



An
Bord
Pleanála

Inspector's Report ABP 318031-23

Development

18 metre high lattice
telecommunications tower and
associated equipment.

Middlequarter, Newcastle, Clonmel,
County Tipperary.

Planning Authority

Tipperary County Council.

Planning Authority Reg. Ref.

23184.

Applicant(s)

Vodafone Ireland Ltd and Tipp FM.

Type of Application

Retention Permission.

Planning Authority Decision

To grant permission for retention
subject to conditions.

Type of Appeal

Third Party v. Decision.

Appellant

Richard Rice.

Observer

Lisa Marie Cleere.

Date of Site Inspection

15 March 2024.

Inspector

B. Wyse.

1.0 Site Location and Description

The site is located in a rural area in south Tipperary approximately 2kms south-west of the village of Newcastle. It has a stated area of 0.001ha and sits on elevated ground on the northern slopes of Knocknagearagh Hill at the eastern end of the Knockmealdown Mountains range.

- 1.1. The existing compound comprises; an 18m high telecoms lattice tower; various attached antennae and dishes; associated equipment cabins; and all enclosed by chain-link fencing. Access is via a private road off a local secondary road (L-7501) to the south.
- 1.2. The area generally is sparsely populated. The nearest houses are located approximately 200m to the north-west of the site.

2.0 Proposed Development

Permission is sought to retain the existing telecoms compound.

- 2.1. Application details submitted to the planning authority include:
 - A current application (PA Ref 2360211) to retain the Vodafone antennae only is to be withdrawn.
 - Vodafone currently provide 2G, 3G and 4G services from the existing structure. The replacement equipment enables the provision of 2G, enhanced 4G and new 5G services.
 - Tipp FM transmits local radio from the existing structure.
 - A site justification form indicating that the site was recently upgraded with the latest second generation telecoms equipment, vital mobile services for the people in the rural area to work from home or to run small businesses and for emergency services.

3.0 Planning Authority Decision

- 3.1. Decision

The decision to grant permission is subject to 4no standard conditions.

3.2. Planning Authority Reports

Planning Report

Basis for planning authority decision.

Includes:

- Principle of proposal is acceptable.
- Mast is satisfactorily absorbed into the landscape and does not have a negative impact.
- No requirement for AA or EIA screening.

3.3. Other Technical Reports

Area Engineer

Includes:

Existing sightlines to be maintained and surface water to be managed within the site.

3.4. Prescribed Bodies

Irish Aviation Authority – no observations received.

3.5. Third Party Observations

The planning authority received observations from 3no third parties, all in objection to the development.

Issues raised are similar to those raised in the grounds of appeal (see Section 6.1 below). Other issues raised include:

- Adverse visual impacts.

4.0 Planning History

PA Ref 991251

This is the original January 2000 permission granted to Tipp FM for the 18m high tower to support FM radio aerials, associated equipment and fencing. The permission was subject to a 5 year time limit.

PA Warning Letter Ref TUD-14-063

October 2014 Warning Letter issued advising of possible unauthorised development at the site in relation to the telecoms tower and all associated equipment. Planning authority planning report indicates case subsequently closed.

PA Warning Letter Ref TUD-21-104

March 2022 and January 2023 Warning Letters issued advising of possible unauthorised development at the site in relation to the attachment of antennae, dishes and other equipment on the existing telecoms installation that is unauthorised development.

[These appear to have been prompted by modifications carried out by Vodafone in 2021 stated (in the application) to have been like for like replacement antennae and other minor works to mitigate an alleged whistling noise during windy conditions. The new antennae and other equipment are stated to be fixed to stand-off supports rather than attached directly to the tower].

PA Ref 2360211

This application was lodged in 2023 to regularise the position in relation to the antennae and other works referred to above. Following a further information request, which referred to the unauthorised development status of the mast, the application was withdrawn.

5.0 Policy and Context

5.1 Development Plan

The relevant plan is the Tipperary County Development Plan 2011-2028.

