



An
Bord
Pleanála

Inspector's Report

ABP-308297-20

Development	Construction of 21 metre telecommunications structure.
Location	Castlefinn Service Station, Castlefinn, Lifford PO, Co. Donegal
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	2050942
Applicant(s)	Cignal Infrastructure Ltd.
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party v. Refusal
Appellant(s)	Cignal Infrastructure Ltd.
Observer(s)	None.
Date of Site Inspection	15 th December 2020
Inspector	Máire Daly

1.0 Site Location and Description

- 1.1. The subject site is located on the southern side of the N15 National Primary Road, in the centre of the rural town of Castefinn in eastern County Donegal. Castefinn is located approximately 3km west of the border with Northern Ireland. The site has a stated area of 0.0045ha and is located towards the rear (western) side of an existing Circle K service station.
- 1.2. The site area is currently occupied by an enclosed storage yard which serves the adjoining service station. The area is occupied by trolleys, bin storage, skips and small storage containers and is bound to the front by wooden fencing with gate access. A brick wall runs across the rear (southern) boundary. Access to the rear of the main service station building is provided via roller shutter doors, which front onto the storage yard. The eastern side of the site has the Circle K service station building running along it and to the west of the site is an existing shed and yard currently used as part of a car valeting and light repair business. A sparse row of deciduous trees exists beyond the southern boundary to the rear of the site. The land to the rear (south) of the site rises with the rear gardens of residential properties located in this area, as well as what appears to be a vacant plot.
- 1.3. The site is located centrally in the town of Castefinn with residential properties located to the immediate north across the N15 and to the east and south of the site. The site is located within a Zone of Notification for Site and Records Monument (SMR) Ref. DG079-046001 Historic Town. The present settlement of Castefinn is built on the footprint of the 17th century plantation village established by Sir John Kingsmill as part of the Crown plantation of Donegal.

2.0 Proposed Development

- 2.1. The proposed development is to comprise:
 - Construction of a 21-metre multi-user telecommunications structure, carrying 9 no. antennas and 6 no. dishes including radio units and associated cabling and supporting fixtures.
 - Associated ground equipment, including power metres and site works, all bound by a 4.1m gate.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Permission was **refused** for the following reasons:

1. The proposed mast would, by virtue of height and form, be an overbearing and incongruous structure within the established pattern of development within the immediate vicinity of the site which consists mostly of residential properties and would prejudice the development of other lands within the settlement boundary. It is considered to grant permission would materially contravene policies TC-P-3 and CS-P-4 of the Donegal County Development Plan 2018-2024 and the Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities 1996 (as may have been amended) and seriously injure the amenities or depreciate the value of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.
2. Having regard to the existing use of the site as an enclosed storage yard serving the existing operational petrol station and associated forecourt facilities and in the absence of alternative storage provision, to permit the development would result in disorderly and haphazard form of development on the existing petrol filling station site. Accordingly, to permit the development as proposed would materially contravene policy CS-P-4 of the Donegal County Development Plan and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The recommendation to refuse permission in the Area Planner's Report reflects the decision of the Planning Authority. The following is of note:

- Consideration of a mast on a brownfield site is acceptable subject to other considerations.

- The area planner notes the applicant's justification for the new mast, as they state that the nearest mast 210m to the west is too low to allow for new equipment and upgrades on site. The reasoning presented was not considered sufficient to justify the new mast within the settlement boundary of Castlefinn.
- No details of alternative proposals have been submitted in respect of the relocation of the existing storage yard uses and given the roadside location of the premises this is a cause for concern.
- The location of residential dwellings is noted to the north and east of the premises and a local national school.
- The photomontages submitted rely heavily on the screening afforded by the existing trees to the rear of the site and notwithstanding the photomontages it is considered that the mast will result in an overbearing impact on the village settlement.
- It is noted that the proposed equipment and installation is designed in full compliance with the limits set by the guidelines of the International Commission on Non-ionising Radiation Protection (ICNIRP) and will meet the standards set by Com Reg.

3.2.2. Other Technical Reports

- Chief Fire Officer – response dated 30th July 2020 - No objection.

