



An
Bord
Pleanála

Inspector's Report

ABP-314087-22

Development	Erection of a 36m high lattice support structure carrying antennas and dishes
Location	Moyclare, Belmont, Birr, Co. Offaly.
Planning Authority	Offaly County Council
Planning Authority Reg. Ref.	21643
Applicants	Hibernian Cellular Networks Ltd
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellants	Hibernian Cellular Networks Ltd
Observer	Kieran Rourke on behalf of concerned neighbours
Date of Site Inspection	19 August 2022
Inspector	Dolores McCague

1.0 Site Location and Description

- 1.1.1. The site is located at Moyclare, Belmont, Birr, Co. Offaly. The site is located along the primary local road L3004-2 half way between Ferbane and Belmont. Ferbane being a small town and Belmont a crossroads settlement. Two pairs of gates at the public road access the field and the adjoining Irish Water property. The site is to be accessed via the existing field gate. The site is located adjoining and immediately to the rear of the site of a water tower, located on ground which rises from the road and continues rising within the adjoining field. The water tower is used as a structure on which telecommunication antennae are mounted. Immediately adjoining and to the north-east of the water tower there is a dwelling. Across the primary local road, a cul-de-sac local road has two dwellings located beside the junction, opposite the site and water tower. The field in which the site is located fronts another local road along its northeast boundary. The elevation of the field rises towards that boundary. The general area is elevated relative to the surrounding countryside, which is characterised by flat undulating topography.
- 1.1.2. The River Brosna flows in a north-east to south-west direction, to the east of the site, having flowed through the centre of Ferbane. Farther east, the Grand Canal, a walking route as well as a navigation, follows a similar orientation, but maintains a distance south of Ferbane. The two run close together at Belmont Bridge south-west of the subject site.
- 1.1.3. The principle land-use in the area is farming, pasture fields predominate. There are one-off dwellings along roads and these become more numerous at the outskirts of the town of Ferbane.
- 1.1.4. The site is given as 0.014ha.

2.0 Proposed Development

- 2.1.1. The proposed development is 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.
- 2.1.2. The application documents include:
- 2.1.3. Planning Statement by Jennings O'Donovan & Partners Limited which includes:

- 2.1.4. The applicant carried out an extensive review of the area including existing infrastructure in the immediate and wider area as well as a full review of the coverage in the area. Following this exercise the applicant identified that this is the optimum site location for the area and would greatly benefit the local area and service the needs of the area for many years to come. There is a positive presumption in favour of telecommunication projects at National, Regional and Local level. There is a need to deliver a multiuser Lattice Support Structure in this area which will contribute to the overall social and economic wellbeing of the wider public. This is even more pressing given the global pandemic and with more people choosing to work remotely away from offices. The provision of telecommunications will act as a catalyst for regenerating areas that are in need of population growth and new enterprises, again meeting the objectives of Project 2040 and the RSES.
- 2.1.5. Documents submitted in response to the further information request (22nd April, notices 27th May) include:
- A response from Jennings O'Donovan & Partners Limited
 - A Landscape and Visual Impact Assessment (LVIA) including Photomontages by Macroworks
 - A technical assessment by digis.

3.0 Planning Authority Decision

3.1. Decision

- 3.2. The planning authority (PA) decided to refuse planning permission for the following reason:

As the proposed development is less than 20m from an existing telecommunication support structure, the applicant is required to comply with policy ENTP-44 of the Offaly County Development Plan 2021-2027 which states to 'avoid unnecessary proliferation of masts in the county through collocation of antennae on existing structures and masts'. Having regard to the documentation submitted in relation to the planning application, the Applicant has not sufficiently demonstrated compliance with policy ENTP-44 of the same Plan. As a result the proposed development would

materially contravene policy ENTP-44 and would be contrary to the proper planning and development of the area.

3.2.1. The decision was in accordance with the planning recommendation.

3.3. **Planning Authority Reports**

3.3.1. Planning Reports

3.3.2. There are two planning reports on the file.

The first planning report, dated 8th December 2021, recommended a further information request, which issued 8th December 2021, on 9 points.

The report includes:

Despite the nearest dwelling being located c45m to the south east and c104m to the south west the planning statement states for 'residential amenity. The site is not located in close proximity to residential properties and adjoins existing telecommunication infrastructure immediately to the north.'

Screening for AA - no likely significant impact.

