



An
Bord
Pleanála

Inspector's Report

ABP-309485-21

Development	Construction of an 18 metre-high communications structure.
Location	Kilfenora , Co Clare
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	20934
Applicant(s)	Eircom Limited
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party
Appellant(s)	Eircom Limited
Observer(s)	Urban McMahon, Gerard Linnane Eileen Whittle, Comhar Conradh Na Boirne and Michael & Nora O'Gorman
Date of Site Inspection	5th of May 2021
Inspector	Adrian Ormsby

1.0 Site Location and Description

- 1.1. The site is located to the south of Kilfenora. Kilfenora is a Large Village and well known tourist location in the north west of County Clare c. 22m north west of Ennis and c. 6km south east of Lisdoonvarna.
- 1.2. The site is located c.55-60 m south of the R476 Regional Road which runs from east to west through the village. The site is located within the village boundary and its southern boundary generally identifies the speed limit boundary between 50 and 80 kph.
- 1.3. The site itself is an existing telephone exchange with a stone wall low boundary to the public road with a pedestrian gate inset between two piers. set on slightly higher ground than the public road. Upon entering the gate the site has steps up to a concrete plinth base which hosts a container style structure with one of its narrow end to the public road. The remainder of the site is generally grassed.
- 1.4. The site appears to adjoin a narrow agricultural access laneway to its northern boundary which links the public road to lands further to the east. The lands to the other side of this access laneway appears to be the rear of properties that front the Main Street in Kilfenora and appear to include rear gardens to residential properties.

2.0 Proposed Development

- 2.1. The proposal comprises off-
 - an 18 metre-high Monopole
 - 2 No. antennae associated with operator
 - 2 No. antennae associated with other operators
 - A communication dish
 - and ground equipment including
 - Operator Equipment cabinet
 - Other operator cabinet
 - Wall mounted RFE Cabinet to existing exchange container

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse permission on the 02nd of February for two reasons as follows-

- 1. It is an objective, under CDP8.44 of the Clare County Development Plan 2017-2023 (as varied) to facilitate the provision of telecommunications services at appropriate locations within the county having regard to the DOEHLG Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities 1996 (as updated by PL07/12 of 2012). The said guidelines for Planning Authorities state:

Only as a last resort and if the alternatives suggested in the previous paragraph are either unavailable or unsuitable should free-standing masts be located in a residential area or beside schools. 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 location. The support structure should be kept to the minimum height consistent with effective operation and should be monopole (or poles) rather than a latticed tripod or square structure.

Having regard to the height and design of the proposed structure, its location in close proximity to a large number of residential properties and a creche and the information received regarding the technical justification for the mast at the proposed location, it is considered that the proposed development would be contrary to both CDP8.44 of the Clare County Development and Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities 1996. The said structure would therefore seriously injure the residential and visual amenities of the area and be contrary to the proper planning and sustainable development of the area.

- 2. Having regard to the height and design of the proposed structure, the location in close proximity to existing residential properties and a crèche in the centre of Kilfenora village, and its proximity to a scenic route, archaeological complex, and architectural conservation area, it is considered that the proposed development would by virtue of its incongruous nature (structural material, height, and attachments) and due to its location and visual dominance in the village of Kilfenora, would be injurious to the visual amenities of this tourist location and detract from the character of the village and the surrounding area, thereby, being contrary to its proper planning and development.

4.0 Planning Authority Reports

4.1. Planning Reports

The report of the Planning Officers (2nd and 5th of February 2021) reflects the decision of the Planning Authority. The following is noted from the report-

- The site is not within the ACA associated with Kilfenora village Centre but does lie adjacent to it and would be visible from it.
- The site is zoned low density residential and lies south of a scenic route
- The principle of the proposed development is not acceptable having regard to the planning history on site, the location within the settlement of Kilfenora, the objectives for Kilfenora to protect its character, the provisions of the Telecommunications Guidelines 1996, the proximity of the site to a scenic route and archaeological complex and refusal is recommended.
- Having regard to the information submitted there is no valid technical justification for a mast at this location.
- The applicants have submitted a number of photomontages of how development will appear from various vantage points in the vicinity. There is no visual assessment of the proposed development when viewed from the cluster of National Monuments in the archaeological complex in the centre of the village.

