



Development

A 42m multi-user lattice telecommunications structure with antenna and dishes, associated ground equipment cabinets, a new access track and, associated site works

Location

Athy Business Campus Co Kildare

Planning Authority

Kildare County Council

Planning Authority Reg. Ref.

191168

Applicant(s)

Signal Infrastructure Ltd

Type of Application

Permission

Planning Authority Decision

Permission granted

Type of Appeal

Third Party

Appellant(s)

Hibernian Cellular Networks Ltd

Observer(s)

None.

Date of Site Inspection

28th of August 2020

Inspector

Caryn Coogan

1.0 Site Location and Description

- 1.1. The site is located with the 5.5Ha grounds of the Athy Business Park which is on the north western outskirts of Athy town. The Business Park hosts a range of commercial premises with the predominant building being the Minch Malts extensive brewing complex which includes large industrial buildings and silos that run along the Grand Canal. The location is industrial in nature, and access to the site is from a service road serving a wider industrial area. The subject site is within a 3Ha larger landholding, which is currently vacant apart from a number of portacabins associated with a grain business. There are stockpiles of grain at the site, a weighbridge and trucks. Apart from that the site is open and undeveloped.
- 1.2. The subject site is 0.07Ha, and is positioned at southern extremity of the site in a corner with mature hedgerows along two site boundaries.

2.0 Proposed Development

- 2.1. The development will consist of construction of a 42m multi-user lattice telecommunications support structure carrying antenna and dishes enclosed with a 2.4metres high palisade fence compound together with associated ground equipment cabinets, a new access track and associated site works at Athy Business Campus.

3.0 Planning Authority Decision

3.1. Decision

Kildare Co. Co. granted the proposed development subject to 5No. standard conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Report dated 11-12-2019 recommended further information be requested from the applicant:

- Comply with Section 17.11.3 of the Kildare County Development Plan in terms of details the existing coverage in the area, technical explanation for justification for additional coverage, existing telecommunication structures within 2km of the site, and colour brochure of the specification for the tower.
- Radio Emissions Statement
- Third Party submission

Following a response from the applicant on the 11th of March 2020, Planning Report No. 2 (27-03-2020) can be summarised as follows:

- The proposed development will maintain coverage to existing rates, as Eir are vacating the Minch Malt site, and the other two sites within 2Km are at a low antennae height and provide poor coverage.
- The Radio Emissions Statement was submitted
- Photomontages submitted and it is considered the proposal will not have an injurious impact on the visual amenities of the area.

3.2.2. Other Technical Reports

- Environment Section: No objection
- Athy Municipal District : No objection

3.3. Prescribed Bodies

No relevant responses to the referrals sent out by the planning authority.

3.4. Third Party Observations

Hibernian Cellular Networks Ltd made a submission citing the following concerns:

- Visual impact on the Kildare landscape
- The potential users Eir and Imagine currently transmit 490metres from the subject site.
- The existing facilities have been used for decades, they are excellently positioned, and provide the perfect base for transmission. The current application unnecessarily duplicates mast infrastructure in Athy.

- The applicant and site share companies are attempting to ‘un-share’ from their current location 490m east of the site, resulting in splitting the infrastructure.
- The proposal is for a highly robust mast at 42metres and runs contrary to Kildare policy objectives TL5-TL8 and the Development Management Standards in Chapter 17

4.0 Planning History

11/300011

Permission granted to Hampton Properties for a grain storage facility on the subject site, which was not carried out and expired on the 21/07/2016.

12/300016

Permission granted to Highpoint Communications Ltd for a 42m high hexagonal telecommunications tower, carrying 13No. panel antenna and 12No. RT dishes at Athy Business Campus.

5.0 Policy Context

5.1. National Policy

5.1.1 Telecommunications Antenna and Support Structures – Guidelines for Planning Authorities, 1996 (issued by the Dept. of Environment, Housing & Local Government)

Section 1.3 of the Guidelines states:

The aim of these Guidelines is to provide relevant technical information in relation to these installations and to offer general guidance on planning issues so that the environmental impact is minimised’.

