



An
Bord
Pleanála

Inspector's Report ABP309963-21

Development	30m high telecoms mast, fencing and associated works.
Location	Cloghrystick, Milford, County Carlow.
Planning Authority	Carlow County Council.
Planning Authority Reg. Ref.	20328.
Applicant(s)	Signal Infrastructure Limited.
Type of Application	Permission
Planning Authority Decision	Grant with conditions.
Type of Appeal	Third Party v Grant
Appellant(s)	Rachel Kate Sheppard.
Observer(s)	Dept of Tourism, Culture, Arts, Gaeltacht, Sport and Media.
Date of Site Inspection	28 th May 2021
Inspector	Hugh Mannion

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1.0 Site Location and Description

1.1. The application site has a stated area of 0.01 ha and is located in Cloghrystick, Milford, County Carlow about 7lms south of Carlow town. The application site is located off a local road (L1003) which itself has a junction with the R448 about 150m to the west. The R448 links the M9 in the south to Carlow town in the north. To the west of the site at the junction of the L1003 and the R448 is a stone importing and distribution business with a wide/gated access to the local road. The site between that business and the application site appears to have been recently levelled/filled. South of the local road are two houses with separate accesses, then a GAA club house with playing pitch and, farther to the west beyond the site are 3 roadside houses with an 4th set well back from the public road. Notwithstanding the nearby developments character of the area is rural.

2.0 Proposed Development

2.1. The proposed development comprises the construction of a 30m high multiuser lattice telecoms support structure, carrying antennas and discs with a 2.4m high palisade fence compound, associated ground equipment cabinets and associated site woks including access track and replacement gated access at Cloghrystick, Milford, County Carlow.

3.0 Planning Authority Decision

3.1. Decision

Grant with conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planner's report recommended a grant as per the manager's order.

The initial planner's report recommended requesting further information as follows.

- The applicant should detail alternative sites and why co-location as not possible.
- Submit coverage maps for the four alternative locations identified in the application.
- If co-location is not possible were other greenfield sites considered and why they were not chosen.
- The site overlaps with the planning reference 19-176 and registration waste permit COR-CW-19-05-02.

3.2.2. Other Technical Reports

The **Environment Section** reported no impact on public water mains, public foul mains of public surface water and recommended a grant.

Irish Water reported no objection.

The **Irish Aviation Authority** reported no objection to the proposed development.

4.0 Planning History

1. Under reference **19/176** permission was granted for lands of which the present application site forms part for use as open storage involving the importation and recovery through deposit of inert waste and material (soil and stones) on which would be placed crushed rock/gravel engineering fill graded and compacted to a finished level consistent with existing adjoining development. Access would be via an existing agricultural entrance at Cloghristic, Milford, County Carlow.
2. Under PL01.245749 the site to the east at the junction of the L1003/R448 was granted planning permission for the construction of a stone importing and distribution facility consisting of a storage unit with ancillary office space, proposed signage and wastewater treatment system at Cloghristic, Milford. Co. Carlow.

5.0 Policy and Context

5.1. Development Plan

The Carlow County Development Plan 2015 to 2021 is the relevant County Development Plan. Policy (telecoms Policy 1) in relation to telecommunications is

- Protect areas of significant landscape importance from the visual intrusion of largescale telecommunications infrastructure.
- Encourage co-location of antennae on existing support structures and to require documentary evidence as to the non-availability of this option in proposals for new structures. The shared use of existing structures will be required where the numbers of masts located in any single area is considered to have an excessive concentration.
- Have regard to Government guidelines on telecommunications infrastructure, including Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities 1996 (DoEHLG) and any subsequent revisions along with Circular PL 07/12 on Telecommunications Antennae and Support Structures.
- Support the delivery of high capacity Information Communications Technology Infrastructure, broadband connectivity and digital broadcasting, throughout the county, in order to ensure economic competitiveness for the enterprise and commercial sectors and in enabling more flexible work practices e.g. teleworking.
- Co-operate with the Department of Communications, Energy and Natural Resources and public and private agencies where appropriate, in improving high quality broadband infrastructure throughout the county.
- 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.
- Ensure that the location of telecommunications structures should minimise and / or mitigate any adverse impacts on communities, public rights of way and the built or natural environment.