3.3. Prescribed Bodies

- Donegal National Roads Office - response received 22nd June 2020 – the application does not affect the development of any current national roads projects.
- Transport infrastructure Ireland (TII) - Response received 24th July 2020 – no observations to make.
- Irish Aviation Authority – no observations.

3.4. Third Party Observations

- 3.4.1. Invalid submission – received on 3rd September 2020 from Cllr. Gary Doherty which noted the concerns raised by the local community regarding the location of the mast and the visual impact on the village.

4.0 Planning History

On site:

- P.A. Ref. 92/1402 – 1992 - Permission granted for conversion of existing car showroom to retail shop, change façade, install storage tank and erect canopy and signage.

Adjoining site to west:

- P.A. Ref. 17/51207 – 2017 - Permission granted for the erection of a detached shed for car valeting and light repair works.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The site is governed by the policies and provisions contained in the Donegal County Development Plan 2018 to 2024.

- 5.1.2. The site is located within the defined town boundary of Castlefinn, a Layer 3 settlement as designated in the County Development Plan.

- **Policy CS-P-4** states the following - *It is the policy of the Council that within the boundaries of towns identified as Strategic Towns due to their ‘Special Economic Function’ (Layer 2B) and in rural towns identified as Layer 3, applications for development will be assessed in the light of all relevant material planning considerations including any identified land use zonings, availability of infrastructure, relevant policies of the Development Plan, other regional and national guidance/policy and relevant environmental designations.*

5.1.3. **Section 5.3** of the Development Plan sets out policies and objectives in relation to telecommunications. The overall aim is to facilitate the development of high quality and sustainable telecommunications networks for the county as a critical element to support growth in all areas of the economy and increase the quality of life for the people of Donegal.

The following objectives and policies apply to the proposed development:

- **TC-O-1:** *To facilitate the development and delivery of a sustainable telecommunications network across the County through a range of telecommunication systems, developed with due regard to natural and built heritage and to environmental considerations.*
- **TC-P1:** *It is a policy of the Council to facilitate the deployment of the National Broadband Plan, the national subvention plan to deliver High Speed Broadband to every rural household outside the commercially served areas as defined on the National Broadband Plan Map and similar projects, subject to any constraints arising from international/national environmental designations and the proper planning and sustainable development of the area.*
- **TC-P-3:** *It is a policy of the Council to require the co-location of new or replacement antennae and dishes on existing masts and co-location and clustering of new masts on existing sites, unless a fully documented case is submitted for consideration, along with the application explaining the precise circumstances which militate against co-location and/or clustering. New telecommunications antennae and support structures shall be located in accordance with the provisions of the Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities 1996, (or as may be amended) and they shall not normally be favoured within Areas of Especially High Scenic Amenity, beside schools, protected structures or archaeological sites and other monuments. Within towns and villages operators shall endeavour to locate in industrial estates/areas where possible.*
- **TC-P-4:** *It is the policy of the Council to consider proposals for replacement telecommunications antennae and dishes where any proposed new antennae/dish can be sited and located in a manner that does not negatively impact on the visual amenities, built, natural and archaeological heritage or qualifying interest of any such area. Any proposal for replacement*

dishes/antennae shall be subject to all material considerations, including environmental designations and amenity considerations.

- **TC-P-5:** *It is the policy of the Council to consider proposals for replacement telecommunications support structures where any proposed new support structure can be sited and located in a manner that does not negatively impact on the visual amenities, built and archaeological heritage or qualifying interest of any such area. Any proposal for replacement telecommunications support structures shall be subject to all material considerations, including environmental designations and amenity considerations.*

5.2. Regional Planning

- 5.2.1. **Regional Spatial and Economic strategy (RSES) 2020-2032** for the Northern and Western region - **Section 6.5 Broadband Connectivity.**

5.3. National Policy Guidance

- 5.3.1. **Telecommunication Antennae and Support Structures: Guidelines for Planning Authorities 1996**

The guidelines suggest that specific design measures should be undertaken to eliminate the visual impact of telecommunication structures (Sections 4.2 and 4.3 of Guidelines). Sharing and clustering of telecommunication facilities is encouraged. All applicants will be encouraged to share and will have to satisfy the Authority that they have made a reasonable effort to share the use of the same structure or building by competing operators.

