



An  
Bord  
Pleanála

## Inspector's Report

### ABP-312585-22

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<b>Development</b>	Erection of a 36m high lattice support structure.
<b>Location</b>	Townland of Knockhill & Drinagh, Kilcormac, Co. Offaly
<b>Planning Authority</b>	Offaly County Council
<b>Planning Authority Reg. Ref.</b>	21667
<b>Applicant(s)</b>	Hibernian Cellular Networks Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Hibernian Cellular Networks Ltd
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	18 <sup>th</sup> of May 2022
<b>Inspector</b>	Caryn Coogan

## 1.0 Site Location and Description

- 1.1. The site is located in a rural elevated area in Co. Offlay, 1.1Km south of Ballyboy village. The site is 0.144ha in size and is located in the townland of Knockhill and Drinagh.
- 1.2. The site is located in the corner of a field along the roadside boundary. There is a mature hedgerow to the north with trees and along the roadside boundary to the west. The two remaining site boundaries are an exposed field. The site is currently under grass.
- 1.3. The site ascends from north to south across the south-west axis of the site. There are panoramic views to the east from the site overlooking lower ground, and the Slieve Bloom mountains in the distance to the south.
- 1.4. There is a 400KV pylon line to the south of the site.

## 2.0 Proposed Development

- 2.1. The erection of a 36m high lattice support structure carrying antennas and dishes together with associated ground-based equipment containers all enclosed in security fencing.

## 3.0 Planning Authority Decision

### 3.1. Decision

Offaly Co. Co. refused to grant planning permission for the proposed development for two reasons:

1. The proposed site is located within a Key Scenic View and Prospect (V17) as identified in Table 4.21 of the Offaly County Development Plan 2021-2027. It is an objective of the Plan under Section 4.17, BLO-26-26 'to protect Key Scenic Views and Key Prospects contained in Table 4.21 from inappropriate development'.

It is considered that the proposed development would conflict with current County Development Plan Policy on the protection of Key Scenic Views and

Prospects on the prevention of random rural development, and if permitted, would, by itself, unduly injure the visual amenities of the area, would militate against the preservation of the rural character and attractiveness of the area, would represent an undesirable precedent to further such development and would contribute further encroachment of such development in this area. The proposed development, therefore, would, if permitted, contravene materially Objective BLO-26 of the County Development Plan 2021-2027 and would therefore be contrary to the proper planning and sustainable development of the area.

2. The siting and design of the proposed telecommunication development would be out of character and visually obtrusive in this rural area and materially contravene objective BLP-38 of the Offaly County Development 2021-2027 to protect and enhance the appearance and character of the county's landscape.

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

- The site is located within a scenic view (V17) from Road No. L-06034 in the townlands of Knockhill and Drinagh towards the north east and north west over lowland. The proposal would have a negative impact on the Scenic View from Knockhill to the north-west.
- Regard shall be had to the Council's policy to achieve balance between facilitating the provision of telecommunications services in the interests of social and economic progress and protecting residential amenity and environmental quality and to avoid the unnecessary proliferation of masts in the county through co-location of antennae on existing support structure and masts.
- Insufficient justification for choosing the site
- Recommendation to refuse

### 3.2.2. **Other Technical Reports**

**Area Engineer** : Finished levels required regarding the access and surface water drainage. The proposed entrance road including dimensions and surfacing to be submitted.

### 3.3. **Prescribed Bodies**

None

### 3.4. **Third Party Observations**

There was a third-party objection to the proposed development at planning application stage which expressed the following concerns:

- Issues with no public consultation
- Health and Safety concerns
- Impact on bats and protected species
- The siting and design would be out of character and visually obtrusive in the rural area and contravene LAO-01 and section 8.22 of the county development plan
- Inaccurate information
- No provision for carparking in relation to operation and maintenance

## 4.0 **Planning History**

There is no relevant planning history.

## 5.0 **Policy Context**

### 5.1. **Development Plan**

***Offaly County Development Plan 2021-2027***

#### 5.5.1 **Landscape Policies**

Section 4.14.2 Protection of Scenic Views, Prospects and Key Amenities

Protection of Key Scenic Views, Prospects and Key Amenity Routes County Offaly contains a number of valuable views and prospects which offer a very attractive cross-sectional view and overall impression of differing landscapes as one traverses the county. The Council recognises the need to protect the character of the county by protecting Key Scenic Views, Prospects and Key Amenity Routes within the county. The Council will aim to protect sensitive areas from injurious development, while providing for development and change that will benefit the rural community by ensuring that appropriate standards of location, siting, design, finishing and landscaping are achieved from implementing the development management standards contained in Chapter 13 of this plan.