- Ensure that ducting for broadband fibre connections is provided during the installation of services, in all new commercial and housing schemes and during the carrying out of any work to roads or rail lines.
- Encourage the provision of Wi-Fi zones in public buildings.
- Facilitate open access to high-speed and high-capacity broadband digital networks to support the development of a smart economy within the County → Support the co-ordinated and focused development and extension of broadband infrastructure throughout the county.
- Minimise, and avoid where possible, the development of telecommunication structures and antennae within the following areas:
 - Areas within or adjoining the curtilage of protected structure
 - Areas on or within the setting of archaeological sites
 - Within a Natura 2000 sites
- Where a renewal of a previously temporary permission is being considered, the planning authority may determine the application on its merits with a time limit being attached to the permission

5.2. Natural Heritage Designations

Not applicable.

5.3. EIA Screening

5.4. See assessment below.

6.0 The Appeal

6.1. Grounds of Appeal

- There is a stream along the northern boundary of the site which provides a hydrological connection to the River Barrow. There is ponding and a high-water table on the site which drains into the stream and from there into the Barrow.

- The application should not rely for justification on documents submitted with 19/176.
- The permission should not have been granted until the outstanding issues from 19/176 have been addressed.
- The proposed development is structurally unsound and may be dangerous to human health.
- There are 15 houses within 400m of the application site and the Barrow is 700m distant. The proposed development will seriously injure the visual amenity of these houses and the river.
- The proposed development will decrease local property values.
- Insufficient consideration as given to alternative development sites and the chosen site is not the optimum in terms of mobile data coverage.
- The site is a sensitive habitat and no AA was carried out.
- The proposed development will give rise to electromagnetic waves which will impact on bats which are a protected species.
- The application site accommodates frogs which are a protected species.
- The planning authority was remiss in not explaining why the appellant's observations at application stage were overruled.
- The previous permission under 19/176 required that there be only one entrance to site. Therefore, a replacement entrance should not have been granted in this case.

6.2. Applicant Response

- The applicant works with telecoms providers to improve telecommunications.
- The site is in a telecoms (3G and 4G) blackspot on the M9 and the R448 that links the M9 to Carlow. The improved services will benefit households and business users.
- The NPF supports the improvement of telecommunications infrastructure.
- The development does not require the submission of an EIAR.

- The increased runoff resulting from the proposed development will be minimal and dealt with in soakaways within the site. The planning authority sought additional information in relation to impacts on the environment and that information demonstrated that there would be no unacceptable impact.
- The construction/design reflect best engineering practice.
- The site is located in a landscape given a sensitivity rating of 4 in the County Development Plan (the scale is an ascending order of 1 to 5). The application included a photographic assessment which concluded that there would be moderate effect when viewed from nearby houses but no impact on a designated scenic view in the area.
- There is no evidence in Ireland that telecoms masts negatively impact on property value. A British study found that property in the vicinity of mast increase by an average of 3% over 15 years.
- The specific application site was chosen because there are no masts in the area that provide the required level of coverage that the proposed mast would do if constructed.

6.3. Planning Authority Response

- The proposed development complies with section 11.18.1 of the Carlow County Development Plan.
- The planning authority considered both EIA and AA and screened out both.
- The proposed development will not impact on the visual or residential amenity of the area.
- Enforcement action is on-going in relation to 19/176.

6.4. Observations

The Dept of Tourism, Culture, Arts the Gaeltacht, Sport and Media made a submission that an AA screening exercise should be carried out and submitted to the Department with a focus on water quality down stream of the proposed development.

