



An
Bord
Pleanála

Inspector's Report

ABP-311104-21

Development	Construct a 30 meter multi-user lattice mobile and broadband tower with delta headframe carrying telecommunications equipment.
Location	Castlemorris, Catstown, Hugginstown, Co. Kilkenny.
Planning Authority	Kilkenny County Council
Planning Authority Reg. Ref.	20773
Applicant(s)	Signal Infrastructure Ltd
Type of Application	Permission
Planning Authority Decision	Grant with Conditions
Type of Appeal	Third Party
Appellant(s)	1. John, Carmel and Robert Millea 2. Bryan Connolly and Barbara Wheeler-Connolly
Observer(s)	Click here to enter text.
Date of Site Inspection	10 th of November 2021
Inspector	Caryn Coogan

1.0 Site Location and Description

- 1.1. Hugginstown is a small village located between Kilkenny City and Waterford City to the west of the M9 motorway.
- 1.2. The subject site is located on a hill to the west of the village (1.5km) which is currently owned by Coillte. It will be positioned along the 220metres contour, approximately. The landholding has been felled.
- 1.3. The access point is a forest road accessed from a local road to the north of the landholding.
- 1.4. There are vast panoramic views to the east from the subject city across rural Kilkenny. Views to the east are hindered by the ascending topography.

2.0 Proposed Development

- 2.1. It is proposed to construct a 30metres lattice mobile and broadband tower with delta headframe carrying telecommunications equipment, together with associated equipment and cabinets enclosed within a 2.4metres palisade fence compound on Coillte land at Catstown, Hugginstown, Co. Kilkenny.
- 2.2. A letter of consent from Coillte (landowner) has been submitted on the planning file.

3.0 Planning Authority Decision

3.1. Decision

Kilkenny Co. Co. granted the proposed development subject to 5No. standard conditions associated with telecommunications masts.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Proposed Development: The site is required by a number of users in the area especially broadband providers. The proposal will enable all operators to

deploy 3G and highspeed 4G broadband services. A report outlines target areas. The proposed tower will eliminate existing blackspots.

- Covid Crisis :- There is critical importance to provide the technology to facilitate working from home, home-educating and social isolation.
- Sharing Facilities and Clustering:- The tower will accommodate multiple users to avoid cluttering of structures.
- Existing telecommunications sites investigated within 2Km of the site: There are 8No. existing sites have been identified and ruled out due to distance from the area and unable to provide adequate coverage to target areas.
- Visual Impact:- There were 12No. locations assessed. There will be a visual impact.
- Access:- Via existing Coillte access track.
- Recommendation: Refusal which was overruled by Senior Planner to a grant of permission.

3.2.2. Other Technical Reports

Roads: No objection

Environment: No objection

Exempt from Development Contributions

3.3. Prescribed Bodies

None

3.4. Third Party Observations

There were 16No. third party submissions to the planning application raising the following concerns:-

- Visual Impact
- Proximity to livestock
- Devalue properties

- Hugginstown Fen SAC
- Archaeological Impacts
- 20No. dwellings within 1km of the site
- Proliferation of masts in south Kilkenny
- An Eyesore
- Impact of recreation
- Impact on quality of life, health and well being
- Contravenes the Development Plan particularly those in upland areas.
- Anomalies in the application
- Visual assessment give false findings
- No local economic gain
- No alternative sites investigated.

4.0 Planning History

There is no relevant planning history associated with the subject site.

5.0 Policy Context

5.1. Development Plan Policy

The relevant development plan is the current ***Kilkenny County Development Plan 2014-2020***

9.4 Telecommunications

The Council recognises the importance of advanced communications infrastructure for an information-based society, and as a key support for business, education and research. The Council will support and facilitate the provision of advanced communication networks and services to the extent required to contribute to national, regional and local competitiveness and attract inward investment. The Council will also encourage the further co-ordinated and focused development and extension of

telecommunications infrastructure including broadband connectivity in the county, particularly in the District Towns, as a means of improving economic competitiveness.