***V17 Road No. L-06034 in the townlands of Knockhill and Drinagh. Towards North East and North West over lowlands.***

Protection of Key Scenic Views and Prospects and Key Amenity Routes

**BLP-43** It is Council policy to require a Landscape/Visual Impact Assessment to accompany significant proposals that are likely to significantly affect Key Scenic Views and Prospects as listed in Table 4.21 and Key Amenity Routes as listed in Table 4.22.

**BLO-26** It is an objective of the Council to protect Key Scenic Views and Key Prospects contained in Table 4.21, and Key Amenity Routes as listed in Table 4.22 from inappropriate development.

**BLO-27** It is an objective of the Council to ensure that proposed developments take into consideration their effects on views from Key Scenic Views and Prospects and Key Amenity Routes and are designed and located to minimise their impact on this views and prospects.

**BLP-38** It is Council policy to protect and enhance the county's landscape, by ensuring that development retains, protects and where necessary, enhances the appearance and character of the county's existing landscape

#### 5.5.2 ***Information and Communication Technologies***

Offaly County Council recognises that Information and Communication Technologies (ICT) play a crucial role in enabling social and economic activity and is therefore committed to enhancing the ICT infrastructure throughout the county. It is

acknowledged, however, that this must be managed to ensure a balance between the provision of such infrastructure in the interests of social and economic progress, and sustaining residential amenity and environmental quality.

### **5.8.2 Telecommunications**

The Council recognises that there is a balance between facilitating the provision of mobile telecommunications infrastructure and the need to protect residential, visual amenity and the natural and built environment. When considering proposals for telecommunications infrastructure, the Council will have regard to the Department of the Environment, Heritage and Local Government's "Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities" 1996 and Circular Letter PL07/12 'Telecommunication Antennae and Support Structures' and any amendments thereof.

**ENTP-40** It is Council policy to promote and facilitate the sustainable development of a high quality Information and Communications Technology (ICT) network in the county in order to achieve balanced social and economic development whilst protecting the amenities of urban and rural areas.

**ENTP-41** It is Council policy to support and facilitate the delivery of the National Broadband Plan and the Offaly Digital Strategy as a means of developing further opportunities for enterprise, employment, education, innovation and skills development.

**ENTP-42** It is Council policy to require underground telecommunications ducting to be provided in all new developments and public realm schemes as appropriate, to support the rollout of all digital infrastructure including the National Broadband Plan throughout the county.

**ENTP-43** It is Council policy to achieve a balance between facilitating the provision of telecommunications services in the interests of social and economic progress and protecting residential amenity and environmental quality. The Council will have regard to the Department of the Environment, Community and Local Governments Guidelines on Telecommunications Antennae and Support Structures (and any future editions) and Circular Letter PL07/12 (Telecommunications Antennae and Support Structures) in assessing development proposals.

**ENTP-44** It is Council policy to avoid the unnecessary proliferation of masts in the county through collocation of antennae on existing support structures and masts. Masts and antennae shall be restricted in the following areas:

- Upland areas of the Slieve Bloom Mountains, masts will not be permitted in areas above the 150- metre contour, unless it can be clearly demonstrated that it is not possible to locate antennae on the existing mast clusters at Wolftrap Mountain or Coolcreen;
- Designated Areas of High Amenity; and
- Within significant views or settings of recorded monuments and places, national monuments, protected structures, architectural conservation areas and archaeological sites.

## 5.2. **Natural Heritage Designations**

The relevant Natura 2000 sites are as follows:

Clonaslee Eskers and Derry Bog SAC – 3.83km

Slieve Bloom Mountains SPA- 4.78km

Slieve Bloom Mountains SAC – 7.22km

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

Kiaran O'Malley & Co has taken this appeal on behalf of the applicant Hibernian Cellular Networks Ltd. It is submitted the application of the Key Scenic Views and Key Prospects V17 does not include the appeal site and therefore does not affect the proposed development. The proposal is compliant with the policy provisions of Offaly County Development Plan 2021-2027, the Telecommunications Guidelines, the National Planning Framework and regional policy objectives in the Regional Spatial & Economic Strategy for the Eastern and Midlands Region.

- The justification for the proposed development is set out in the attached report by Digis Squared. The report includes Comreg mapping, line of sight analysis, with cover and quality predictions. In summary the new tower will :-

Provide a dedicated, optimised telecom-specific tower;

Enhanced capacity and capability to handle current communications equipment, and to allow for future technologies

No interference from high voltage transmission lines

The new mast is located on a 26metre higher ground level than the high voltage pylons.