Section 4.3 states:

‘The visual impact is among the more important considerations which have to be taken into account in arriving at a decision on a particular application. In most cases

the applicant will only have limited flexibility as regards location, given the constraints arising from radio planning parameters, etc.’

Section 4.5 (Sharing & Clustering) states:

‘Sharing of installations (antennae support structures) will normally reduce the visual impact on the landscape. The potential for concluding sharing agreements is greatest in the case of new structures when foreseeable technical requirements can be included at the design stage. All applicants will be encouraged to share and will have to satisfy the authority that they have made a reasonable effort to share’.

and

‘Where it is not possible to share a support structure the applicant should, where possible, be encouraged to share a site or to site adjacently so that masts and antennae may be clustered’.

5.1.2 ***Circular Letter PL07/12***

This Circular Letter updates the guidance document. Planning authorities are advised that from the date of this letter attaching a condition to a grant of planning permission for telecommunications masts and antennae which limit their life to a set period should cease. Only in exceptional circumstances, where particular site or environmental conditions apply, should a permission issue limiting their life.

5.2. **Development Plan**

Kildare County Development Plan 2017-2023

8.13 Telecommunications Infrastructure

Free-standing masts should be avoided in the immediate surrounds of small towns and villages. In the vicinity of larger towns communications providers should endeavour to locate infrastructure in industrial estates or on industrial zoned land. Only as last resort when all other alternatives have been exhausted should free standing masts be located in residential areas or close to schools and hospitals. Relevant Policy Statements include:

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.

17.11.3 Telecommunications and Supporting Infrastructure

When evaluating planning applications for the provision of such infrastructural installations, the Council will seek to ensure that:

- The preservation of residential and visual amenity is considered.
- The telecommunications infrastructure is sited so as not to cause a negative impact on the special character and appearance of designated conservation areas, protected structures and sites of archaeological importance.
- The location of commercial masts on State buildings will be discouraged. All masts on State buildings shall have regard to national and Council policies regarding schools and residential areas.
- Only as a last resort will masts be permitted within or in the immediate surrounds of smaller towns or villages, in a residential area or near a school, hospital or residential care home. If such a location should become necessary, sites already developed for utilities should be considered and masts and antennae

should be designed and adapted for the specific locations. The support structure should be kept to the minimum height consistent with effective operation. At such locations the support structure should be monopole or poles rather than a latticed tripod or square structure.

- In the vicinity of larger towns, to encourage operators to locate in industrial estates or on industrially zoned land. The use of existing structures is always preferable to the construction of an independent antennae support structure. The possibilities offered by some commercial or retail areas should be explored in terms of potential locations for “disguised” masts. Tall buildings and rooftops, where antennae can be treated to blend in with surroundings, should be considered.

Athy Town Development Plan 2012-2018

The subject site is zoned **Enterprise and Employment**.

9.7 TELECOMMUNICATIONS INFRASTRUCTURE

The importance of the telecommunications sector to the local economy is acknowledged. Access to advanced information and communications infrastructure is essential to development and offers a competitive advantage in attracting economic development and inward investment.

The vast growth in the use of the Internet requires infrastructure investment to accommodate this growth.

The planning authority will have regard to the DoEHLG guidelines

“Telecommunications Antennae and Support Structures” (1996), and to such other publications and material as may be relevant in the consideration of planning applications for such structures.’

9.7.2 Policies - Telecommunications

It is the policy of the Council:

TE1: To encourage the development and expansion of communication, information and broadcasting networks, including mobile phone networks, broadband and other digital services.

