



An
Bord
Pleanála

Inspector's Report ABP-303226-18

Development	Construction of a 30m high telecommunications structure carrying antennas and transmission dishes, with associated equipment units, security fencing and access track.
Location	Bullhill, Calverstown, Co. Kildare
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	18973
Applicant(s)	Three Ireland (Hutchinson) Ltd
Type of Application	Permission
Planning Authority Decision	
Type of Appeal	First Party
Appellant(s)	Three Ireland (Hutchinson) Ltd
Observer(s)	None
Date of Site Inspection	29 th January 2019
Inspector	Colin McBride

1.0 Site Location and Description

1.1 The appeal site, which has a stated area of 0.09 hectares, is located 9km to the south west of Killcullen and 3km to the south west of Calverstown. The site is located in a rural area in the townland of Bullhill. The appeal site is located on the western side of the L8008 and in the north western corner of a field. The site is elevated relative to the road and is at the highest point of the field on a natural ridgeline that runs north south. Public roads in the vicinity include the R 418 located to west of the site and the L8016 to the site as well as lower category public road to the west (closer to the site than the R418). The site has existing hedgerow boundaries along its northern and western boundary. The nearest dwellings are located to the south east and east along the L8008.

2.0 Proposed Development

2.1 Permission is sought for the construction of a 30m high telecommunications structure carrying antennas and transmission dishes, with associated equipment cabinets, security fencing and access track.

3.0 Planning Authority Decision

3.1 Decision

Permission refused based on two reasons...

1. Objective TL8 of the Kildare County Development Plan 2017-2023, which was formulated having regard to the Telecommunications Antenna and Support Structure Guidelines (1996) published by the Minister of the Environment & Local Government, seeks to facilitate co-location and clustering of telecommunications structures. It is considered that the Applicant has not demonstrated that the proposed telecommunications structure cannot be clustered with an existing mast in the area or that the required service cannot be provided by upgrading an existing facility. The proposed development, would, therefore, be contrary to objective TL8 of the

Kildare County development Plan 2017-2023 and to the proper planning and sustainable development of the area.

2. The Planning Authority is not satisfied that the proposed 30 metre high lattice telecommunications support structure, by reason of its height and design and the location on the brow of a hill in the open rural landscape, would not be visually obtrusive and seriously injurious to the amenities and character of the area. The proposed development, if permitted, would set an undesirable precedent for similar development and would, therefore, be contrary to the proper planning and sustainable development of the area.

3.2 Planning Authority Reports

3.2.1 Planning Reports

Planning Report (01/10/18): Further information required including details of why existing structures in the area would not provide sufficient coverage and demonstration that the proposal would not be visually obtrusive.

Planning Report (27/11/18): It was considered that the applicant had not justified the provision of a new structure over co-location with an existing structure in the area and that the proposal would have an adverse visual impact at this location. Refusal was recommended based on the reasons outlined above.

3.2.2 Other Technical Reports

Roads and Transportation Section (11/09/18): No objection subject to conditions.

Irish Water (01/10/18) No objection.

3.3.3 Third Party Observations

None

4.0 **Planning History**

No planning history.

5.0 **Policy and Context**

5.1 **Development Plan**

The relevant Development Plan is the Kildare County Development Plan 2017-2023

Chapter 8 Energy and Communications contains a number of policies relating to telecommunications structures.

TL 1: Support national policy for the provision of new and innovative telecommunications infrastructure and to recognise that the development of such infrastructure is a key component of future economic prosperity and social development.

TL 2: Promote and facilitate the provision of an appropriate telecommunications infrastructure, including broadband connectivity and other technologies within the county.

TL 3: Co-operate and co-ordinate with relevant bodies regarding the laying of key infrastructural services within towns and villages and, where practicable, encourage the efficient and shared use of said infrastructural services.

TL 4: Co-operate with telecommunication service providers in the development of the service, having regard to proper planning and sustainable development.

TL 5: Have regard to the provisions of the Telecommunications Antennae and

Support Structures Guidelines for Planning Authorities (1996) and circular letter PL07/12 and to such other publications and material as may be relevant during the period of the Plan.

TL 6: Achieve a balance between facilitating the provision of telecommunications infrastructure in the interests of social and economic progress, and sustaining residential amenity and environmental quality.

TL 7: Ensure that the location of telecommunications structures minimises and/or mitigates any adverse impacts on communities, public rights of way and the built or natural environment.