6.5. Further Responses

None

7.0 Assessment

7.1. Visual amenity.

- 7.2. The appeal makes the point that the proposed development will injure the visual amenity of the area.
- 7.3. The application site is in an area designated in the County Development Plan (figure 5) as the central lowlands where the landscape is described as level to gently rolling agricultural land. The plan (Part 2 of the Landscape Character Assessment) rates landscape sensitivity on an increasing scale of 1 (least sensitive) to 5 (most sensitive). Broad river valleys (including the Barrow river valley) where the site is located is designated as having a sensitivity of 4. The application includes photo montages illustrating the visual impact from a number of points in the area and the mast is visible in some of these.
- 7.4. In this context it is necessary to distinguish between the mast being visible and that visibility being such as to give rise to seriously injury to visual or residential amenity. I consider that the mast will be visible along the public road fronting the site and from certain points long the R448. However, the landscape in the area already includes street lighting close to the site at the intersection of the R448 with the L1003 and there are telephone and electricity cables on the public roads. Telecoms masts are a common feature of rural landscapes and are assimilated into the pattern of development in rural areas. The national guidelines suggest that fragile or sensitive landscapes should be avoided when choosing sites for telecoms masts and recommends that SACs, SPAs, NHAs and national parks be avoided. These criteria do not apply in this case and I conclude that the visibility of the proposed mast does not meet the criterion of serious injury to the visual or residential amenity of the area in a manner as to require refusal of permission.
- 7.5. The development plan (part 6 of the Landscape Assessment) maps scenic views and scenic routes deemed suitable for special protection. The closest designated view is view number 33 from "Milford east and north" and is mapped in the plan as

being on the opposite side of the Barrow and about 1kms to the west. Photo 12 submitted with the application demonstrates that the mast is not visible from this location and I conder this to be an accurate.

7.6. Having regard to the material submitted with the application and appeal and the relevant parts of the County Development Plan I conclude that the proposed development will not seriously injure the visual amenity of the area, or any protected view or residential property by reason of visual intrusion.

7.7. Property Values.

7.8. The appeal makes the point that the proposed development will give rise to depreciation of the value of property in the area and attaches a letter from an auctioneer/valuer expressing the view that the proposed development would have a major negative effect on the value of the appellant's family's property.

7.9. As set out elsewhere in this assessment I am unable to identify a planning impact arising from the proposed development which would give rise to a serious injury to the amenity of property in the vicinity of the application site. It may be that the provision of high-speed broadband telecommunications services would have a positive impact on property values in the area. I conclude that depreciation of the value of property in the vicinity is not a reasonable reason for refusal in the present case.

7.10. Structural stability

7.11. The appeal makes the point that the proposed development may be structurally unsound and thereby endanger public health. The applicants responded to the appeal stating that the design and construction of the mast would meet engineering best practice.

7.12. The mast is about 47m from the public road. I consider that good engineering practice will ensure that the structure is sufficiently stable and is sufficiently distant from the public road to allow for the conclusion of no reasonably foreseeable threat to public safety arising from the proposed development.

7.13. Bats and Frogs.

7.14. The appeal makes the point that the proposed development will emit electromagnetic radiation which may harm bats and frogs within the area which are protected species. The applicant did not comment on these points.

7.15. The Telecoms Guidelines make the point that the WHO has carried out studies of the effects of radiation emitted by telecoms masts on human and animal biology and concluded that no effects were attributable to this source (see appendix II of the national guidelines). I note that the nearby SAC does not include bats as a conservation interest, and I consider that the tree and shrub cover within the application site is not typical roosting cover for bats. In relation to frogs I consider that the footprint of the proposed development is insignificant in terms of frogs' habitats in the immediate area or wider national context that the proposed mast and associated works does not have the capacity through loss or damage to habitat to impact on any species of frog.

7.16. Alternative Sites.

7.17. The appeal makes the point that insufficient consideration was given to alternative sites. This issue was raised in the planning authority's request for further information.

7.18. The applicant responded to the FI request stating that mobile and broadband coverage in the area along the M9, R448 in Ballygown and Milford is poor. The applicant states that the proposed mast will address this poor coverage area and can accommodate multiple operators offering 2G, 3G and high speed 4G broadband providers. The area was also chosen because there is a cluster of users who would benefit from these improved services.

7.19. The policy guidance in the Telecommunications Antennae and Support Structures is to encourage the provision and improvement of telecoms provision where no unacceptable impacts arise. The applicant makes the point that where telecoms coverage blackspots arise the improvement of service is a reasonable objective. The further point is that the mast is a multiuser facility which reflects the advice of the national guidelines and Carlow County Development Plan policy. Additionally, there is a cluster of residential/commercial and recreational development in the area along with the urban area of Carlow town and the users passing on the M9.

7.20. I conclude on the basis of the material submitted with the application and appeal that the proposed location is reasonable.