- 5.3.2. **Circular Letter PL07/12 (October 2012)**

This circular advises Planning Authorities that attaching a condition to a permission for a telecommunication mast and antennae which limit their life to a set temporary period should cease.

Furthermore, Planning Authorities should cease to specify distance requirements in the development plan. The Circular states that without allowing for flexibility on a case by case basis, this can make identification of a site for new infrastructure very difficult. Planning Authorities should therefore not include such separation distance

as they can inadvertently have a major impact on the roll-out of viable and effective telecommunications network.

In relation to health and safety aspects it is stated that Planning Authorities should be primarily concerned with the appropriate location and design of telecommunication structures and do not have the competence for health and safety matters in respect of telecommunication infrastructure. These are regulated by other codes and such matters should not be additionally regulated in the planning process.

In relation to Development Contribution Schemes such schemes must include waivers for broadband infrastructure and these waivers are intended to be applied consistently across all local authority areas.

5.4. Natural Heritage Designations

- 5.4.1. The nearest Natura 2000 site is the River Finn SAC (Site Code: 002301) which is located approximately 310 metres to the south of the appeal site. Other Natura 2000 sites within the vicinity are located over 15 kilometres from the subject site.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal, as raised by 4Site on behalf of the first party appellant Signal Infrastructure Limited can be summarised as follows:

- The proposed development is of strategic importance and therefore the applicant urges the Board that under Section 37 (2) (b) of the Planning and Development Act 2000 (as amended) the Board may grant the proposal even though it materially contravenes the Development Plan.
- The proposal is compliant with the national strategy regarding the provision of mobile communications services and is also in accordance with the 1996 guidelines and Circular PL07/12.
- The proposed development represents industry investment in response to increased demand for high quality telephone and broadband services in

Ireland and is in line with the Government's Report of the Mobile Phone and Broadband Taskforce Dec 2016.

- The proposed development is supported by the National Planning Framework and the Regional Planning Guidelines for the Border Region 2010-2022.
- In response to the first reason for refusal, the applicant states that there is no potential for co-location of equipment on existing masts. The applicant argues that the majority of sites in the area are co-located by multiple operators in line with local and national policy and that there is a coverage requirement in the town of Castelfinn. The nearest mobile site is approximately 210m from the proposed site, this site has a very low structure with limited coverage spread as it is an omni directional antennae on a monopole. There are also structural capacity limitations for new equipment and technology upgrades on this site. In addition, only one operator is present on this site due to capacity limitations.
- The other existing sites within the area are located from 5.5km to 7km away from the proposed site and are too far from the target coverage areas to provide adequate services.
- The installation is proposed within an enclosed storage yard and away from the historic core of the town. There are no areas zoned for industrial use within the surrounding area and the applicant claims that the site represents the 'last resort' in accordance with Section 4.3 of the guidelines.
- The subject site will have no impact on important views or prospects identified in the Landscape Character Assessment or heritage areas in the town such as the Diamond or Castelfinn Church.
- While it is acknowledged that there will be moderate/significant negative effects from views along the N15, having regard to the limited visual impacts on the more populated residential areas, it is considered that impacts are not of a sufficient magnitude to warrant a refusal. Views of the installation from other residential areas will be restricted where there is substantial vegetative screening.

- With regard to the alleged depreciation of property values in the area, the applicant highlights that the Board has adjudicated on such matters in the past and found that without evidence or examples of depreciation then it should not be used as refusal reason. In addition, the applicant states that studies have shown that the availability of an increased broadband speed has been shown to increase house prices in those areas.
- In response to the second reason for refusal the applicant states that the development will take up an area of less than 50sq.m and will not in any meaningful way restrict existing or future activities on the site. The current storage yard is sufficient in size to meet current and future storage needs on site and no relocation of existing facilities will take place to accommodate the development.