- The proposed development by virtue of its height and nature would be incongruous with and contrary to objectives for Kilfenora and would not be in the interest of the proper planning of the area.
- The 1996 Guidelines supports the provision of a mast in a residential area as a last resort. The applicants have not identified other options or assessed them for their impact on residential amenity.
- The site is located within the archaeological complex associated with CL016-016 Cathedral and High Crosses, Standing Stone and Holy Well and other nearby monuments. No archaeological impact assessment has been submitted and neither has a visual assessment of how the mast will appear when viewed from National Monuments.

4.2. Other Technical Reports

- None

4.3. Prescribed Bodies

- Irish Aviation Authority- There is no requirement for obstacle lighting

4.4. Third Party Observations

There were seven third party submissions and the majority of the issues raised are covered in the grounds of appeal in section 7.1 of this report.

5.0 Planning History

5.1. Relevant history of this site-

- 99/2417- Construct 20m high antenna support structure, **Refused** 08/02/2000 for two reasons-
 - Incongruous nature (structural material, height, volumes and attachments) and location in the village would be injurious to village amenity of a tourist location and detract from the character of the village and surrounding area.

- Proximity to residential and commercial properties would seriously injure amenities and depreciate value of properties.

6.0 Policy Context

6.1. National Policy and Guidelines

6.1.1. National Planning Framework

National Policy Objective 48 states-

'In co-operation with relevant Departments in Northern Ireland, develop a stable, innovative and secure digital communications and services infrastructure on an all-island basis.'

The NPF sets out National Strategic Outcomes including Strengthened Rural Economies and Communities. In this regard the NPF states-

'.....improved connectivity, broadband and rural economic development opportunities are emerging which offer the potential to ensure our countryside remains and strengthens as a living and working community.'

6.1.2. Telecommunication Antennae and Support Structures: Guidelines for Planning Authorities 1996

These Guidelines set out the criteria for the assessment of telecommunications structures. The relevant points to this application and appeal are summarised below.

- planning authorities should not include monitoring arrangements as part of planning permission conditions nor determine planning applications on health grounds. These are regulated by other codes and such matters should not be additionally regulated by the planning process.
- An authority should indicate any locations where telecommunications installations would not be favoured or where special conditions would apply. Such locations might include high amenity lands or sites beside schools (Section 3.2).

- Along major roads or tourist routes, *‘views of the mast may be intermittent and incidental, in that for the most of the time viewers may not be facing the mast.’* (Section 4.3).
- In relation to villages (e.g. Kilfenora) section 4.3 the Guidelines specifically state-
 - *‘Only as a last resort should free-standing masts be located within or in the immediate surrounds of smaller towns or villages. If such location should become necessary, sites already developed for utilities should be considered and masts and antennae should be designed and adapted for the specific location. The support structure should be kept to the minimum height consistent with effective operation.’*
- Following on from the above section 4.3 also states-
 - *Only as a last resort and if the alternatives suggested in the previous paragraph are either unavailable or unsuitable should free-standing masts be located in a residential area or beside schools. 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 location. The support structure should be kept to the minimum height consistent with effective operation and should be monopole (or poles) rather than a latticed tripod or square structure.*
- The sharing of installations and clustering of such facilities are encouraged as co-location will reduce the visual impact on the landscape (Section 4.5). Developers will have to demonstrate that they have made a reasonable effort to share the use of the same structure or building with competing operators

6.1.3. **Circular Letter PL07/12 (October 2012)**

This Circular Letter revises elements of the 1996 Guidelines including-

- attaching a condition to a permission for a telecommunication mast and antennae which limit their life to a set temporary period should cease, except in exceptional circumstances.

- planning authorities should also cease specifying separation distance for such developments when making Development Plans as they can inadvertently have a major impact on the roll-out of viable and effective telecommunications network.
- 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.
- Development Contribution Schemes must include waivers for broadband infrastructure and these waivers are intended to be applied consistently across all local authority areas.

6.2. Clare County Development Plan 2017-2023

- 6.2.1. The site is governed by the policies and provisions contained in the Clare County Development Plan 2017 to 2023.
- 6.2.2. Table 2.1 of the Plan sets out the Settlement Hierarchy for County Clare. Kilfenora is identified as a Large Village in the Clare County Council Development Plan's West Clare Municipal District. The village settlement boundary is identified in the Kilfenora Settlement Plan which also identifies the subject application site as zoned LDR3 Low Density Residential. A relevant 'General Objective' of the plan includes-

To safeguard the existing character of the village by permitting development that respects the built heritage of the area

In the section titled '*Housing and Sustainable Communities*' the following is noted from the plan-

'All development proposals on Low Density Residential zoning should take cognisance of the associated Landscape Character Areas (LCA) (Kilfenora Farmland and the Low Burren LCA) and must be planned and developed in a manner sympathetic with the surrounding prospects and views.'