3.3.3. Recommending further information, on 9 points, which issued:

Justification for the proposed development and site selection,

Visual impact assessment,

Policy assessment based on Offaly County Development Plan 2021-2027,

Reasoned justification based on DMS-111,

Contiguous elevations,

Revised site layout,

Clarify the number of link dishes and antennas,

Provide brochure samples of structures, and

Respond to submissions.

3.3.4. Water Services – conditions.

3.3.5. Municipal Engineer – conditions.

3.4. Further Information Response

Coverage Deficits

The starting point is the identification of an area where there is a coverage deficit. This is carried out in conjunction with the mobile network operators. There is an identified need in this area.

The proposed new tower will have the capability to handle further expansion in both capacity and technologies, aggregate and consolidate existing services with the opportunity to assign equipment and optimise Opex and Capex, and service more communications service and providers or additional mobile network operators. This is in comparison to the existing water storage tower (MOY020, where the limited outer edge has minimal extra capacity, and the Ferbane Signal tower which does not have any spare capacity for expansion.

The height of the proposed new tower is a full 21m above the water storage tower and 3m above the Ferbane Signal tower. (Note PA Reg Ref 21782 at Ferbane tower - to remove the 14m high wooden pole and replace with a 24m high monopole Eircom Ltd, is at Further Information).

It is not considered to give rise to any significant landscape or visual impacts. Impacts in the range of slight to imperceptible generally correlating with distance and the complexity of the intervening landscape, not because the mast is not visible, but because it does not appear uncharacteristic in the visual setting and while it can be the tallest feature in the context, the intervening features often reduce the prominence – in particular the water tower, given the relative mass of that structure.

3.4.1. Other Technical Reports

3.4.2. Water Services – conditions

3.4.3. The second planning report, dated 23rd June 22, recommending refusal, which issued, includes:

Noting and assessing responses:

Response to item 1 – the applicant has indicated a number of times, that the height of the adjacent water as only 15m in height. According to previous planning permission the height is 25m, which means the proposed tower will only be 11m higher not 21m as stated.

Response to item 2 – notwithstanding the findings of the LVIA the planning authority have concerns in relation to the unnecessary proliferation of masts in the surrounding area, which the applicant has not satisfactorily justified.

Response to item 4 – justification based on incorrect tower height.

Response to item 5 – a photomontage was submitted, contiguous elevations were requested.

Response to item 6 is satisfactory.

Response to item 7 – the application includes 2 sets of 3 antennas (6 total) and 2 sets of microwave link dishes (6 total).

Response to item 8 – no finish for the telecommunications equipment container is given.

Response to item 9 is satisfactory.

Recommending refusal:

Having regard to the Development Management Standard DMS 111 of the Offaly County Development Plan 2021-2027 which seeks to consolidate the number of telecommunications masts required in the county and having regard to the provisions of the Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities, as updated by Circular Letter PL07/12 of 2012, and taking into account the existence of another telecommunication structure within 25m of the proposed mast, serving the same geographical area as that proposed in this case, it is considered that the application has not satisfactorily demonstrated that coverage could not be achieved through co-location with another operator on an existing telecommunication structure.

Therefore the proposed development would be contrary to DMS 111 of the Offaly County Development Plan 2021-2027 and contrary to section 4.5 of the above Ministerial Guidelines and would therefore be contrary to the proper planning and sustainable development of the area.

3.5. Third Party Observations

- 3.5.1. Towercom – highlight an existing 20m monopole PA Reg Ref 13203), located at the Eir Exchange, Ferbane, Co Offaly, approximately 2.69km northeast of the subject

site, which has the potential to carry additional new antennas, dishes and associated equipment. In addition they are preparing to lodge a planning application in the coming weeks to increase the height of this structure for future co-location of additional equipment. The site is an established telecommunications and utilities site in the Ferbane area providing additional capacity to accommodate additional telecommunications equipment as needed.

3.5.2. Observations from:

Ferbane Tidy Towns

Seamus Rourke

Kieran Rourke

Brian Gleeson

Ann & Brian Gleeson

Feargus McGarvey

Group objection c/o Thomas Kenny

Catherine Rourke

Eugene Egan

Sinéad Gleeson

3.5.3. Issues raised include:

Proximity to houses.

Concerned at the health implications.

Noise and vibrations.

Impact on the architecture of the water reservoir.