6.2. Planning Authority Response

6.3. A response from Donegal County Council was received by the Board on the 21st October 2020, which addressed issues raised in the submission from 4Site on behalf of the first party appellant Cignal Infrastructure Limited. The response can be summarised as follows:

- The planning authority does not dispute the importance of such infrastructure as reflected in local, regional and national policy; however, they state that each development is subject to other considerations inter alia the appropriateness of the location.
- The planning authority remain consistent in their view that the proposed location of the mast within the settlement structure framework boundary for Castlefinn, adjacent to existing residential dwellings, a nearby school (contrary to that indicated in the first part appeal report), community and religious facilities and also located directly adjacent to lands central to the future development within the settlement framework is not an appropriate location for such a structure.
- While noting the first party's comments regarding the lack of opportunity for co-location, the Justification Report submitted with the application and in the subsequent appeal fails to adequately consider an alternative location.

- The planning authority do not consider the dual use of the site for both the structure and use as a service station yard to be feasible or an orderly form of development.

6.4. **Observations**

- None received.

7.0 **Assessment**

7.1. Having inspected the site and examined the application and appeal details and all other documentation on file, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Appropriateness of Location - Technical Justification
- Visual Impact
- Heritage Concerns and Impact on Townscape
- Proximity to School
- Impact on Adjoining Lands
- Existing Uses on Site
- Appropriate Assessment

7.2. **Appropriateness of Location - Technical Justification**

7.2.1. The planning authority's refusal reason no. 1 relates to the location of the proposal within the settlement boundary of Castlefinn. The planning authority expressed concerns in relation to the negative impact that the proposed development would have on the established pattern of development in the immediate vicinity and in particular on the amenities of nearby residential properties. In addition, they stated that the proposal would prejudice the development of other lands within the settlement boundary.

7.2.2. The refusal reason also states that the proposed development materially contravenes policies CS-P-4 and TC-P-3 of the development plan. The applicant in

their appeal submit that the development is of a strategic importance and is in accordance with the regional planning guidelines for the area and therefore the provisions of Section 37 apply in this case. As part of the appeal, the applicant refers to Regional Planning Guidelines (RPG) for the Border Region 2010-2022, however these Guidelines have now been superseded by the Regional Spatial and Economic Strategy (RSES) for the Northern and Western Region which was made by the Northern and Western Regional Assembly in January 2020. Therefore, the applicant's reference to the RPGs is outdated and invalid, however I do acknowledge that Section 6.5 of the RSES does refer to the need to identify mobile blackspots and develop initiatives to address these.

7.2.3. I note that the application included a 'technical justification' report for the proposed development which indicated that there are service/coverage deficiencies in the area and the proposal is set to address same. The information on file also provides the details of existing support structures examined as an alternative to the provision of new support structure in the area. The nearest structure is located 210m west of the proposed site, is within the settlement boundary and currently hosts the Eir network. It is indicated that this structure is of a very low height and has limited coverage spread, in addition the applicant states that it does not have the structural capacity for the necessary equipment and technology upgrades. Though not referred to in the report, I also note that this structure is within close proximity of Saint Mary's National School, the issue of the proximity of these structures to schools is discussed further in Section 7.5 below. The remaining structures are located at 5.5km, 6.5km and 7km distances from the proposed site and the applicant states that all are too far from the target coverage areas to provide adequate services.

7.2.4. While I note that a detailed justification has been presented as to why any existing support structures may not be suitable, given their coverage range or the insufficient height and capacity (as detailed for the Eir Monopole), I am not satisfied based on the information submitted that there has been an adequate examination of other sites in the vicinity and that sufficient justification or evidence has been presented which would rule out other locations.