- 6.2.3. Section 8.8.10 of the Plan deals with Telecommunications Infrastructure. The following objective is relevant-

CDP8.44 Telecommunications Infrastructure, It is an objective of the Development Plan:

'To facilitate the provision of telecommunications services at appropriate locations within the County having regard to the DoEHLG

'Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities 1996 (as updated by PL07/12 of 2012).''

Other relevant objectives include-

CDP10.6 Broadband

It is an objective of the Development Plan: To advocate for, and facilitate the extension of, broadband infrastructure throughout the County and encourage e-commerce and IT telecommunications in support of rural enterprise.

CDP15.11 Archaeology and Infrastructure Schemes

'It is an objective of Clare County Council: To have regard to archaeological concerns when considering proposed service schemes (including electricity, sewerage, telecommunications and water supply) and proposed roadworks (both realignments and new roads) located in close proximity to Recorded Monuments and Places and Zones of Archaeological Potential.'

6.2.4. Chapter 15 of the Development Plan deals with Architectural, Archaeological and Cultural Heritage. In particular Objective 15.8- Sites, Features and Objects of Archaeological Interest states-

'It is an objective of Clare County Council:

- a. To safeguard sites, features and objects of archaeological interest generally;*
- b. To secure the preservation (i.e. preservation in situ or in exceptional cases preservation by record) of all archaeological monuments included in the Record of Monuments and Places as established under Section 12 of the National Monuments (Amendment) Act, 1994, and of sites, features and objects of archaeological and historical interest generally (in securing such preservation, the Council will have regard to the advice and recommendations of the Department of the Arts, Heritage, Regional, Rural and Gaeltacht Affairs);*

- c. *To permit development only where the Planning Authority is satisfied that the proposals will not interfere with:*
 - *items of archaeological or historical importance;*
 - *the areas in the vicinity of archaeological sites;*
 - *the appreciation or the study of such items.*
- d. *To have regard to the government publication ‘Framework and Principles for the Protection of the Archaeological Heritage 1999’ in relation to protecting sites, features and objects of archaeological interest;*
- e. *To advocate for greater financial assistance for the maintenance and improvement of features of archaeological interests in County Clare.’*

6.2.5. The site is located outside of and c.30m south of the Kilfenora Architectural Conservation Area (ACA). This ACA is described in Appendix 4 of the Development Plan as-

‘The village contains many 18th and 19th century two storey shops and town houses and has retained its unique market village character. Beside the market square stands the 12th century cathedral which has recently been restored. Kilfenora was once known as the “City of the Crosses” from its numerous illuminated carved limestone crosses. The former importance of the village is evident from the numerous forts, castles and 18th century houses which surround it. A large central area of Kilfenora has been designated as an ACA, recognising the historical and architectural importance of the townscape and layout of the core area.’

6.2.6. Scenic Routes- CDP13.7-

Development Plan Objective: Scenic Routes

It is an objective of Clare County Council:

- a *To protect sensitive areas from inappropriate development while providing for development and change that will benefit the rural community;*

- b To ensure that proposed developments take into consideration their effects on views from the public road towards scenic features or areas and are designed and located to minimise their impact;*
- c. To ensure that appropriate standards of location, siting, design, finishing and landscaping are achieved.*

The R476 Regional Road links Kilfenora to Corofin before connecting to the N85 just to the north west of Ennis. The section of the R476 between Kilfenora and Corofin appears to be identified as a scenic route in Map C Landscape Designation of the County Development Plan. This is also shown in map 13A of the Landscape Designations of the main Development Plan document. This route appears to end to the east side of Kilfenora. However Appendix 5 of the Development Plan lists two identified routes as No 4 & 5 as the R476 from Leamaneh Castle to Corofin.