TL 8: Minimise the number of masts and their visual impact on the environment, by continuing to facilitate appropriate development in a clustered manner, where feasible, respecting the scale, character and sensitivities of the local landscape, whilst recognising the need for economic activity within the county. It will be a requirement for applicants to satisfy the planning authority that a reasonable effort has been made to share installations. In situations where it is not possible to share a support structure, applicants should be encouraged to share a site or to locate adjacently so that masts and antennae may be clustered.

TL 9: Minimise the provision of overground masts and antennae within the following areas:

- Areas of high amenity/sensitive landscape areas (refer to Chapter 14);
- Areas within or adjoining the curtilage of protected structures;
- On or within the setting of archaeological sites.

TL 10: Discourage the development of individual telecommunications support structures and antennae for private use.

TL 11: Require all telecommunications services to be placed underground and that any works carried out on footpaths make provision for future services.

Chapter 14 Landscape, Recreation and Amenity:

For the purposes of landscape character the site is located within the 'Eastern Transition' area and such is noted as being of 'Medium Sensitivity' which are "areas with the capacity to accommodate a range of uses without significant adverse effects on the appearance or character of the landscape having regards to localised sensitivity factors".

5.2 National Policy

The aim of the "Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities, 1996" is to offer general guidance on planning issues so that the environmental impact is minimised, and a consistent approach is adopted by the various planning authorities. Circular Letter PL 07/12, issued in October 2012 by the Minister for the Environment, Community and Local Government under section 28 of the Planning and Development Acts 2000-2012, updated certain sections of the Guidelines and states in Section 2.2, inter alia,

"Planning authorities are therefore advised that from the date of this Circular Letter, attaching a condition to a permission for telecommunication masts and antennae which limit their life to a set temporary period should cease. Where a renewal of a previously temporary permission is being considered, the planning authority should determine the application on its merits with no time limit being attached to the permission. Only in exceptional circumstances where particular site or environmental conditions apply, should a permission issue with conditions limiting their life."

5.3 Natural Heritage Designations

None in the vicinity.

5.4 EIA Screening

Having regard to nature of the development comprising a telecommunications structure and ancillary 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.

6.0 The Appeal

6.1 Grounds of Appeal

A first party appeal has been lodged by Three Ireland (Hutchinson) Ltd, the grounds of appeal are as follows...

- The appellant notes there are 6 existing structures in proximity to the proposed site. The appellant goes through each site and notes that 5 of the sites are being used by the applicant/appellant however the sites in question due to terrain do not allow coverage of the area it is proposed to serve and in some case lack capacity due to the scale of the structure. In the case of the remaining site it is noted it is an independent operator and is available to the applicant/appellant and due to terrain is not suitable. It is noted that due to topography that the other sites are not suitable for the proposed development to achieve the coverage in the area proposed.
- The appellant notes the Report of the Mobile Phone and Broadband Taskforce and the need to improve mobile and broadband coverage.
- In relation to visual impact it is noted the site is located within the 'Eastern Transition' zone and that such has a high capacity to absorb the proposed development. It is noted the site is not located along any major route or traditional walking route and was chosen to achieve the balance between providing optimum coverage and protecting visual and residential amenities.
- It is noted a reduction in height would restrict ability for co-location and would have little effect on overall visual impact. It is considered that a lattice

structure is a more appropriate structure to a monopole structure in a rural area.

- It is noted that sequential approach was taken to site selection with other locations considered and the appeal site deemed to be the optimum in terms of providing coverage and having adequate regard to visual amenity.

6.2 Planning Authority Response

Response by Kildare County Council:

- Kildare County Council confirm that they have no further comment in respect of the proposed development and confirm their decision to refuse permission.

7.0 Assessment

7.1 The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

Principle of the proposed development/technical justification

Visual impact/landscape character

Appropriate Assessment

7.2 Principle of the proposed development/technical justification:

7.2.1 Permission is sought for the construction of a 30m high telecommunications support structure, carrying antennas and transmission dishes with associated equipment units and security fencing. Policy in regards to telecommunications structures is contained under Chapter 8 (Energy and Communications) of the County Development Plan. The proposal is to improve coverage and capacity at a location noted by the applicant/appellant as being deficient as such. The proposal to improve such is consistent with the objectives set out under Chapter 8 of the County

Development Plan and the recommendations under national policy as set out under the publication, Telecommunication Antennae and Support Structures-Guidelines for Planning Authorities (1996).