- TE2:** To encourage owners and operators of telecommunication structures to facilitate the co-location of antennae on existing support structures and masts.
- TE3:** To 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.
- TE4:** To ensure that the location of telecommunications structures minimises and/or mitigates any adverse impacts on communities and the built or natural environment.
- TE5:** To preserve significant views from the visual intrusion of large scale telecommunications infrastructure.
- TE6:** To ensure that new telecommunications infrastructure are adequately screened, integrated and/or landscaped so as to minimise any adverse visual impacts on the environment.
- TE7:** To promote and encourage the delivery of a high capacity ICT infrastructure, broad-band network, cable and broadcasting technologies throughout Athy and to facilitate access to these services by all sectors of the community by developing initiatives through the public library service.
- TE8:** To support national policy for the provision of new and innovative telecommunications infrastructure, including a fibre optic broadband network and to recognise that the development of such infrastructure is a key component of future economic prosperity of Athy.

5.3. **Natural Heritage Designations**

The River Barrow and River Nore SPA is located 1km to the east of the subject site.

Other Natura 200 sites within 15kms of the subject site include:

Rye Water/ Carton Valley SPA

Pollardstown Fen SAC

Ballynafagh Lake SPA

5.4. **EIA Screening**

Having regard to the nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity, the absence of

any connectivity to any sensitive location, 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

Hibernian Cellular Networks Ltd has taken this appeal against the decision to grant permission for the propose development. The following is a summary of the grounds of appeal.

6.1.1 **Introduction.** The planning authority has not given proper regard to the development plan as the proposal will materially contravene Policies TE 2, TE4, TE6 and provisions set out under Section 15.8.2 of the Development Management Standards in the Athy Town Development Plan 2012-2018.

Furthermore proper regard was not given to policies TL5, TL7 and TK 8 of the development Management Guidelines under Section 17.11.3 of the Kildare Co. Dev. Plan and Ministerial Guidance set out under Section 4.3 and 4.5 of the Telecommunications Antennae and Support Structures Guidelines 1996.

Specially,

1. No requirement for a new site:-
 - a. Existing site is centrally located
 - b. Existing site higher than proposed site
 - c. Excellent access to existing site
 - d. Existing site used by all operators
 - e. Existing site managed for the benefit of telecoms
2. No need for new site demonstrated
3. Radio coverage plot at variance with publicly available information
4. Commitment to new site unproven

5. Extensive visual impact from proposed site.

6.1.2 Existing Site Sharing Facilities

All operators including eir, Three and Vodafone in addition to Ripplecom and Imagine, and Tetra transmit from the former Minch Norton grain silo 490metre east of the site. From the building roof top each operator has the benefit of a fibre connection, an electrical connection, and excellent height for transmission. The building is owned and managed by Hibernian Cellular Networks, who purchased it in 2019. The building was cleaned and upgraded to ensure ease of access for all operators and it has a good working relationship with all of the operators.

6.1.3 Applicants claims in relation to the condition of existing rooftop premises

This issue has been erroneously raised by the applicant with the express purpose of discrediting the existing facilities in order to promote its own application. Since Hibernian purchased the property two staff have been employed on full time duty, cleaning and fixing up the wider property. Claims that the rooftop is not secure are false. The operators have never complained about the property or the access to it. Therefore the applicant's claims come as a surprise. A new 42m telecommunications structure is not required.

6.1.4 Applicant's Claims in relation to the effectiveness of the purpose built structure

The fact the former Minch Norton grain silo was not built specifically for telecommunications is not a relevant consideration as to its suitability as a host site. High buildings in urban areas can perform the role of optimum coverage as opposed to erecting free standing masts which are more suitable in rural areas.

6.1.5 Coverage Plots

The coverage plots submitted as further information are at variance with Comreg's publicly available outdoor coverage plots. Vilicom display coverage is red and blue colours only with no explanation as to what each colour represents, whereby one could conclude only two types of coverage exist. The coverage maps don't show whether the coverage patterns relate to 2G, 3G or 4G. Comreg's information is correct and is a most up to date version of coverage.

6.1.6 Letter of support for sharing does not amount to unconditional support

Eir's letter of 27th of January states that Eir is interested in co-locating equipment onto the new tower to enhance 3G, 4G and wireless broadband. However it has not been demonstrated that any such relocation would have the effect of improving and enhancing the coverage. What is stated by Eir does not constitute a commitment to the applicant's proposed mast.