- 6.2.7. Kilfenora is not located within a Heritage Landscape as identified in Map 2A Core Strategy

6.3. Natural Heritage Designations

There are no relevant designated areas within the vicinity of the site. The site is however located-

- c. 3km west of the Moneen Mountain SAC 000054
- c. 5 km south east of Ballyteige (Clare) SAC 000994

6.4. EIA Screening

- 6.4.1. An Environmental Impact Assessment Screening report was not submitted with the application. A telecommunications mast such as that proposed is not listed as requiring mandatory EIA as per Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended). By reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination an environmental impact assessment report for the proposed development was not necessary in this case (See Preliminary Examination EIAR Screening Form).

7.0 The Appeal

7.1. Grounds of Appeal

A first party appeal has been received. The grounds of appeal can be summarised as follows-

- Eircom require a site in Kilfenora as part of their licensing requirements and the continuing rollout of their 3G and 4G network. Current sites in the area do not provide adequate service for high speed broadband or voice services.
- Existing and proposed coverage plot maps are provided showing the predicted coverage from the site. The proposal represents an important component of strategic telecommunications infrastructure in Clare.
- Existing masts in proximity to Kilfenora were investigated to ensure that no potential site sharing opportunities were overlooked. An image (dated 17/02/2021) which the applicants state is taken from the ComReg Site Viewer shows no existing structure within 2km of the proposed site that can accommodate coverage needs.
- The existing site was selected as it has been established as an existing communication installation for over 20 years. The addition of an 18 metre structure would be an upgrade to the existing installation. The development can connect directly to the exchange using fibre cabling which will provide fast speed broadband and mobile connectivity. This allows for a smaller structure whereby an alternative site will require an alternative location.
- The proposal provides improved voice and high-speed broadband services in the area. The sector antenna for these services have a range of 500m per sector. A 500m search ring was looked at from the centre of the village that could accommodate the equipment to provide the required coverage.
- Eircom share all existing structures with licensed operators and operate a co-location policy. As the sole structure in the area the development has been chosen for its capabilities in allowing multiple operators.
- In terms of visual impact a 'slimline monopole type structure' is proposed to reduce visual impact. It is of a design and scale that would not be out of

character, visually obtrusive or incongruous in a village area such as this. The monopole is not dissimilar to a lamp standard or traffic pole which are commonplace in villages in Ireland.

- The height is designed to also provide potential for other operators. This will avoid the proliferation of such structures.
- A series of photomontages have been provided. These show the degree of visual impact on the existing landscape. The structure is visible from certain views, these are intermittent and not detrimental to the overall amenity of the area. This is consistent with the 1996 guidelines.
- Telecommunications connectivity is now regarded as a fourth utility after water, electricity and gas. Property values have increased where access to basic strategic infrastructure such as telecommunications is available.
- The Inspector Report for ABP reference 234771 details such masts are a common occurrence and impacts on their property are questionable.
- The proposed upgrade of existing telecoms site will allow for much needed enhanced broadband provision for work and schools.
- It is an objective of the Clare Development Plan to facilitate the provision of telecommunication services at appropriate locations.
- The National Broadband Plan recognises that access to high speed broadband is essential for today's economy and society.
- Reference is made to Section 2.6 of the National Spatial Strategy 2002-20.

7.2. Planning Authority Response

The planning authority's response to the grounds of appeal received by email on the 03/03/21 and letter on the 04/03/21 can be summarised as follows-

- No details have been submitted to show where fibre cable is located in the vicinity of the village. The applicants should submit a map showing the location of fibre cabling in the vicinity of the village so alternative locations could be meaningfully considered.

- The Planning Authority understands that it would be less costly and more convenient to locate the mast at the existing exchange.
- However, given the historic and archaeological heritage of Kilfenora the finding of an alternative location is warranted. It is also justified given that existing settlements are considered 'last resorts' for locating such infrastructure when other options may be available.
- The Planning Authority requests the Board to uphold the decision.

7.3. Observations

5 observations were received from Urban McMahon, Gerard Linnane, Eileen Whittle, Comhar Conradh Na Boirne (The Burren Display Centre) and Michael & Nora O'Gorman. The issues raised by observers can be summarised as follows:

- Undermine the value of properties in the area and impacts upon residential amenities. The proposal will be visually obtrusive from back gardens. There is
- Visual Impact of the Development lacking in natural screening. Photo montages show the 'best case scenario only'.
- Absence of contours and levels from the drawings, the appeal is incomplete and misleading.
- Kilfenora is a heritage village classed as an Architectural Sensitive Area and is not akin to a lamp post or traffic light pole.
- The Telecommunications Guidelines clearly indicate such facilities be located on industrial land and only a s last resort should they be located within or in the immediate surrounds of small towns or villages. There is no reason why a more suitable site could not be considered remote from surrounding houses and property.
- Other service providers to North Clare in general. As the national Broadband Plan rolls out there are other options.
- Health and Safety and proximity to the existing Creche facility c. 50m and holiday rental of apartments. It must also be accepted that this structure will inevitably be used for the rollout of 5G services.