Impact of existing antennae on the architecture of the water reservoir.

Visual impact, protected views, areas of high amenity.

Refusal for a similar development on a site 500m away.

Deficient information.

No lighting information.

Source protection area.

Access.

Piecemeal applications is not the way to plan.

4.0 Planning History

Adjoining

20/30 Vodafone Ireland Ltd - Retain equipment container and equipment at water tower, granted.

2/12/22 – Vodafone Ireland Ltd - Retain telecommunications equipment at water tower – 5 year permission (2012).

2/11/263 – Telefonica - Retain telecommunications equipment at water tower – 5 year permission (2012).

2/07/227 - Vodafone Ireland Ltd - Retain telecommunications equipment at water tower – 5 year permission (2007).

2/05/1022 – O2 Communications Ireland Ltd - Retain telecommunications equipment at water tower – 5 year permission (2006).

2/99/1080 – Eircell Ltd – permission for telecommunications equipment at water tower – 5 year permission (2000).

2/97/739 – ESAT Digifone Ltd - permission for telecommunications equipment at water tower – 5 year permission (1998).

5.0 Policy Context

5.1. Development Plan

Offaly County Development Plan 2021-2027, adopted on 10th September 2021, which came into effect 22nd October 2021, is the operative plan. Relevant provisions include:

DMS-111 Telecommunications

Planning applications relating to the erection of antennae and support structures shall be accompanied by:

A reasoned justification as to the need for the particular development at the proposed location in the context of the operator's overall plans for the county having regard to coverage;

Details of what other sites or locations in the county were considered, and reasons why these sites or locations are not feasible;

Written evidence of site-specific consultations with other operators with regard to the sharing of sites and support structures. The applicants must satisfy the Council that a reasonable effort has been made to share installations. In situations where it not possible to share a support structure, the applicants will be encouraged to share a site or to locate adjacently so that masts and antennae may be clustered; and

Detailed proposals to mitigate the visual impact of the proposed development, including the construction of access roads, additional poles and structures. Where possible they should be located so as to benefit from the screening afforded by existing tree belts, topography or buildings. On more exposed open sites, the Council may require an alternative design or colour finish to be employed, unless where its use is prohibited by reasonable technical reasons.

Communications Infrastructure

ENTP-40 & 41 generally supporting Information and Communications Technology and the delivery of the National Broadband Plan.

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 co-location of antennae on existing support structures and masts.

5.2. Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities (1996).

5.2.1. These guidelines generally advocate improvements in the country's telecommunications infrastructure and set out the criteria for the assessment of telecommunications structures, including:

4.1 Planning authorities should encourage and facilitate pre-planning discussions with operators. Operators should in turn keep authorities informed of their plans and should provide outline visual analysis of proposed sites at pre-planning discussions.

4.3 The visual impact is among the more important considerations which have to be taken into account in arriving at a decision on a particular application.

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,

4.5 Sharing Facilities and Clustering Sharing of installations (antennae support structures) will normally reduce the visual impact on the landscape. The potential for concluding sharing agreements is greatest in the case of new structures when foreseeable technical requirements can be included at the design stage. All applicants will be encouraged to share and will have to satisfy the authority that they have made a reasonable effort to share. Where the sharing of masts or towers occurs each operator may want separate buildings/cabinets. The matter of sharing is probably best dealt with in pre-planning discussions. Where it is not possible to share a support structure the applicant should, where possible, be encouraged to share a site or to site adjacently so that masts and antennae may be clustered. On hill tops clustering may not offer any improvement from the point of view of visual intrusion but in urban or suburban areas use of the same structure or building by competing operators will almost always improve the situation. Support structures used by emergency or other essential services are not suitable for sharing with public mobile telephone services

4.6 On hill tops clustering may not offer any improvement from the point of view of visual intrusion.

5.3. **Circular Letter PL07/12**

- 5.3.1. This Circular Letter revises elements of the 1996 Guidelines. In particular Section 2.2 advises Planning Authorities to cease attaching time limiting conditions to telecommunications masts, except in exceptional circumstances.

5.4. **Natural Heritage Designations**

- 5.4.1. Moyclare Bog SAC (site code 000581) c 630m distant is the closest Natura site.