9.4.1 Broadband The implementation of broadband is under the remit of the Department of Communications, Energy and Natural Resources. In 2012, the Department published a national broadband plan entitled “Delivering a Connected Society: A National Broadband Plan for Ireland”

9.4.2 Telecommunications Antennae The Council recognises the importance of a high quality telecommunications service and will seek to achieve a balance between facilitating the provision of telecommunications services in the interests of social and economic progress and sustaining residential amenities and environmental quality.

9.4.2.1 Telecommunications Antennae Development Management Standards

When considering proposals for telecommunications masts, antennae and ancillary equipment, the Council will have regard to the following:

- a) the visual impact of the proposed equipment and access infrastructure on the natural or built environment, particularly in areas of sensitive landscape (See Chapter 8 Heritage) or historic importance.
- b) the potential for co-location of equipment on existing masts; and
- c) Telecommunications Antennae and Support Structures - Guidelines for Planning Authorities¹⁵⁶ and Circular Letter PL 07/12157.

The Council will discourage proposals for telecommunications masts, antennae and ancillary equipment in the following locations, save in exceptional circumstances where it can be established that there would be no negative impact on the surrounding area and that no other location can be identified which would provide adequate telecommunication cover:

- (i) Highly scenic areas or areas specified as such in the landscape character assessment, such as Mount Brandon and the River Valleys; in such cases the developer shall demonstrate an overriding technical need for the equipment which cannot be met by sharing of existing authorised equipment in the areas and the equipment is of a scale and is sited, deigned and landscaped in a manner which minimises adverse visual impacts.

- (ii) In close proximity to schools, churches, crèches, community buildings, other public and amenity/conservation areas; and,
- (iii) In close proximity to residential areas. In the assessment of individual proposals, the Council will also take the impact on rights of way and walking routes into account. To avoid proliferation, which could be injurious to visual amenities, the Council will encourage co-location of antennae on existing support structures and 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. Proposals within the County for telecommunications antennae and support structures must show: a) the alternative sites considered and why the alternatives were unsuitable, b) the number of existing masts within the County, c) the long term plans of the developer in the County and the potential for further masts, d) and the plans of other promoters and any prior consultations which the developer may have had with other mast owners.

9.4.2.2 Telecommunications Antennae Objective

To set up and maintain a register of approved telecommunications structures which will provide a useful input to the assessment of future telecommunications developments and would also be useful from the point of view of maximising the potential for future mast sharing and co-location.

5.2 Government Policy

5.2.1 National Planning Framework – Project Ireland 2040

Objective 24 – ‘Support and facilitate delivery of the National Broadband Plan as a means of developing further opportunities for enterprise, employment, education, innovation and skills development for those who live and work in rural areas.’

Objective 48 – ‘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.’

5.2.2 Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities, Department of the Environment, July 1996.

The aim of the “Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities, 1996” is to offer general guidance on planning issues so that the environmental impact is minimised, and a consistent approach is adopted by the various planning authorities.

Section 4.3 of the Guidelines states with respect to Visual Impact:

Some masts will remain quite noticeable in spite of the best precautions. 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 or prospect*
- *There will be local factors which have to be taken into account in determining the extent to which an object is noticeable or intrusive – intermediate objects (buildings or trees), topography, the scale of the object in the wider landscape, the multiplicity of other objects in the wider panorama, the position of the object with respect to the skyline, weather and lighting conditions, etc.*

5.2.3 DoECLG Circular Letter PL07/12

This Circular was issued to Planning Authorities in 2012 and updated some of the sections of the above Guidelines including ceasing the practice of limiting the life of the permission by attaching a planning condition.

It also reiterates the advice in the 1996 Guidelines that planning authorities should not determine planning applications on health grounds and states that, *‘Planning authorities should be primarily concerned with the appropriate location and design of telecommunications structures and do not have competence for health and safety matters in respect of telecommunications infrastructure. These are regulated by other codes and such matters should not be additionally regulated by the planning process’.*

5.2. Natural Heritage Designations

Site Code 000404 Hugginstown Fen is located 2km southeast of the site.

Site Code 002162 River Barrow and River Nore SAC is located 2km northeast of the site
Site Code 000839 Kilkeasy Bog is located 2.5km southeast of the site.