- No information or drawings are submitted for warning signs, fencing or other means to secure the site.
- The proposal is not considerate of the Clare County Development Plan and the Killora Settlement Plan. It is in close proximity to a number of developments including protected structures, recorded monuments and the village is zoned an Architectural Conservation Area. The development would render a large tract of LDR lands as unattractive for development.
- A similar application was refused at this site under P99-2147. This is not referenced in the application.
- Kilfenora is a village dependent on tourism for employment and revenue. It is famous for its 11th century Cathedral and High Crosses as tourist attractions. If permitted the development will be visible from every direction and will overlook these sites thus detracting from their appeal and character. The visual impact will be of a highly negative nature. The impact on tourism facilities such as accommodation and walking routes will be of a serious negative nature.
- The sites proximity to a creche, the Main St, a community centre, tourist centre, Cathedral, High Crosses and a Nation School are listed. It is visually obtrusive from approach roads, within the village and the main street.

7.4. Further Responses

- 7.4.1. The applicants were offered the opportunity to respond to the submission made by Clare Council on the appeal in accordance with section 131 of the Planning and Development Acts 2000 (as amended). There is no response from the applicants to the Council's submission on the file.

8.0 Assessment

8.1. Introduction

- 8.1.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the

site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Proposal
- Compliance with National Guidance
- Visual Impact
- Other Matters.
- Appropriate Assessment.

8.2. Principle of Proposal

8.2.1. The site is zoned LDR or Low Density Residential as per the Kilfenora Settlement Plan and as provided for in the Clare County Development Plan 2017-2023.

8.2.2. Appendix 2 of the Development Plan sets out the Indicative Landuse Zoning Matrix. This provides a list of land uses but does not appear to include for developments/uses that could be considered to be for purposes such as Telecommunication, Utilities or Mobile Broadband Structures.

8.2.3. Section 19.5.4 of the Development Plan deals with uses that are not listed in the Indicative Zoning Matrix and states-

Proposed land-uses which are not listed in the indicative land-use zoning matrix will be considered on a case-by-case basis having regard to the proper planning and sustainable development of the area and compliance with the relevant policies and objectives, standards and requirements as set out in this Clare County Development Plan 2017-2023, guidelines issued in accordance with Section 28 of the Planning and Development Act, 2000 (as amended) and guidance issued by other government bodies/ sections.

8.2.4. As the proposed use does not appear to be provided for in the Zoning Matrix I consider it reasonable to be guided by description of Low Density Residential in the Development Plan which describes the zoning as to accommodate a low density pattern of residential development, primarily detached family dwellings. The underlying priority shall be to ensure that the character of the settlement is maintained. Proposals must also be appropriate in scale and nature to the areas in

which they are located. The existing use and proposed of the site would appear to not conform with this zoning objective.

- 8.2.5. However section 19.5.5 of the Development Plan deals with Non-conforming uses and states-

'Non-conforming uses' are established uses that do not conform to the zoning objectives of the Plan. Generally, the Council will consider reasonable extensions and improvements to premises that accommodate non-conforming uses, provided that it would not be injurious to the amenities of the area and is consistent with the proper planning and sustainable development of the area.

- 8.2.6. The site is an existing telephone exchange with an existing in-situ large storage style container serving its use. The proposed development is to provide for improved telecommunications from an existing utility site. In this context and noting the existing use of the site and that proposed uses are not provided for in the Zoning Matrix, it is my opinion having considered the zoning and section 19.5.5 of the Development Plan, that subject to other planning criteria, the proposed site is a reasonable location for the proposed development and as such is acceptable in principle.

8.3. Compliance with National Guidance

- 8.3.1. The Planning Authority's first refusal refers to objective CDP8.44 of the County Plan which seeks to facilitate the proposed developments at appropriate locations and in accordance with the 1996 Telecommunications Antennae and Support Structures Guidelines for Planning Authorities as updated by Circular PL07/12. The reason also quotes one of two 'last resorts' tests for such developments listed in the Guidelines.