5.5. **EIA Screening**

- 5.5.1. Having regard to the nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- 6.1.1. Jennings O'Donovan & Partners Limited have appealed the decision to refuse permission, on behalf of the applicant Hibernian Cellular Networks Ltd. The grounds of appeal, includes:

Coverage – existing towers encounter a number of significant black spots, due to their low height and low position in the landscape. Detailed analysis shows that LTE coverage is poor for Eir and Mobile Network Three; 3G coverage is also limited for the main roads, as shown. The modelling shows that the coverage constraints and limitations are resolved and enhanced with the new proposed tower, which benefits from being placed on a high point and being taller.

Capacity - The proposed new tower will have the capability to handle further expansion in both capacity and technologies, aggregate and consolidate existing services with the opportunity to re-assign equipment and optimise Opex and Capex, and service more communications service and providers or additional mobile

network operators. This is in comparison to the existing water storage tower (MOY020), where the limited outer edge has minimal extra capacity, and the Ferbane Cignal tower which does not have any spare capacity for expansion.

Location – the modelling shows that the proposed new tower will serve residential and business customers as well as major roads in the surrounding countryside.

Safety & security – the tower and compound provide a safe working environment for engineers to install, maintain and enhance the communications capabilities for residents and businesses.

Height - the proposed new tower is a full 21m above the water storage tower and 3m above the Ferbane Cignal tower with significant beneficial impact on coverage.

Optimised Access – direct access delivers key benefits: no need to arrange access, hire a cherry picker, reassess risk. Resulting in faster time-to-fix.

Sharing and clustering per paragraph 4.5 of the Telecommunications Antennae and Support Structures Guidelines. The appeal proposal cannot share facilities on the Water Tower structure and therefore has sited adjacent in accordance with paragraph 4.5.

The justification was clearly demonstrated in the RFI response.

The minimal visual impact would be outweighed by the significant public benefits of the provision of enhanced coverage to the area, in particular, making remote work, which is Ireland's national remote work strategy.

6.2. Planning Authority Response

6.2.1. The planning authority did not respond in time to the grounds of appeal.

6.3. Observations

6.3.1. Kieran Rourke on behalf of concerned neighbours, has submitted an observation on the appeal. It includes:

- The reason for refusal was recorded as being based solely on the location of antennae on existing structures and masts. The proposed mast is less than 20m from the existing antennae on the adjacent water tower. Other issues are referred to in the planner's report including significant inaccuracies and misleading information and lack of information; which they believe are sufficient grounds for refusal.
- The objections raised individually and collectively have not been adequately addressed. Such as lack of resolution for sightlines, accurate and specific dimensions, not just the height of the water tower and its antennae, but the location of the mast in relation to the water tower and mast datum height; the generic Landscape and Visual Impact Assessment that doesn't account for the specific design considerations relating to the landscape character of this area, the visual quality of the setting for the unique design of the 20th century water tower, or fair representation of the proposed mast even without antennae, amongst other issues.
- The speculative nature of the proposal has been compounded by the 3rd party appeal by Indigo for the granting of a permission at Shannonbridge, which throws into question the accuracy in the reports of the need for such a mast, including noting that areas demonstrating lack of coverage are not in fact populated, and that the water tower has allowed antennae to be placed on it for a 15 year lease, from 2020. This negates arguments that the existing antennae on the water tower at Moyclare will have its antennae removed in the near future. That appeal also makes a useful point about the lack of ability for the proposed mast to cluster antennae, limiting its efficiency. The observers do not have access to the expertise of INDIGO but trust ABP to cross-reference the appeals.
- They believe the proposed mast at Moyclare is a speculative and flawed proposal.
- They would appreciate a well-planned proposal, away from the water tower, with a coordinated approach to remove the antennae from the water tower and such close proximity to existing dwellings. They believe the community

would benefit as a whole from such a considered design and benefit their neighbours on whose land the mast is proposed.

7.0 **Assessment**

7.1. I consider that the main issues which arise in relation to this appeal are as follows: appropriate assessment, need & location, visual impact and other issues.

7.2. **Appropriate Assessment**

7.2.1. Having regard to the nature and scale of the proposed development, I am satisfied that 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.

7.3. **Material Contravention**

7.3.1. The reason for refusal states that the proposed development would materially contravene the development plan.

7.3.2. The reason refers to policy ENTP-44, which states 'it is Council policy to avoid the unnecessary proliferation of masts in the county through co-location of antennae on existing support structures and masts'.