6.1.7 **Permission planning application at the site, Ref: 12300016**

Kildare Co. Co. granted permission to Highpoint on 27th of March 2013 for a 42metre telecommunications mast in broadly the same location as the current proposal. At the time Telefonica (now Three) and Meteor (Now Eir) made the same unenforceable commitments to support the application, that they would move from the appellant's rooftop location. The permission has lapsed and failure to implement it, demonstrates a new structure is not required in the area.

6.1.8 **Similar Applications by Applicant**

Appeal Reference **301613** In Kilkenny at Johnswell the applicant applied for planning permission for an additional 42metre mast alongside existing telecommunications structures. The Board refused the proposal on the basis that not all new tower applications applied for are necessary, and that existing infrastructure is often adequate, and that commitments to share are unenforceable by the planning authority.

6.2. **Applicant Response**

Cignal has replied to the issues raised on appeal. The following is a summary of the response.

- The need for the new site is supported by the telecommunications operators , these include Three, Eir, Vodafone and Imagine. There is a letter submitting that they intend relocating once the tower is in place. The appellants are not in a position to determine the needs of the service providers.
- The applicant, Cignal, will only build on sites where there has been an interest in those sites to build. The previous installation permitted on site was not erected due to issues relating to private financing. There are substantial costs involved in delivering telecommunication sites, and these are designed and

constructed according to the operators exact specifications and will be leased on a longterm basis.

- The coverage details provided by Three and Villicom have been drawn up by a technical team, and illustrate justification response. The Comreg Coverage Checker comes with a specific disclaimer, and it states it is not intended to amount to advise upon which you can reply upon.
- Comreg Coverage map does illustrate general coverage deficit from very good to good for 4G for the entire Athy town area. Beyond this it continues to reduce to fringe coverage particularly to the east.
- It is not possible or reasonable to expect a written contract between the operators and the applicant for an installation that does not exist. The written signed letter from each operator should be sufficient for planning application purposes.
- In terms of visual impact, the site is in an industrial area with tall structures and against a backdrop of ESB pylons. The proposal would not be unduly obtrusive when viewed from the surrounding area. The appellant's grain silo is 45metres in height. The sting of the structure is away from Athy's ACA, town centre and the Canal.
- There were no objections to the development from residents in the area.
- Full list of surrounding telecommunication sites in Athy is supplied and a map. The site was chosen based on planning history and relevant local and national planning guidelines and policies. It is a brownfield urban site.
- The policy of site sharing cannot be understood to mean all operators must share a single site in a given area rather it's the intention to encourage site sharing as a general principal over a single operator use sites in accordance with the Code of Practice. The proposed installation will add capacity to the available infrastructure in the Athy area which currently has 3 sites.
- It is the preferred option to move outside of Athy ACA to an industrial area to increase the height of the coverage as opposed to building tope sites. The standardised site lead to greater efficiency.

- Athy is the 6th largest town in Kildare with a growth rate of 60% since 2002 census. The importance of the telecommunications infrastructure is a crucial element of Athy's economic and social development. The National Planning framework it is acknowledged the telecommunications networks play a crucial role in enabling social and community infrastructure. The advent of the next wireless technology will accelerate the infiltration of mobile wireless networks into everyday life, and this requires an investment into the necessary infrastructure.
- The case cited in Johnswell Co. Kilkenny is not relevant to the current proposal as there are no existing multi-user independent masts in Athy town or its immediate hinterland. In Johnswell, there are a number of masts located alongside the subject site in a rural area.

6.3. Planning Authority Response

The planning authority had no further comment to make on appeal.

7.0 Assessment

7.1 Having considered the appeal file and inspected the subject site, I consider the planning issues to be examined in this case are as follows:

- Compliance with National Policy
- Compliance with Local Policy
- Visual Impact
- Appropriate Assessment.