- 8.3.2. The two 'last resort' tests are for two area types as follows-

- within or in the immediate surrounds of smaller towns or villages, or
- in the vicinity of larger towns and in city suburbs

In my opinion the Planning Authority have incorrectly applied the appropriate 'last resort' test in this instance. The test they applied relates to 'larger towns and in city suburbs'. In this regard the Guidelines state this test refers to the 'previous paragraph' in section 4.3 of the Guidelines. The previous paragraph clearly provides guidance for *'the vicinity of larger towns and in city suburbs'*. The refusal reason

refers to the proximity of the site to residential properties, a creche and on the information received with the application regarding the technical justification for the proposal.

- 8.3.3. Kilfenora is identified as a 'Large Village' in the Clare County Development Plan-Settlement Hierarchy. In my opinion the appropriate 'last resort' test as set out in the 1996 Guidelines clearly states-

'Only as a last resort should free-standing masts be located within or in the immediate surrounds of smaller towns or villages. If such location should become necessary, sites already developed for utilities should be considered and masts and antennae should be designed and adapted for the specific location. The support structure should be kept to the minimum height consistent with effective operation.'

- 8.3.4. To justify the location of the proposed development within the village the applicants have detailed that Kilfenora is a coverage blackspot and they have submitted an existing coverage map to demonstrate so. The applicants have also submitted a predicted coverage map for the area if the development is permitted and brought into operation.
- 8.3.5. I have reviewed ComReg's online Outside Coverage Map¹ for this area and note that for Ireland's three main service providers coverage generally ranges from 'Fringe' to 'No Coverage' for 4G, from 'Fringe' to 'Fair' for 3G and from 'Fringe' to 'Fair' for 2G mobile services. In this regard I am satisfied that there is a clear need for improved mobile and associated broadband services in this general area.
- 8.3.6. The applicants argue that there are no suitable co-location options in the area for their coverage requirements. They have submitted an image from ComReg's Site Viewer showing no existing communication structures within 2km of the site.
- 8.3.7. I have reviewed ComReg's online Mast Location Map² for the general area and in this regard it appears that there are no other masts in the general area. The closest masts I can identify at the time of assessment are two to the north west near Lisdoonvarna. These masts appear to be in excess of 5km from the site. I note one

¹ <https://coveragemap.comreg.ie/map>

² <https://siteviewer.comreg.ie/#explore>

of these is indicated as operated by Meteor/Eir. Operationally it would make sense for the applicant to make use of their own facilities but as the coverage map show this existing mast does not appear to provide reasonable coverage to the required Kilfenora area.

- 8.3.8. The applicants have indicated the sector antenna required to provide high-speed voice and broadband have a range of 500m and a search was carried out for any existing structure within 500m from the village centre. Based on the appeal submission it would appear none was found. I am not convinced by the content of this part of the appeal and in particular that the range of all 'sector antenna' is limited to 500m.
- 8.3.9. However, In terms of the guidelines, I am satisfied the applicants have justified the need for a mast in the area and have demonstrated the absence of other masts in close proximity to meet their service requirements. As such I am satisfied the applicants have submitted a technical justification for the proposal and would reasonably meet the 'last resort' test for such free-standing masts to be located within villages such as Kilfenora.
- 8.3.10. As a consequence of the above, a location for such a development within the Kilfenora Village area is in my view considered 'necessary' as per the Guidelines. The applicants are proposing a site towards the southern edge/boundary of the village that is already developed and in use for 'utility' purposes. This accords with the 'last resort test' for smaller towns and villages.
- 8.3.11. The proposed mast will be 18 metres high and will also provide co-location provision for other operators. As such it is clear the mast is not kept to the '*minimum height consistent with effective operation*' and could be lower. However to reduce the height could create a scenario where competitors would look to cluster services or seek an alternative site within the village, both options needing an additional mast. A height of 18m and the ability for colocation for alternative operators is therefore, and in my opinion, preferable and in keeping with section 4.5 of the Guidelines i.e. 'sharing of installations'.
- 8.3.12. Accordingly I am satisfied that an 18m high monopole with facilities for other operators, serving an area with demonstrable poor mobile and associated broadband coverage, where co-location is not an option, and operating from an

existing utility site on zoned lands within the village boundary is in accordance with the provisions of the 1996 Telecommunications Antennae and Support Structures Guidelines for Planning Authorities.

