



An
Bord
Pleanála

Inspector's Report ABP-319588-24

Development

Removal of a 24 metre telecommunications antenna support structure and replacement with a 36 metre telecommunications antenna support structure and all associated site development works.

Location

Tavanaskea Townland, Mullyash Mountain, Castleblayney, Co. Monaghan

Planning Authority

Monaghan County Council

Planning Authority Reg. Ref.

2360292

Applicant(s)

On Tower Ireland Limited

Type of Application

Permission

Planning Authority Decision

Grant Permission

Type of Appeal

First Party v's Financial Contribution

Appellant(s)

On Tower Ireland Limited

Observer(s)

None

Date of Site Inspection

N/A

Inspector

Kathryn Hosey

Contents

1.0 Introduction	
2.0 Site Location and Description	4
3.0 Proposed Development	4
4.0 Planning Authority Decision	4
4.1. Decision	4
4.2. Planning Authority Reports	5
4.3. Prescribed Bodies	7
4.4. Third Party Observations	7
5.0 Planning History.....	7
6.0 Policy Context.....	8
6.1 Monaghan County Council General Development Contributions Scheme 2021 - 2026.....	8
7.0 The Appeal	9
7.1. Grounds of Appeal	9
7.2. Planning Authority Response	10
7.3. Observations	10
7.4 Further Responses.....	10
8.0 Assessment	11
9.0 Recommendation.....	12
10.0 Reasons and Considerations.....	12

1.0 Introduction

- 1.1. This is a First Party section 48 appeal against condition no. 1 which concerns the Monaghan County Council Development Contribution Scheme.
- 1.2. For information of the board the applicant is allowed to commence the development on payment of a bond to the Planning Authority. Therefore, this is de novo assessment of the proposed development.

2.0 Site Location and Description

- 2.1. The appeal site has a stated area of 0.039ha and is located in a rural area at Tavanaskea Townland, Mullyash Mountain, Castleblaney, Co. Monaghan. The appeal site is located c.13km to the north-east of Castleblaney Urban Centre and is accessed via private access located off L-7650.

3.0 Proposed Development

- 3.1. The applicant is seeking permission for the removal of a 24m telecommunications antenna support structure and all associated site development works.

4.0 Planning Authority Decision

4.1. Decision

Monaghan County Council has issued notification of decision to grant permission by order dated 28th March 2024. Condition no. 1 with regards to development contribution is of note and is the sole matter of this appeal. Condition no. 1 outlines as follows;

“(a) The developer shall pay to Monaghan County Council a sum of €18,170 in accordance with the General Development Contribution Scheme 2021-2026 made by the Council under Section 48 of the Planning and Development Act 2000 (as amended), towards expenditure incurred or proposed to be incurred by the Council in the provision of community, recreation and amenity public infrastructure and facilities in the area. (b) The sum attached to this condition shall be revised from the

date of the grant of planning permission to the value pertaining at the time of payment in accordance with the Wholesale Price Index for Building and Construction (Materials and Wages). (c) No works shall commence until payment of the development contribution is made in full, or until Monaghan County Council has agreed in writing to a schedule of phased payments of the sum.

Reason: It is considered appropriate that the developer should contribute towards the expenditure incurred or proposed to be incurred by the Council in the provision of community, recreation and amenity infrastructure and facilities in the area.”

4.2. Planning Authority Reports

4.2.1. Planning Reports

The planners initial report detailed their assessment of the proposed development. Justification for a waiver in financial contributions was raised and further information was sought on this matter. The further information request with regards to this matter outlined as follows:

“Section 19(e) of the General Development Contribution Scheme 2021-2026 notes that a 100% exemption from all development contribution charges in relation to any telecommunications infrastructure (masts, antenna, dishes and other apparatus or equipment being installed for such communication purposes) shall be imposed where the equipment is: (a) being developed as part of a Government endorsed telecommunications strategy, plan or initiative, or (b) where mobile or broadband operators demonstrate to the satisfaction of the planning authority that the proposed telecommunications development provides services to customers who would not otherwise be able to avail of an adequate mobile or broadband service and where the new development does not place a demand for new, upgraded or additional infrastructure or services. It is unclear from the details submitted if the above exceptions pertain to the development proposed. The Planning Authority also notes that the applicant has not clearly demonstrated whether or not customers could avail of mobile/broadband service from other operators. In this regard, and in order to avail of the aforementioned exemption, the applicant is invited to provide additional information with regard to same.”