7.3.3. In my opinion the policy is stated in general terms and therefore it is not so specific that Section 37, subsection 2, of the Planning and Development Act would apply should the Board be minded to grant permission.

7.4. **Need & Location**

7.4.1. The grounds of appeal refer existing towers encountering a number of significant black spots, and that the modelling shows that the coverage constraints and limitations are resolved and enhanced with the new proposed tower. It states that the proposed new tower, being a full 21m above the water storage tower, which they give as 15m high, and 3m above the Ferbane Signal tower, will have significant beneficial impact on coverage. It states that they cannot share facilities on the Water

Tower structure and therefore have sited adjacent in accordance with paragraph 4.5 of the guidelines.

- 7.4.2. The planner's report states that the height of the water tower is incorrectly given by the applicant; that the water tower is 25m high not 15m high. This is supported by observers. The applicant's argument that the proposed structure will provide a superior service is compromised by inaccuracy in the information provided.
- 7.4.3. The proposed location is beside existing telecommunications equipment at the water tower, but no justification for the proposed development is provided with reference to this proximity. Paragraph 4.5 of the guidelines refers to clustering but also states that on hill tops clustering may not offer any improvement from the point of view of visual intrusion. It does not offer any such visual advantage in the subject case.
- 7.4.4. It is no-where stated in the application or appeal that the proposed development will have any relationship with the communications infrastructure at the water tower. It appears that the only technical justification for the location is that it is on high ground. The ground level in this field rises away from the road. A structure farther from the road would be less obtrusive to the houses beside the water tower, which are very close to the proposed mast. The location could have been addressed in pre-planning consultations, had they occurred. The development was not the subject of any pre-planning discussions.
- 7.4.5. The observers, and those from the locality who made observations to the planning authority, are concerned about the equipment on the water tower. The planning history, for the water tower, as supplied by the planning authority, gives details of permissions, all except one being temporary and expired.
- 7.4.6. In accordance with Circular Letter PL07/12, except in exceptional circumstances, planning authorities are to cease attaching time limiting conditions to telecommunications masts. The guidelines state that planning authorities should encourage and facilitate pre-planning discussions with operators, and that operators should in turn keep authorities informed of their plans and engage in pre-planning discussions. It seems reasonable to require applicants for telecommunications structures to engage in pre-planning discussions so that the balance between 'facilitating the provision of telecommunications services in the interests of social and economic progress and protecting residential amenity and environmental quality',

which is set out in policy ENTP-43 of the development plan, can be achieved. This is particularly important in the context of permissions of unlimited duration. Even a cursory examination of the proposal's location, suggests that preferable locations to that selected can be identified.

7.5. Visual Impact

- 7.5.1. The guidelines state (at 4.3) that visual impact is among the more important considerations which have to be taken into account in arriving at a decision on a particular application.
- 7.5.2. A Landscape and Visual Impact Assessment was submitted in response to the further information request. The assessment includes 6 viewpoints, from which the impact was assessed. It is stated in the assessment that the form and lightness of the structure, particularly in relation to the adjacent water tower, are mitigating factors. In many of the photomontages, the mast is shown as having very little visibility on the horizon. Having viewed the site from the photomontage locations, where the water tower provides a guide to the siting, I am inclined to agree with the observation, made to the PA, that the structure as depicted is 'overly faint in the light conditions'. Nevertheless I would not regard the visual impact from distant locations as being of particular concern. I would however be concerned about the visual impact from the dwellings in the immediate locality.

7.6. Other Issues

- 7.6.1. Concerns were expressed in observations to the PA regarding potential health impacts of proximity to telecommunications structures and equipment. Circular letter PL 07/12, restates the provisions of the guidelines, 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, which are regulated by other codes, and such matters should not be additionally regulated by the planning process.

8.0 Recommendation

- 8.1.1. Having regard to the foregoing assessment it is considered that the proposed development should be refused for the following reasons and considerations.

9.0 Reasons and Considerations

On the basis of the information provided with the application and appeal the Board is not satisfied that the applicant has established the need for the proposed telecommunications structure at this location or established the suitability of the site for the proposed telecommunications structure.

Planning Inspector

7th September 2022

Appendix 1: Photographs

Appendix 2: Offaly County Development Plan 2021-2027, extracts

Appendix 3 Telecommunications Antennae and Support Structures Guidelines, extracts

Appendix 4 Circular Letter: PL 07/12