8.4. Visual Impact

- 8.4.1. The Planning Authority second refusal reason considers the development would be injurious to the visual amenities of this tourist location and detract from the character of the village and the surrounding area. They refer to a number of nearby sensitives including proximity to a scenic route, archaeological complex, an Architectural Conservation Area, a creche and existing residential properties. They also cite the incongruous nature of the mast including materials height and attachments. It is also noted that the observers to the appeal reference similar concerns.
- 8.4.2. In terms of design the application is for an 18m high monopole 'Delmac' tower hosting ancillary antennas and dishes. The overall design is typical of such structures and in my opinion becoming more and more commonplace throughout both rural and urban area of Ireland. I do not consider the proposal to be incongruous in the context of an existing utility site.
- 8.4.3. The applicants have submitted photomontages with the application and the appeal. This provides before and after images from 11 locations around the village.

Scenic Route

- 8.4.4. The planning authority's refusal reason does not specify which scenic route it refers to. I note the Planners Report states '*the subject site is located off a designated Scenic Route, therefore Development Plan Objective CDP 13.7 is applicable in this instance.*'
- 8.4.5. Section 13.5 of the Development Plan states-

Designated Scenic Routes throughout the County are identified in more detail on the maps contained in Volume 2 of this Plan. They are also indicated on Map 13A in this chapter and listed in Appendix 5.

The nearest designated scenic route would appear to be the R476 Regional Road from Kilfenora to Corofin. The is identified in Map C Landscape Designation and map

13A of the Landscape Designations of the Development Plan. This scenic route appears to end to the east side of Kilfenora.

- 8.4.6. Having reviewed the above maps, it is clear to me that the site is not located on a scenic route. I accept that given the height of the proposed development it may be visible in places from the R476. The 1996 Guidelines details that some masts will remain quite noticeable in spite of the best precautions but the following considerations may need to be taken into account-

-‘Along major roads or tourist routes, or viewed from traditional walking routes, masts may be visible but yet are not terminating views. In such cases it might be decided that the impact is not seriously detrimental.

-Similarly along such routes, views of the mast may be intermittent and incidental, in that for most of the time viewers may not be facing the mast. In these circumstances, while the mast may be visible or noticeable, it may not intrude overly on the general view of prospect.’

- 8.4.7. In my opinion the site is not on a scenic route, important views from the scenic route do not necessarily include towards the subject application site, the site does not terminate the scenic route, any such view will be intermittent, incidental and with most viewers not facing the mast. Therefore, I do not consider the proposed development will impact significantly or be seriously detrimental to the scenic route.

Architectural Conservation Area (ACA)

- 8.4.8. An ACA is identified c.30m to the north of the site and generally includes much of the village core either side of the main street that traverses Kilfenora. The development plan details that this large central area has been designated to recognise the historical and architectural importance of the townscape and layout of the core area.

- 8.4.9. I accept that the proposed mast will be visible from certain places within the ACA, however in my opinion it will not be visible from many other places from within the ACA. I consider views will be generally intermittent and dependent in many cases on people viewing over roof tops e.g. as shown in views 7, 8 and 9 of the applicants submitted photomontages. In this context, I do not consider that the proposed development would intrude or have a significant visual impact upon the ACA.

Protected Structures

8.4.10. I have reviewed Clare County Council's Record of Protected Structures (Volume 4) and note there are 14 such structures listed. I have considered the sites location in the context of the identified protected structures. In my opinion the mast will be sufficiently removed from all protected structures and in so being, would not have any negative impact, visual or otherwise, on their character, structure or their curtilage.

Recorded Monuments

8.4.11. Having considered the concerns of the Planning Authority and the observers I have referred to the National Monument Services Historic Environment Viewer³. I have observed the location of Sites and Monuments around Kilfenora and in particular the identified Zone of Notification for the National Monument Service. I am satisfied the proposed development is remote from such sites and archaeological investigations are not required. I also do not considered the proposed development will impact negatively on views of these sites and note no such views are protected in the development plan.

Other Properties

8.4.12. I note the proximity of other properties to the application site including a creche and the rear garden areas of residential properties. While the mast will be visible from such private amenity spaces I do consider the visual impact to be significant or so detrimental to warrant refusing the development.