7.21. **Appropriate Assessment.**

7.22. The appeal makes the case that there is a hydrological connection between the site and the Barrow and Nore SAC (002162) and that an AA should have been carried out.

7.23. The conservation objectives for the SAC are the maintenance of habitats and species within Natura 2000 sites at favourable conservation condition will contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level. The qualifying interests are;

- 1) Desmoulin's whorl snail *Vertigo moulinsiana*
- 2) Freshwater pearl mussel *Margaritifera margaritifera*
- 3) White-clawed crayfish *Austropotamobius pallipes*
- 4) Sea lamprey *Petromyzon marinus*
- 5) Brook lamprey *Lampetra planeri*
- 6) River lamprey *Lampetra fluviatilis*
- 7) Twaite shad *Alosa fallax*
- 8) Atlantic salmon (*Salmo salar*) (only in fresh water)
- 9) Estuaries
- 10) Mudflats and sandflats not covered by seawater at low tide
- 11) *Salicornia* and other annuals colonizing mud and sand
- 12) Atlantic salt meadows (*Glauco-Puccinellietalia maritima*)
- 13) Otter *Lutra lutra*
- 14) Mediterranean salt meadows (*Juncetalia maritimi*)
- 15) Killarney fern *Trichomanes speciosum*
- 16) Nore freshwater pearl mussel *Margaritifera durrovensis*
- 17) Water courses of plain to montane levels with the *Ranunculion fluitantis* and

- 18) Callitriche-Batrachion vegetation
- 19) European dry heaths
- 20) Hydrophilous tall herb fringe communities of plains and of the montane to
- 21) alpine levels
- 22) Petrifying springs with tufa formation (Cratoneurion)
- 23) Old sessile oak woods with Ilex and Blechnum in the British Isles
- 24) Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion,
- 25) Alnion incanae, Salicion albae).

- 7.24. The cover letter submitted with the application states that an AA screening report was submitted with the application under 19/176. The proposed mast and associated equipment will be incorporated into the revised ground levels and that no impact will arise for the conservation interests of the SAC. Additionally, good construction practices will be incorporated into construction phase.
- 7.25. The planning authority carried out an AA screening report and concluded that the application site is about 670m from the SAC at its closest and that there is no hydrological connection between the application site and the SAC. The appeal makes the point that there is a hydrological connection between the site and the SAC (Barrow River).
- 7.26. I note the submission by the Dept of Tourism, Culture, Arts the Gaeltacht, Sport and Media.
- 7.27. The Discovery Map (map number 61) and the material submitted with the application under 19/176 shows a stream that flows north from the vicinity of the site and then turns west to a confluence with the Barrow to the northwest of the site. I conducted a walkover site inspection and there is a waterbody running along the eastern site boundary which the material submitted with the application has not excluded as a hydrological connection to the SAC. A number of the qualifying interests for which the SAC has been designated are water dependent species and habitats susceptible to decline in water quality. The applicant states (see 4.2 in the applicant's response to the appeal) that in the operational phase of the development all surface water will be disposed of within the site in soakaways however it is not clear if a change of site

levels has occurred, what the impact of such a change would be and what measures would be necessary to prevent the release of silt or hydrocarbons, particularly during construction phase. Additionally, reliance may not be placed on good construction practice as a tool to screen out the requirement for submission of an NIS and carrying out of an AA.

7.28. Requirement for EIA.

7.29. The appeal makes the point that the proposed development should be subject to EIA.

7.30. The proposed development is not within a class of development referred to in Schedule 5 of the Planning and Development Regulations 2001, as amended, and therefore submission of an EIAR and carrying out of an EIA is not required.

8.0 Recommendation

8.1. I recommend that permission be refused.

9.0 Reasons and Considerations

9.1. The Board is not satisfied on the basis of the material submitted with the application and appeal that there is no hydrological connection between the application site and the River Barrow and River Nore SAC or that the proposed development would not give rise to a release of contaminants into the water environment in the catchment of the River Barrow. Therefore, and in the absence of a Natura Impact Statement the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on the Barrow and Nore SAC (002162) or any other European site, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting permission.

Hugh Mannion
Senior Planning Inspector

16th June 2021