- **Reason for Refusal No. 1 :** The appeal site is not located within key scenic view. Offaly Co.Co. Planning GIS viewer shows the direction and viewshed of V17 (there are two, one northwest and one northeast). As per the mapping the subject site is located outside of the parameters. The description of the view in Table 4.21 states 'Road No. L-06034 in the townlands of Knockhill and Drinagh : View towards Northeast and Northwest over lowlands. The protected views are across the lowlands either side of the general location of the proposed development at Knockhill as described in the development plan and clearly shown on the Council's Planning GIS Viewer. The first reason for refusal is without foundation and should be refused.

- **Reason for Refusal No. 2 :-**

It is not agreed the proposed development would materially contravene BLP-38 of the development plan. The basis for the reason of the refusal follows on from the errant application of V17 and BLO-26 , because the planning officer's report does not mention or assess the proposal in respect of BLP-38.

Macroworks were engaged to undertake a landscape and visual impact assessment and a copy of report and photomontages are attached. LIVA concludes the sensitivity of the receiving environment is low in accordance with the criteria contained in Appendix A as well as the Offaly Landscape Character Assessment, (Section 1.6.1). These designations are considered to result in a slight imperceptible significance of landscape impact.

After determining a Zone of Theoretical Visibility, the LVIA identified 8No. views reference points for the visual impact assessment and photomontages. Based on this assessment the report concluded there would be significant landscape or visual impacts. There is a range of impacts from moderate



(VP6) to slight and imperceptible which is based on proximity and complexity of the intervening landscape. The views have a relatively small range of receptor sensitivity as they all share a similar localised rural/ village context. The Board is requested to agree the proposal would not materially contravene objective BLP-38 and Reason No. 2 should be rejected.

- ***Material Contravention***

Both reasons for refusal allege material contravention of a policy and objective.

1. The proposed development is of strategic importance because it would support and facilitate the delivery of National Broadband Plan and be in accordance with National Policy Objective 24 in the National Planning Framework.
2. It is submitted that Key Scenic View and Prospects (V17) is clearly stated in the development plan. The directions of V17 have been misinterpreted by the planning authority. Figure 4.24 shows views across the entire county and it is not a scale that could accurately be applied to any proposals. From the planning authority's GIS viewer neither direction of the V17 views are across the appeal site. The planning policy is not clearly stated in the development plan and as a result it has been misapplied to the proposed development.
3. The proposed development is supported by regional policy objective RP08.25 in the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy ie:

RPO 8.25 Local Authorities shall:

- Support and facilitate the delivery of the National Broadband Plan
- Promote and facilitate the sustainable development of a high quality ICT network throughout the regional in order to achieve balanced social and economic development whilst protecting the amenities of urban and rural areas.

The provision of a telecommunications mast at the appeal site is compliant with RPO 8.25 in that it would support the delivery of the NBP

and would promote and facilitate a high-quality ICT network in the region. In addition, the proposal complies with the Telecommunications Guidelines and Circular Letter PL07/12.

## 6.2 Planning Authority Response

The planning authority has requested the Board uphold the decision to refuse planning permission for the proposed development.

## 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
- Impact on Visual Amenities
- Material Contravention
- Appropriate Assessment

## 7.2 Compliance with National Guidelines

The current policy document is the ***National Planning Framework – Project Ireland 2040***. The proposed development, a 36metre telecommunications structure, is to provide all operators to deploy 3G and high speed 4G broadband services including future technology upgrades. The subject site was chosen because it would greatly benefit the local area and service the needs of the area for many years to come. The proposed development will cater for the transmission of high capacity wireless data and broadband services for Hibernians existing customer base of Mobile Network Operators, Radio Stations, Wireless Broadband companies.

***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. The options for co-location identified are positioned too far away from the coverage deficit and there is no facility to share on the adjoining pylon because the maximum height allowable on the pylon is 22metres and there is an existing dish at this level. The proposal is to enhance the existing service in the area. Therefore, a new standalone lattice structure in the area is the only option available to the providers. 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 surrounding villages and surrounding rural area too in line with National Policy.

### **7.3 Compliance with Development Plan policy**

The relevant plan is the Offaly County Development Plan 2021-2027. The current development plan policy has been quoted at considerable length under Section 5 of this report. 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 Digis to prepare a report on the coverage prediction for locating on the subject site. The report is dated 25<sup>th</sup> of January 2022 and was submitted on appeal by the applicant.