Policy 6-6 commits the Council to facilitate the development of telecommunications and digital connectivity infrastructure in line with Harnessing Digital, The Digital Ireland Framework (Gol 2022) and in accordance with Telecommunications Antennae and Support Structures; Guidelines for Planning Authorities (DEHLG, 1996) where it can be established that there will be no significant adverse impact on the surrounding areas and receiving environment.

The site is located in an area designated as a 'Primary Amenity Area'. Section 11.7.1 of the plan indicates that these areas are notable by virtue of their scenic and visual quality and offer significant opportunities for tourism development and rural recreational activities. A balance is to be struck between the protection of landscapes and the socio-economic development of these areas. Proposals will need to integrate and respect the visual qualities of the area.

5.2. National Planning Guidance

5.2.1. Telecommunications Antennae and Support Structures; Guidelines for Planning Authorities (DEHLG 1996)

The guidelines indicate general policy support to the roll out of quality telecommunications services subject to environmental considerations.

Section 4.2 indicates that the design of the support structure (mast/tower) and the antennae and other dishes will be dictated by radio and engineering parameters with limited scope for changes.

Section 4.3 indicates that in upland/mountainous areas hilltops will be favoured as offering the best locations for radio coverage. It advises that, by definition, such masts will be visible. It advises that if every hilltop location was to be ruled out

operators might not be able to service the area or a number of structures might be required. Sharing of masts is encouraged.

5.2.2. Circular Letter PL 07/12 (DoECLG 2012)

The includes the following revisions to the 1996 guidelines:

- The practice of limiting the life of permissions for telecommunications masts and antennae should cease, except in exceptional circumstances.
- Reiteration of advice in relation to health and safety that planning authorities do not have competence in these matters as they are regulated by codes outside the planning process.

5.3 Natural Heritage Designations

None relevant.

5.4. EIA Screening

The proposed development is not one to which Schedule 5 of the Planning and Development Regulations, 2001, as amended, applies and, therefore, the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a pre-screening stage (See Form 1 on file).

6.0. The Appeal

6.1. Grounds of Appeal

The appeal is lodged by Richard Rice, a local resident who appears to live approximately 250-300m from the tower.

Main grounds of appeal can be summarised as follows:

- The health implications of 5G technologies are unknown.
- The tower infrastructure should be reinstated to its pre-March 2023 configuration.

6.2. Applicant Response

Includes:

- The installation and any future equipment is and will be fully compliant with the relevant health and safety legislation and will be operated in accordance with ComReg guidelines.
- The 1996 Guidelines and Circular Letter PL 07/12 remind planning authorities that health issues are not a planning consideration.
- Other issues raised in submissions on the planning application, including the Vodafone equipment and visual impact, were addressed in the planning authority planning report. The council's assessment is that the development complies with the policies and objectives of the development plan, that it does not have an adverse impact on the character of the area or amenities of adjoining properties.

6.3. Planning Authority Response

Includes:

- Satisfied that the development is in accordance with the proper planning and sustainable development of the area and that it was assessed against all applicable guidance, including the county development plan.
- No further comment on issues raised in the appeal.

6.4. Observations

One observation is lodged by Lisa Marie Cleere (with an address at Kilnacarraiga, Newcastle).

Main issues raised include:

- By reference to planning authority Condition 2 Tipperary County Council have put in a storm drain and cattle drainage grid to collect water run-off from where the phone mast is positioned. The works are inadequate as every time it rains water flows from the mountain down the road to the observer's property causing flood damage to the property and to the main road.

- The maintenance road to the mast cuts across the edge of the bog. It would be safer to move the mast further up the mountain.
- The submission includes a letter from Tipperary County Council confirming installation of drainage works and photographs of the observer's home.

7.0. Assessment

7.1. While the only substantive issue raised in the grounds of appeal relates to health impacts it is noted that the applicant's response also refers to the planning authority's assessments in relation to policy and visual/landscape impacts. In addition the Observer to the appeal raises the issue of flooding.

The issues, therefore, are addressed under the following headings:

- Health and Safety
- Policy and Landscape
- Flooding
- Appropriate Assessment

7.2. Health and Safety

7.2.1. As indicated at Section 5.2.1 above it is clear from national guidance that the issue of health and safety is not one that falls within the planning system and that it is regulated by other codes.