The applicant responded to the Planning Authority's further information request stating that the telecommunications installation is required to provide 2G/3G/4G to enhance coverage within this area. The submission was accompanied by 3G and 4G coverage maps.

The applicant further stated;

"A key principle of the plan is to support and stimulate commercial investment through policy and regulatory measures. This collaboration with industry has been informed by the Next Generation Broadband Task Force in May 2012 where industry advised Government on measures that could help accelerate investment. Arising from the task force advice, the Department issued Circular Letter PL07/12 which sought to remove inhibitors to broadband development. According to the National Broadband Plan the site is within the NBP area however the wider area is planned for state intervention in the provision of broadband services, furthermore, the National Broadband Plan seeks to ensure that the most efficient and cost-effective network is built within the shortest possible timeframe. With this application, Three Ireland will provide a future operator with a site that will increase the wireless broadband capacity in the area which enables telecommunication equipment in the area increases the overall coverage capability and circumvent the capital cost to the state. This is in line with EU policy where state intervention is considered only as a last resort."

The final planning report received assessed the further information response as follows:

"The local area has an existing level of mobile broadband service coverage and it has not been demonstrated that the proposal is part of a Government endorsed telecommunications strategy, plan or initiative. As such, there is no justification for development contributions not being levied on this development in respect of proposed additional dishes/antenna."

The planner's report recommended a financial contribution be included within the grant of permission at condition no.1.

4.2.2. Other Technical Reports

- None

4.3. Prescribed Bodies

- None

4.4. Third Party Observations

- None

5.0 Planning History

Onsite

P.A Ref: No.18489; Planning Application submitted to Monaghan County Council for retention of existing 24m high telecommunications support structure, antennas, equipment container, and associated equipment within a fenced compound and access track - **Withdrawn**.

PA. Ref: No. 09507; Planning Permission was granted by Monaghan County Council for the retention of 24m high telecommunications support structure, antennas, equipment container, and associated equipment within a fenced compound and access track.

Precedent Cases

ABP Ref: 18.311262; Contribution appeal for the Attachment of 3 Antennae and 1 dish to 30metre telecommunications mast and associated site works – Development Contribution removed. It was considered that the proposed development was compliant with section 19(e) exemptions of the Monaghan County Council Development Contribution Schemes 2021-2026 to provide adequate mobile or telecommunications development services to customers that otherwise would not be able to avail of this service.

ABP Ref: 18.307993; Permission was sought for a 36m multi-user lattice tower carrying telecommunications equipment, together with all associated equipment and cabinets enclosed within a 2.4m palisade fence compound and access track – Granted without financial contribution condition having regard to the National

Broadband Strategy to improve mobile communications services and telecommunications infrastructure.

ABP Ref: 18.315366; Contribution appeal for Replacing 2 telecommunication structures with associated site works – Contribution removed to ensure facilitation of communication technologies to areas that are currently experiencing poor or non-existent voice and data services.

6.0 Policy Context

6.1. Monaghan County Council General Development Contributions Scheme 2021 - 2026

Section 17 - Development Contributions in Respect of Telecommunications

“Developments Development contributions shall not be levied in respect of any telecommunications infrastructure (masts, antennae, dishes and other apparatus or equipment being installed for such communication purposes) being deployed as part of a Government endorsed telecommunications strategy, plan or initiative, or where mobile or broadband operators demonstrate to the satisfaction of the planning authority that the proposed telecommunications development provides services to customers who would not otherwise be able to avail of an adequate mobile or broadband service.

Where planning permission is granted for the permanent retention of telecommunications developments previously given temporary planning permission, no development contributions shall be levied where development contributions were previously levied and paid for that development, and where no additional development over that previously permitted is proposed. Development contributions will be levied (where determined appropriate) in respect of any additional development proposed over that previously permitted.”