Conclusion

8.4.13. I have considered the height, design and siting of the proposed development and its proximity to surrounding sensitivities. The proposed mast is a typical design, located on an existing utility site, on zoned lands and within the Kilfenora village boundary. In my opinion the proposed development will not seriously injure the visual amenities of the area and will not detrimentally detract from the character of the village.

8.5. Other Matters

Health and Safety

³ <https://maps.archaeology.ie/HistoricEnvironment/>

8.5.1. Health concerns are raised within the observations received on the appeal. Circular Letter PL07/12 states that planning authorities should be primarily concerned with the appropriate location and design of telecommunications structures and therefore do not have the competence for health and safety matters in respect of telecommunications infrastructure. The Circular also notes that telecommunication infrastructure is regulated by other codes and such matters should not be additionally regulated by the planning process. The issue of health and safety in this regard does not require further consideration.

Devaluation of Property

8.5.2. I note the concerns raised in the observations on file in respect of the devaluation of property in the area. However, having regard to this assessment and the distance between the proposed telecommunications structure and these properties, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity. In my opinion the provision of improved mobile and broadband services could have a positive benefit upon the valuation of some properties in the area.

Reference to previous Planning History

8.5.3. The observers to the appeal have noted that the applicants have not made any reference to the previous planning application on the site under 99/2417.

8.5.4. In this regard the Board are advised that under question 18 of the application form 'Site History' the applicants have indicated 'No' to the question if they are aware of any valid planning applications made in respect of these lands. The Planning Authority have validated the subject application.

8.5.5. In my opinion the content of the applicants answer to question 18 does not have a significant influence on my recommendation or on the Board's determination of this appeal.

The submitted drawings, absence of contours and levels and security provisions etc

8.5.6. Observers have expressed concerns in relation to the drawings submitted with the application including the absence of contours and levels. The Planning Authority have validated the subject application in accordance with the requirements of the Planning and Development Regulations 2001 as amended.

8.5.7. Having reviewed the submitted drawings I note drawings are reproduced from Ordnance Survey Ireland (OSI) maps, contours are shown on the submitted OS Location Map, a general site level of 70m ASL (above sea level) appear to be indicated on the submitted rural place map with ground levels and proposed dimensions AGL (above ground level) shown on scaled elevation drawings. I am satisfied the development description and submitted drawings are sufficient for the purpose of this assessment.

8.5.8. I note observers concerns also relate to possible security provisions for the site including fencing and signage. The applicants have not applied for such structures. In my opinion it would not be appropriate to consider such matters in this appeal.

3G/4G and 5G services

8.5.9. Concerns are raised by observers in relation to the type of service the proposed mast will provide. The applicants have indicated they propose providing improved 3G and 4G services. In my opinion the type of mobile broadband provision in this regard is not a relevant planning consideration.

8.6. Appropriate Assessment

8.6.1. Having regard to the nature of the proposed development, its location on an existing utility site on zoned lands, 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.

9.0 Recommendation

9.1. I recommend that permission is granted subject to the following conditions-

10.0 Reasons and Considerations

10.1.1. Having regard to the provisions of the National Planning Framework, the Clare County Development Plan 2017-2023, the Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities, 1996 and associated Circular Letter PL07/12 and the existing use of the site, and the nature and scale of

the proposed development, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities and character of the area or of property in the vicinity and would not be prejudicial to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and with the appeal, 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 commencement of development, details of the proposed colour scheme for the telecommunications structure and ancillary structures shall be submitted to, and agreed in writing with, the planning authority.

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

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

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

4. Surface water drainage arrangements for the proposed development shall comply with the requirements of the planning authority.

Reason: In the interest of public health.

5. (a) In the event of the proposed structure becoming obsolete and being decommissioned, the developers shall, at their own expense, remove the mast, antenna and ancillary structures and equipment.

(b) The site shall be reinstated upon the removal of the telecommunication structure and ancillary structures. Details of the reinstatement shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of orderly development.

6. The developer shall provide and make available at reasonable terms the proposed support structure for the provision of mobile telecommunications antenna of third party licenced telecommunications operators.

Reason: To avoid a multiplicity of telecommunications structures in the area, in the interest of visual amenity, and proper planning and sustainable development.

Adrian Ormsby
Planning Inspector
21st of July 2021