7.3. Visual Impact

- 7.3.1. The town of Castlefinn is located within an 'Area of Moderate Scenic Amenity' as defined in the Landscape Character Assessment (LCA) for County Donegal (2016). The LCA states that these areas have the capacity to absorb additional development that is suitably located, sited and designed subject to compliance with all other objectives and policies of the Plan. While I note that the proposal will not impact on any important views or prospects as identified in the LCA, it is also necessary to consider the impacts of the development on the existing townscape and built environment of Castlefinn and in particular in relation to its historical significance and impact on surrounding landuses. The justification presented by the applicant as well as the possible impacts on surrounding landuses are examined in greater detail below.
- 7.3.2. Section 4.3 of the Telecommunications Antennae and Support Structures Guidelines 2006, provides guidance on the location of such structures in particular with regard to their potential for visual impact. This section states that *'In the vicinity of larger towns and in city suburbs operators should endeavour to locate in industrial estates or in industrially zoned land'*. The applicant highlights in their appeal that there are no areas zoned for industrial use within the surrounding area. The guidelines state that only as a last resort and if the alternatives suggested are either unavailable or unsuitable, should free-standing masts be located within or in the immediate surrounds of smaller towns or villages.
- 7.3.3. The applicant states that alternative sites within the surrounding area were pursued, but that the current site is the only one available within Castlefinn Village and therefore should be considered a site of 'last resort' in accordance with Section 4.3 of the guidelines. I note that no evidence has been submitted of these alternative sites pursued and therefore, as stated previously, I am not satisfied that an adequate examination of other sites has been conducted. The proposed development will be located immediately opposite an established row of residential terraced dwelling houses and within 190m of Saint Mary's National School which is located adjacent to the N15, northwest of the proposed site. The proposed structure will be visible on the N15 National Primary Route entering/exiting the town and is likely to result in moderate/significant negative effects on visual amenities from locations along the

N15, this is documented in the submitted photomontages and acknowledged by the applicant in their appeal.

7.3.4. 15 viewpoints (including an aerial photograph) were submitted with the application which show the visual impact of the proposed structure from public viewpoint areas within a 500m radius of the site. While the existing mature treeline to the rear (south) of the site may assist somewhat in screening the development in the summer months, given the deciduous nature of the trees, the ability for these trees to mitigate the visual impacts in the winter months is significantly reduced, as was witnessed on site visit in the month of December. In addition, in the event that these trees are removed in the future the negative visual impact of this development would be exacerbated.

7.3.5. Thus, having regard to the height and scale of the proposed telecommunication structure, in a visually prominent area of the town and its location which will be visible at multiple points along the N15, it is my considered opinion that the proposed development would have an unacceptable impact on the visual amenities of the area at this particular location.

7.4. Heritage Concerns and Impact on Townscape

7.4.1. Section 4.3 of the 1996 Guidelines states that there will be local factors which have to be taken into account in determining the extent to which an object is noticeable or intrusive. The proposed site is located within the zone of notification for Sites and Monument Record (SMR) Ref. DG079-046001 – Historic town of Castlefinn, with a ‘bawn’ SMR Ref. DG079-023002 located approx. 170m to the east. In addition, eight buildings listed on the National Inventory of Architectural Heritage and six protected structures are located within a 200m radius of the site. The protected structures include 4 houses located within The Diamond area of the old historical town core and two churches, St. Mary’s and the Congregational Church.

7.4.2. Policy TC-O-1 of the County Development Plan seeks to facilitate the development of telecommunications systems across the county; however, it also states that any developments will need to have due regard to natural and built heritage and environmental considerations. In addition to this Policy TC-P-3 states the structures such as that proposed shall not normally be favoured beside schools, protected structures or archaeological sites or other monuments. Having visited the site and

examined the submitted photomontages, I would consider that the proposed development would as a result of its visual impact and lack of integration into its surroundings, have a significant negative impact on the existing historical environment and the townscape of Castlefinn and in particular the residential amenities of those dwelling houses on the opposite side of the N15 road, north of the proposed site.

7.5. Proximity to School

- 7.5.1. While I acknowledge that the planning authority have raised the location of the nearby school, to the west of the site as an issue in their submission and the specific reference under Policy TC-P-3 to locations beside schools, I note that this school is located over 200m from the proposed structure and therefore cannot be considered 'beside' or adjacent to the site. In addition, the Commission for Communications Regulations (ComReg) is the statutory body responsible for the regulation of radiation emissions. Compliance with emission limits in respect of regulation is regulated nationally by the Commission and subject to a separate license. As such, health issues are not a matter for An Bord Pleanála in determining and deliberating on the application proposed. Regular measurements of emission levels are required to comply with International Radiation Protection Association and Guidelines. As such this is a matter for ComReg and not An Bord Pleanála.