- 7.2.2 Permission was refused on the basis that the applicants had not demonstrated that the proposed telecommunications structure cannot be clustered with an existing mast in the area or that the required service cannot be provided by upgrading and existing facility. The proposed development, would, therefore, be contrary to objective TL8 of the Kildare County development Plan 2017-2023 and to the proper planning and sustainable development of the area.
- 7.2.3 The applicant/appellant has set out the technical justification for the proposal. The applicant/appellant notes that the proposal is to improve coverage and capacity to the intervening area around the proposed structure. The information on file includes maps of existing 3G and 4G coverage in the wider area and details of the coverage that will be available with the proposed development. It is noted that the proposal will significantly improve mobile and broadband coverage in the area and that there is a deficiency at the location in question. The initial documents submitted did detail existing structures in the vicinity and gave reasoning why co-location was not possible. This was re-emphasised in the response to further information. The appeal submission outlines the 6 locations of telecommunication infrastructure in the wider area and the reasoning why such are not suitable, which is mainly due to topography and terrain preventing the desired coverage of the location in question. In terms of technical justification, I am satisfied with the information submitted and would consider there is a technical justification for the proposal.
- 7.2.4 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 landscape character and visual impact is also an issue in regards to this case and shall be examined in the following section of this report. I would consider that the

principle of the proposed development is acceptable subject to it having an acceptable impact in the landscape at this location.

7.3 Visual amenity/landscape character:

7.3.1 The site is located in a rural area in the townland of Bullhill a short distance south of Calverstown. The appeal site is located on the western side of the L8008 and in the north western corner of a field. The site is elevated relative to the road and is at the highest point of the field on a natural ridgeline that runs north south. Public roads in the vicinity include the R 418 located to west of the site and the L8016 to the site as well as lower category public road to the west (closer to the site than the R418).

7.3.2 Chapter 14 of the County Development Plan is relates to Landscape, Recreation and Amenity. For the purposes of landscape character the site is located within the 'Eastern Transition' area and such is noted as being of 'Medium Sensitivity' which are "areas with the capacity to accommodate a range of uses without significant adverse effects on the appearance or character of the landscape having regards to localised sensitivity factors". The area is not an area of high scenic amenity or sensitivity and there are no protected views and projects or designated scenic routes in the vicinity.

7.3.3 The applicant submitted photomontages showing before and after photos from 8 locations in the surrounding area including along the L8008, along the L8016 and the R418. The applicant noted that 30m is the minimum height needed to facilitate the level of coverage desired and restated the details of visual impact assessment originally submitted. In the appeal submission the appellants states that information regarding visual impact is sufficient to assess the proposal and they demonstrate that overall visual impact would be acceptable.

7.3.4 Having examined the documents submitted, I would consider that the visual impact assessment including photomontages is sufficient to assess the overall visual impact in the surrounding area. The proposed development is located on an elevated site relative to the public road, however I would consider this to be acceptable as it is

common for such structures to be located on elevated sites. There will be clear views of the structure in the immediate vicinity, however I would consider that existing vegetation will make such views intermittent. In regards to the wider area, long range views of the structure will be tempered by existing topography and intervening buildings, trees and vegetation as well as the fact the lattice structure is lightweight in nature. As noted above the site is not located in a landscape of high sensitivity and the proposal would not impact upon any protected views or prospects of designated scenic routes. Having inspected the site and the surrounding area, I would note that the slender nature of the structure taken into account with the fact that views of such are likely to be partial and intermittent due to topography, existing vegetation and existing structures, the proposal would not have a significant, prominent or negative visual impact at this location or in the wider area.

7.4 Appropriate Assessment:

7.4.1 Having regard to the nature and scale of the proposed development and its proximity to the nearest European site, 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 grant of permission subject to the following conditions.

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 Kildare County Development Plan 2017-2023, to support the provision of telecommunications infrastructure,

(d) the nature and scale of the proposed telecommunications support structure to be proposed,

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities and landscape character of the area, or the residential amenities of the area, 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, 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. Prior to the commencement of development on the site, 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.

Reason: In the interest of visual amenity and orderly development.

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. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the satisfactory reinstatement of the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion of the reinstatement, including all necessary demolition and removal. The form and amount of the security shall be agreed between the planning authority and the developer, or in default of agreement, shall be referred An Bord Pleanála for determination.

Reason: To ensure the satisfactory reinstatement of the site.

5. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Colin McBride
Planning Inspector

04th March 2019