7.3. Policy and Landscape

7.3.1. As noted in Policy 6-6 of the Tipperary County Development Plan the planning authority is committed to facilitate the development of telecoms and digital infrastructure while striking a balance in terms of environmental impacts. This aligns with general government policy as set out in the national guidelines and which also specifically acknowledge that upland and mountainous areas will be favoured in

many instances as offering the best locations for telecoms masts (see Sections 5.1 and 5.2 above).

- 7.3.2 Being located on the northern slopes of the Knockmealdown Mountains range the site is within a 'Primary Amenity Area' as designated in the development plan. Section 11.7.1 of the plan acknowledges the landscape value of such areas and points to the need for care in the development of infrastructure within such landscapes.
- 7.3.3. While the telecoms tower in this instance is of lattice construction it is of a slimline design. Even taking account of the antennae, including those on the stand-off brackets, the entire structure is minimal in terms of bulk and it does not register as significant in the wider landscape. The site is on the northern slope of Knocknagearagh Hill at some distance from the top of the hill which further mitigates the prominence of the tower. It is also at a considerable distance from the nearest residential properties.
- 7.3.4. I note that the application includes a justification form for the existing installation and that it has been recently upgraded to facilitate the latest telecoms connectivity in the local area. I also note that it is a shared facility for both telecoms and local radio.
- 7.3.5. I am satisfied, therefore, that the retention of the telecoms facility would be in keeping with local and national policy and that it would not give rise to any adverse effects on the local landscape or on the amenities of properties in the vicinity.

7.4 Flooding

- 7.4.1 The Observer submission in relation to this matter appears to attribute drainage and flooding issues occurring at their property to the telecoms compound. In my view it is highly unlikely that the telecoms compound is the source of the problem or that it makes any substantive contribution.
- 7.4.2. The ground area of the telecoms compound is only about 100sqm. The bulk of this area is unsealed ground with the tower and equipment containers sitting on individual concrete bases. The chain-link fencing is supported on very minor foundation structures. Any interference with the drainage regime across the hill slopes in the vicinity would, therefore, be negligible.

7.4.3. The Observer also refers to the access road to the telecoms compound. However, I note from Ordnance Survey aerial photography (1996 images) that this road predated the installation of the telecoms facility. The road is also not a part of the current application.

7.4.4. I am satisfied, therefore, that the retention of the telecoms facility would not give rise to any increased risk of flooding in the area.

7.5 Appropriate Assessment Screening

7.5.1 Having regard to the minor nature of the development and the distance from any European site it is concluded that no appropriate assessment issues arise as the development to be retained would not 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 that permission be granted subject to conditions.

9.0 Reasons and Considerations

Having regard to the provisions of the Tipperary County Development Plan 2022-2028, Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities (1996) and associated Circular Letter PL07/12, the location of the site in a relatively remote setting and the slim-line design of the Telecommunications tower, it is considered, subject to compliance with the conditions set out below, that the retention of the existing telecommunications facility would be in accordance with the relevant policies of the development plan, in particular Policy 6-6, and that it would not seriously injure the visual or residential amenities of the area. The retention of the development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	The development shall be retained 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
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	<p>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>Surface water drainage arrangements shall comply with the requirements of the planning authority for such services and works.</p> <p>Reason: In the interest of public health.</p>
3.	<p>Within six months of the permanent cessation of use of the telecommunications structure and associated equipment hereby permitted, all structures on the site shall be removed at the developers expense in accordance with a restoration plan to be submitted to, and agreed in writing with, the planning authority within three months of the date of this Order.</p> <p>Reason: In the interest of orderly development, visual amenity and the proper planning and sustainable development of the area.</p>
4.	<p>The developer shall allow, subject to reasonable terms, other licenced mobile telecommunications operators to co-locate their antennae onto the telecommunications structure.</p> <p>Reason: In order to avoid the proliferation of telecommunications structures in the interests of visual amenity.</p>

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Brendan Wyse
Planning Inspector

19 March 2024