7.2 Compliance with National Policy

The crux of the appeal relates to the justification and necessity for a new free standing mast within Athy Business Park, when there is an existing structure, the former Minch Norton grain silo (45m in height, and owned by the third party appellant) providing a sufficient base for extensive coverage to the telecommunications providers in Athy. The appellant states the new free-standing mast is only 490metres from their structure, and will provide coverage to the same area as their building. It is further stated by them that the need for a new free-

standing mast has been nullified by the fact an outstanding permission for a 42metre mast permitted by Kildare Co. Co. in 2012, was never implemented, implying there was no demand from the service providers to relocate onto the new structure within the Athy Business Park.

I refer to Section 4.5 of the *Telecommunications Antennae and Support Structures Guidelines for Planning Authorities 1996* where service providers are encouraged to share existing masts and facilities, in order to avoid a proliferation of structures in any one area. I have considered the submissions on appeal from the service providers, Three, Eir mobile, Imagine and Vodafone, in support of the new mast at Athy Business Park and their commitment to share the new facility. It is also stated by Three that the existing rooftop at Minch Norton has to date been a suitable site however it is not suitable for planned and future technology upgrades owing to issues of access, limited space and capacity on the roof having regard to the level of existing equipment on the roof. There is no purpose built antennae support structure in Athy. With advancements in telecommunications technology and the need to upgrade existing systems, I consider it is vital there is adequate capacity and ease of access to support the service providers in Athy.

There was planning permission granted under planning reference **12/300016** to Highpoint Communications Ltd for a 42m high hexagonal telecommunications tower, carrying 13No. panel antenna and 12No. RT dishes at Athy Business Campus (similar to current location). This permission has expired, and it was not implemented. However it is relevant that there was previous planning permission for a 42m mast this the location in Athy Business Park, therefore granting permission for the current structure would be consistent with the planning history for the area, and there has been no change to national planning policy relating to telecommunications since the previous permission, to warrant refusing the current proposal.

Based on national planning policy and the planning history for the area, I consider the proposed development is acceptable.

7.3 **Compliance with Local Policy**

The relevant development plans are the Kildare County Development Plan 2017-2023 and the Athy Town Development Plan (2012-2018, expired). In the county development plan the following policies are relevant:

***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.*

The proposed development is not in close proximity to residential developments, schools or hospitals. It is located in a long established industrial/ commercial site. There were no third party objections to the structure from the local community, the only objection was from a competitor in the site providers for telecommunication structures. No clustering of masts will occur because there are no other masts in the vicinity of the site.

7.4 **Visual Impact**

The proposed structure is 42metres in height, it is a metal tripod like structure with antennas and dishes on the top. The receiving environment is an industrial/ business park area with a number of tall structures including tall grain silos from the former Minch Norton site, and pylons in the adjoining fields. The structure albeit tall, will not look out of place when viewed from the surrounding area. There were photomontages submitted by way of further information on the 21st of October 2019, and it is clear the structure will create the greatest visual impact in close proximity to the site. The structure is not obvious from the main roads or Athy town centre. The greatest visual impact will be from within the Athy Business Park and there is a

plethora of similar structures in this area. On balance the structure will be aesthetically acceptable at the proposed location, and will not result in a negative visual impact.

7.5 **Appropriate Assessment**

Having regard to the nature and scale of development proposed and to the nature of the receiving environment, 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 the Board uphold the planning authority's decision to grant planning permission for the proposed development.

9.0 **Reasons and Considerations**

Having regard to:

- (a) national policy regarding the provision of mobile communications services;
- (b) the Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities issued by the Department of the Environment and Local Government 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,
- (e) the existing pattern of development in the area

(f) the planning history for telecommunications structures in the area.

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities or landscape character of the area, or the residential amenities of the area and would not be contrary to the overall provisions of the current development plan for the area. The proposed development 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, as amended by the further plans and particulars submitted on the 24th day of October 2019, 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. The proposed support structure shall be finished in a dark green or dark grey colour, and the proposed security fence and equipment cabinets shall be finished throughout in a dark green colour only.

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. No advertising signage shall be erected on the monopole mast, equipment cabinets or security fence.

Reason: In the interest of visual amenity.

Caryn Coogan
Planning Inspector

8th of September 2020

Decision Quashed