7.6. Impact on Adjoining Lands

- 7.6.1. The first refusal reason and the area planner's report suggest that the presence of a telecommunication mast on the subject site could adversely impact on the future development potential of adjoining lands within the town boundary. As I've stated above, An Bord Pleanála is not the regulatory authority in relation to any potential health impacts arising from the proximity of telecommunication structures to sensitive receptors. Notwithstanding this, there is little doubt that the provision of a large and prominent telecommunications structure could have adverse amenity impacts for any proximate future development, particularly in visual terms. There can be little doubt that the absence of a telecommunications structure in the immediate vicinity of potential residential development would be more beneficial in amenity terms. I do not consider that the applicant has demonstrated that alternative sites within the area would not offer the same if not better levels of coverage as the subject site. Other

areas within the town may also have the added benefit of being located outside an area with such a high concentration of historical structures and monuments and therefore may comply more appropriately with Policy TC-P-3 of the Donegal County Development Plan.

- 7.6.2. The location of the telecommunications structure on an alternative site in the locality would also improve the development potential of appropriate infill development within the town which would consolidate the existing built-up area in accordance with the policies and provisions in the Donegal County Development Plan and also the National Strategic Objectives set out in the National Planning Framework, which seeks to consolidate and provide for more compact development within existing built-up areas by concentrating future development within existing urban footprints.

7.7. Existing Uses on Site

- 7.7.1. The proposed development is to utilise the existing entrance for the service station on site. The subject site is located within the storage yard area to the rear of Castlefinn Service Station. The storage yard is currently used for storing of refuse bins/skips, trolleys, gas storage area and other materials associated with the service station including an existing oil tank. The site is to take up approximately 45sq.m of this larger storage yard and due to the amount of infrastructure including chambers and cabinets associated with the mast, there will be little room left for the existing uses on site. In fact, the site plan as submitted shows no plans to incorporate the existing storage uses on site and no alternative storage areas have been presented.
- 7.7.2. The applicant has stated in their appeal that the current storage yard is sufficient to meet current and future storage needs on site and no relocation of existing facilities will take place to accommodate the installation. A letter to support this position, signed by the owner of the service station has been submitted with the appeal.
- 7.7.3. In addition to the use of the yard for storage of materials and refuse facilities associated with the service station, access to the rear of the main service station building is also provided to the outside the delineated site area, to the west of this enclosed yard via roller shutter doors. A separation distance of approximately 2.5m is to be provided between the proposed site boundary and the roller shutter door. Considering the amount of storage and other materials on site at the time of the site visit, I do not consider that sufficient space would be available for these same uses if

the proposed development were permitted. I would also agree with the planning authority that the development, if permitted, would result in a disorderly and haphazard form of development on the existing petrol station site.

7.8. **Appropriate Assessment**

- 7.8.1. Having regard to the minor nature of the development, its location in a serviced urban area, and the separation distance to any 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 that planning permission should be **refused** for the reasons and considerations as set out below.

9.0 **Reasons and Considerations**

Having regard to 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 and the height, scale and location of the proposed development, it is considered that the development would be an incongruous structure within the town centre of Castlefinn, would have an unacceptable visual impact and would seriously injure the amenities of the area and property in the vicinity. Furthermore, it is considered that the existing use on site would be compromised and the proposed development would result in a disorderly and haphazard form of development on the existing service station site. The proposed development would therefore be contrary to Policy CS-P-4 of the Development Plan by reason of the impacts that would result on the town centre location and the residential amenities within the area and be contrary to Policy TC-P-3 by reason of its impacts on the historical setting. It is also considered that a sufficient examination of alternative sites and justification for the current 'last resort' site in accordance with the guidelines has not been presented. The proposed

development would therefore be contrary to the proper planning and sustainable development of the area.

Máire Daly
Planning Inspector

24th December 2020