Screening

Having regard to nature and scale of the 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.

## 7.0 Reasons and Considerations

Having regard to

a) the provisions of the Tipperary County Development Contribution Scheme 2015-2019, which includes an exemption for ‘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’, and

b) the information submitted in support of this appeal,

the Board considered based on the evidence submitted, that the proposed development constitutes equipment for communications purposes that form part of the National Broadband Scheme, or a subsequent endorsed initiative as defined by the Department of Communication, Energy and Natural Resources, and that the terms of the Development Contribution Scheme have not been properly applied.

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Caryn Coogan  
Planning Inspector

25/03/2019