6.0 The Appeal

6.1. Grounds of Appeal

There are two third party appeals which are summarised as follows:-

6.1.1 ***John, Carmel & Robert Millea, Catstown, Hugginstown, Co. Kilkenny***

6.1.2 Visual Impact: -

The subject site is on an elevated and exposed position on Coillte lands overlooking their house and other homes in the area. The proposed development will be a dominant feature on the landscape. The tree felling on the site has left the site bare. From the visual assessment it can be seen the 30metre mast is clearly visible from a number of homes and surrounding roads. The recommendation to refuse was based on this concern.

6.1.3 Existing Coverage:-

The technical justification for the structure appears to show minimal improvements to the coverage levels. The existing telecommunications structures in the area are sufficient and the proposed development will provide marginal improvements. No information has been provided by the applicant in relation to long term plans in the county and the potential for further masts which is a requirement of section 8.4.2.1 of the development plan. The applicant has a number of other planning applications in the general area:-

20/772 33m mast at Windgap

20/733 Replace existing 25metre pole at Knockadrina

21/209 Replace existing 27metre monopole at Castlebanny.

Knockadrina and Castlebanny will improve coverage along the M9. The National Broadband Ireland will deliver high speed broadband to every home and business in the area.

6.1.4 Health Concerns :- The cannot foresee any negative effects on human health of any future technologies deployed at the site.

6.1.5 Livestock :- The appellants run a suckler farm and their lands adjoin the Coillte lands where the mast is to be erected. There are concerns regarding the effects any lights placed on the structure would have on the livestock, especially during calving. One of the conditions requires a light to be placed on the structure.

6.1.6 Walking Route :- The forest track that runs along the site is a very popular walking route for the local community. The 30metre mast would greatly affect the unspoiled natural amenity.

6.1.7 ***Bryan Connolly and Barbara Wheeler-Connolly, Catstown, Hugginstown***

6.1.8 Excessive Visual Intrusion: The proposed development is directly facing, constant, noticeable, intrusive and seriously detrimental to the visual impact of the area, comminuting the skyline from all residences in the vicinity. Their dwelling is 200m from the site. The location is inappropriate given the scale and bulk of the development. There is no potential for screening. The development is close to residential properties. The photomontages do not address the visual impact adequately. The development will preclude access to much needed local recreational amenity and impact on community amenities.

6.1.9 Need not established : There has been no need for the infrastructure established. The proposal is for profit and has been erected on speculation and in anticipation to renting to unidentified providers. The National Broadband Ireland are currently rolling out the national broadband to rural communities. No reason was given as to why the existing mobile sites have been discounted. The main coverage issue is the M9, and the structure could be put up along the M9

A precedent could be set as there is no mast or structure on the site.

The refusal recommendation of the Planner's Report on the planning application is fully supported. It is unclear from the file why the recommendation to refuse planning permission for the development was overturned to a grant of permission.

6.1.10 Appendices : There are a detailed appendices attached to the appeal which present more detailed information regarding the grounds of appeal.

6.2. Applicant Response

6.2.1 Responses to both appeals which mainly raise the same concerns

- There was a detailed reports on the visual impact included with the original planning application and the further information. Twenty-four vantage points were assessed with an accurate scale of the mast will look like was generated. Each vantage point will have a slight to no visual impact. Mitigation through concealment is possible for some elements of the proposed development including the lower section of the tower and compound. This can be screened by a hedgerow. There are intermittent nature of views and magnitude of change as a result of the development which will have moderate impact.
- There was extensive due diligence to ensure the proposals meets with the development plan policies. It will improve local 3G and 4G services in the area. The network blackspots were highlighted in the target area, and the ideal location was selected. The technical justification submitted with the planning application, that there is a clear deficit in the network availability in the area. One of the key areas is a new site at Castlemorris where in-car services have improved considerably for a large proportion of the motorway. The subject site will enhance services in Hugginstown, Rockhall, Carrickshook and Gowland areas.
- In terms of the health concerns for his livestock, the radio equipment of the network is safe by design, and is in full compliance with the limits set by the Guidelines of the International Commission on Non-ionising Radiation Protection. The site will meet the radiation standards as set by ComReg and the associated licenced conditions applied to each operator co-locating on the structure.
- The technologies proposed by eir are UMTS and LTE, both of which are radio access network technologies using the spectrum eir have licenced from Comreg to provide services to their customers. The type of equipment used by eir and imagine is in compliance with licencing terms