Firstly, the assessment of the ComReg coverage maps in the general area demonstrates that Vodafone is better than others, all operators suffer from bad or dead coverage zones in the area of interest, across all network technologies. The pylon in close proximity to the subject site to the south carries high voltage transmission lines which may interfere with telecom signals impacting on capacity and coverage. The stated Vodafone coverage is the best in the area but does not provide coverage for the tourist spots around Kinnitty and only partially covers the town of Kilcormac. The site selected, the subject site, is at 137metresO.D. and stands at 36metres optimising the location to serve the entire area in all directions. 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.

- Section 4.14.2 Protection of Scenic Views, Prospects and Key Amenities is addressed in the next paragraph of this report.

- Section 5.8.2 Telecommunications states it is the policy of the planning authority under policy ENTP-40 to promote and facilitate the sustainable development of a high quality Information and Communications network in the county in order to achieve balanced social and economic development whilst protecting the amenities of urban and rural area.
- The proposed development complies with Policy ENTP-41 to support and facilitate the delivery of the National Broadband Plan and the Offaly Digital Strategy as a means of developing further opportunities for enterprise, employment, education, innovation and skills development.

## 7.5 Impact on Visual Amenities

It is clear policy in the development plan the planning authority will avoid the unnecessary proliferation of masts in the county through collocation of antennae on existing support structures and masts. Masts and antennae shall be restricted in the designated areas of High Amenity. The site is not located within an area of High Amenity, however according to Reason No. 1 of the planning authority's decision, the site is located within a Key Scenic View and Prospect (V17) as identified in Table 4.21 of the Plan. In my opinion, from studying the planning authority's GIS mapping, the subject site is not located with the Scenic View V17 as stated in the development plan. However, the designated view begins in the close proximity of the site, and I will consider the potential visual impact on the structure in detail.

The site is located in an elevated rural area, and there are expansive views east towards lower lands, with the Slieve Bloom mountains in the distance to the south. The site is set against a rising slope with a high degree of vegetation to the front and along one side of the site. On balance the sensitivity levels of the receiving environment is low when viewed from the immediate area.

There were 8No. key views from the surrounding area assessed in terms of visual impact in the accompanying report by Macroworks (January 2022). These include photomontages and assessment of the impact before and after the installation of the proposed development. It is clear the impact on the wider landscape will be slight to imperceptible. The greatest impact will be created at the site, and I would consider this to be a moderate impact. In my opinion, the impact in close proximity to the site is also reduced by the view of the large pylons on approach from the north up the

hill. Overall, the findings of the study indicated the visual impact of the structure was slight/ no impact from the majority of the vistas.

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 the 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.

In conclusion, having examined Council's Planning GIS the site is not within the V17 scenic view, and policy BLP-38 does not apply, therefore reasons for refusal 1 and 2 can be dismissed by the Board.

## 7.6 **Material Contravention**

The legal terminology that has been used in the planning authority's decision to refuse states in both reasons for refusal the proposed development will materially contravene the county development plan. I note both the Planning Report on file or the reasons for refusal do not indicate exactly how the development plan is 'materially' contravened by the proposal. In my opinion, the terminology has been used flippantly by the planning authority in this instance. The Board can only overturn a decision to refuse on material contravening reasons if certain criteria in the *Planning Act 2000* are met:

- (a) The proposed development is of strategic importance. The proposal will support and facilitate the delivery of National Broadband Plan and be in accordance with National Policy Objective 24 in the National Planning Framework.
- (b) The Key Scenic View and Prospects (V17) is clearly stated in the development plan. The viewpoint (V17) has been misinterpreted by the planning authority. Figure 4.24 shows views across the entire county and it is not to a scale that could accurately be applied to any proposals. From the planning authority's GIS viewer neither direction of the V17 views are across the appeal site. The planning policy is not clearly stated in the development plan and as a result it has been misapplied to the proposed development.
- (c) The proposed development is supported by Regional Policy objective RP08.25 in the Eastern and Midland Regional Assembly Regional Spatial and

Economic Strategy. The provision of a telecommunications mast at the appeal site is compliant with RPO 8.25 in that it would support the delivery of the NBP and would promote and facilitate a high-quality ICT network in the region. In addition, the proposal complies with the Telecommunications Guidelines and Circular Letter PL07/12.

## 7.7 **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 development.

## 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 Offaly County Development Plan 2021-2027,
- (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 Offaly County

Development Plan 2021-2027. 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><b>Reason:</b> 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><b>Reason:</b> 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><b>Reason:</b> 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</p>

	<p>agreed in writing with, the planning authority prior to the commencement of the development.</p> <p><b>Reason:</b> 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><b>Reason:</b> 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><b>Reason:</b> In the interest of visual amenities of the area.</p>

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Caryn Coogan  
 Planning Inspector

30/05/2022