- The Guidelines of 2012 state planning authorities shall not concern themselves with health and safety matters as it is beyond their competence in respect of telecommunications structures. The development must comply with the International Radiation Protection Association Guidelines.
- The structure will not obstruct any walking route as it is positioned within a palisade fence away from the main walking route for it have any negative impact.
- There are indirect benefits that are associated with an improvement to the telecommunications service including the option to work remotely in a globally connected work environment, the ability to work from or nearer to home with associated environmental and social benefits, with an increase in sustainable work and travel patterns. The proposal will have no adverse impact on residential or landscape amenities of the area.

6.3. **Planning Authority Response**

There was no further comment made by the planning authority.

7.0 **Assessment**

7.1 I have read the contents of the file, and had regard to the planning authority's decision, the grounds of appeal, and the reports made to the Board by the applicant. I have visited the site, and I consider the salient issues in the assessment of the appeal are as follows:

- Compliance with National Guidelines
- Compliance with Development Plan policy
- Consideration of Alternatives
- Impact on Visual Amenities
- Appropriate Assessment

7.2 **Compliance with National Guidelines**

The current policy document is the ***National Planning Framework – Project Ireland 2040***. The proposed development, a 30metre telecommunications structure, is to provide enhanced broadband and network connectivity to the village of Hugginstown, the car traffic of the M9 motorway to the east of the site and the wider area in line with the following objective:

Objective 24 – ‘Support and facilitate delivery of the National Broadband Plan as a means of developing further opportunities for enterprise, employment, education, innovation and skills development for those who live and work in rural areas.’

The proposal complies with Ministerial Guidelines which were published in 1996 and expanded under Ministerial Circular PL07/12. There is a coverage problem and associated blackspots identified by the service providers in the immediate area of Hugginstown. The options for co-location identified are positioned too far away from the coverage deficit in the village. Therefore, a new standalone lattice structure in the area is the only option available to the providers, which will be provided by the applicant Cignal Infrastructure. The site is designed to support mobile and broadband communications with antennas, transmission dishes and equipment for mobile network and wireless broadband providers extending the reach of communications into areas. This will support remote working in the village and surrounding rural area too in line with National Policy.

7.3 Compliance with Development Plan policy

The relevant document is the Kilkenny County Development Plan 2014-2020. The current development plan policy has been quoted at considerable length under Section 5 of this report above. It is stated in the county development plan, the Council will have regard to the visual impact of the proposed equipment on the natural and built environment, particularly on a sensitive landscape, the potential for co-location and government policy. The applicant commissioned Villicom to prepare a report on the technical justification for locating on the subject site. The report is dated 2nd of November 2020.

Firstly, the target areas for service improvements (the service blackspots) are Hugginstown, along with a section of the M9 and south of the site. There is a multi-operator stayed tower 3.7km from the site, however it is located too far from the target service area. The existing stayed tower site is not upgradable and it cannot

support other operators. There are no opportunities for co-location on existing sites in the surrounding area and a coverage problem has been detected in the area. The subject site needs to be close to the coverage problem. The site is not a scenic or high amenity area. Secondly, the site is available, the landowner Coillte has given consent to the planning application. Based on the technical evidence supplied on appeal, this site represents a last resort at this location because it is the only option available to the applicant.

The site has been chosen within the area because it will have the maximum operational impact with minimal visual impact. It complies with the objectives of the current County Kilkenny Development Plan because it is not located in a highly scenic area, or close to schools, churches or creches or residential areas.

It is a stated policy under 9.4.2 that the Council recognises the importance of a high quality telecommunications service and will seek to achieve a balance between facilitating the provision of telecommunication services in the interests of social and economic progress and sustaining residential amenities and environmental quality.

7.4 Consideration of Alternatives

There may be sites within the wider area capable of accommodating a new telecommunications structure. There are existing sites within a 10km radius of the proposed site which were examined by the applicant for the purposes of co-location, as tabulated in the report submitted by Vilicom. Each of the 6No. existing sites within 10km that were investigated, do not provide adequate coverage to the search ring area associated with the black spot areas. Following a review of potential sites, it was determined the installation of the proposed development at the subject site was the best possible solution to provide a satisfactory level of service. Based on the technical evidence supplied on appeal, I consider the subject location for the new telecommunications structure on the hill is the most appropriate location to provide for the coverage deficit in the area.

7.5 Impact on Visual Amenities

An in-depth analysis of the potential impacts on visual amenity of the area was carried out by the applicant on appeal. There were 24No. vistas from the surrounding area examined. There was an accurate scale of the proposed development generated from the 24No. vistas. Overall, the findings of the study indicated the visual impact of the structure was slight/ no impact from the majority of

the vistas. Another visual impact report was commissioned and carried out by ACP Landscape Architects. The subject site is on the edge of a sensitive landscape (Kilkenny Landscape Character Assessment). The landscape, in the vicinity of the site, is capable of tree cover and there is a possibility to absorb some changes to the landscape in the longterm. There were 4-5 visual receptors assessed in the study area associated with the village and nearby roads. It was concluded that mitigation is possible through concealment with the use of screening, and a plantation management plan.

There are no scenic routes or high amenity areas associated with the subject site. I do not consider the proposal will be overpowering or oppressive when viewed from the surrounding area. It will not detract from the visual qualities of Hugginstown village and the surrounding rural area. In my opinion, the proposal does not warrant a refusal on visual grounds given the benefits of the development to the existing community providing improved access to wireless telecommunications infrastructure.

7.6 Appropriate Assessment

Having reviewed the documents and submissions and having regard to the nature and scale of the proposed development which is a standalone telecommunications structure and small compound within an elevated landscape, the location of the site with no direct or indirect connection via a pathway to a European site, I am satisfied that no Appropriate Assessment issues arise. It is not considered the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. I recommend the Board grant planning permission for the proposed monopole tower to facilitate telecommunications equipment in Suncroft village.

9.0 Reasons and Considerations

Having regard to:

- (a) National Planning Framework – Project Ireland 2040,

- (b) The Telecommunications Antennae and Support Structures -Guidelines for Planning Authorities, issued by the Department of Environment and Local Government in 1996,
 - (c) The Telecommunications Antennae and Support Structures -Guidelines for Planning Authorities, issued by the Department of Environment and Local Government Circular Letter PL07/12,
 - (d) The objectives of the Kilkenny County Development Plan 2014-2020,
 - (e) The nature, scale and location of the proposed telecommunications structure,
- the proposed development, subject to compliance with the conditions set out below, would achieve the objectives set out in National Policy and the Kilkenny County Development Plan 2014-2020. It is considered that the proposed development would not seriously injure the visual or residential amenities of the area and would otherwise be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The proposed mast and all associated antennas, equipment and fencing shall be demolished and removed from the site when its no longer required. The site shall be reinstated to its pre-development conditions at the expense of the developer.</p> <p>Reason: In the interests of orderly development.</p>

3.	<p>The antennae type and mounting configuration shall be in accordance with the details submitted with this application, and notwithstanding the provisions of the Planning and Development Regulations 2001, and any statutory provision amending or replacing them, shall not be altered without prior grant of planning permission.</p> <p>Reason: To clarify the nature and extent of the permitted development to which this permission relates and to facilitate a full assessment of any future alterations.</p>
4.	<p>A low intensity fixed red obstacle light shall be fitted as close to the top of the mast as practicable and shall be visible angles in azimuth. Details of this light, its location and period of operation shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of the development.</p> <p>Reason: In the interests of public safety</p>
5.	<p>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 prior to commencement of the development.</p> <p>Reason: In the interests of visual amenity.</p>
6.	<p>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 prior grant of planning permission.</p> <p>Reason: In the interest of visual amenities of the area.</p>

Caryn Coogan
Planning Inspector

11th of January 2022