Section 19 - Exemptions/Reductions

“100% exemption from all development contribution charges in relation to any telecommunications infrastructure (masts, antennae, dishes and other apparatus or

equipment being installed for such communication purposes) being deployed as part of a Government endorsed telecommunications strategy, plan or initiative, or where mobile or broadband operators demonstrate to the satisfaction of the planning authority that the proposed telecommunications development provides services to customers who would not otherwise be able to avail of an adequate mobile or broadband service and where the new development does not place a demand for new, upgraded or additional infrastructure or services.”

6.2. National Broadband Plan, Irelands Broadband Intervention Strategy, December 2015.

The aim of this plan is to deliver high speed broadband to domestic and business operators throughout Ireland. This is to be achieved by way of commercial investment and state intervention to areas that currently cannot accommodate commercial sector investment.

7.0 The Appeal

7.1. Grounds of Appeal

This is a first party appeal against condition no. 1 of Monaghan County Council's Decision to grant permission. The grounds of appeal can be summarised as follows:

- This appeal is in relation to development contribution only. The appellant states that the terms of the Monaghan County Council Development Contribution Scheme have not been applied correctly.
- The appellant has detailed 3 planning appeals submitted to An Bord Pleanala where the imposed development contributions by Monaghan County Council have been overturned. The following appeal applications have been cited **ABP Ref: 311262-21, ABP Ref: 307993 & ABP Ref: 315366** and were granted by the Board as the proposals would deliver on the Governments National Broadband Plan.

- The appellant has set out the site location, proposed development, technical justification and policy context.
- It has been stated that this proposal is to provide wireless broadband and data services in a rural area where there is currently a deficit. This is being provided in accordance with the Mobile and Broadband Taskforce and Action Plan for Rural Development.
- The appellant has referenced The National Broadband Plan, the report of the Mobile Phone and Broadband Taskforce and the Monaghan Development Contribution Scheme. It has been stated that no contribution should be payable as the proposed development represents commercial private investment in capital infrastructure and economic activity.
- It has been stated that the Three Ireland telecommunications structure is broadband technology. This technology has been stated to constitute equipment for communication purposes that form part of the National Broadband scheme and should benefit in full, from the waiver as per the exemptions in section 19(e) of the Monaghan County Development Contributions Scheme 2021 – 2026.

7.2. Planning Authority Response

- None

7.3. Observations

- None

7.4. Further Responses

- None

8.0 Assessment

I have examined all documentation on the file including the site planning history. I consider that the key planning issues relating to this assessment are those raised by the first party in their grounds of appeal submission to the board as follows:

- 8.1. Has the applicant demonstrated compliance with Section 19 (e) of the Development Contribution Scheme?
- 8.1.1. I note that the planner during the course of their assessment sought further information seeking the applicant to justify if they qualify for 100% exemption from development contributions as per 19(e) of the Monaghan County Council General Development Contribution Scheme 2021-2026.
- 8.1.2. Following submission of the further information response the planner did not accept the justification provided by the applicant as they considered there is existing coverage in the area.
- 8.1.3. The appellant contends that the proposed development would improve the provision of services in a rural area where there is a deficiency in broadband service. The proposal is intended to enable Three Ireland Mobile to provide 3G, 4G and 5G data and broadband service to the area. It is also noted that the proposed development will have the potential to facilitate other operators in the future. The applicant has not provided new information in the contents of their appeal.
- 8.2. Areas of known deficiencies in the National Broadband Plan
- 8.2.1. Having examined the National Broadband plan it is clear that the plan aims to *“deliver high speed broadband to every citizen and business in Ireland”*. It is envisaged that this government policy initiative is to be *“achieved through a combination of accelerated commercial investment by telecoms operators and a proposed state intervention.”*
- 8.2.2. I have viewed the High Speed Broadband Map within the National Broadband Plan and note that the application site is located within the amber area which is designated as an Intervention Area to provide highspeed broadband.
- 8.2.3. Based on the information provided, it is clear that the proposed development to be provided by a commercial operator is intended to upgrade, improve and enhance the

overall network coverage within the area in line with the objectives of the National Broadband Plan. The proposed development is required to provide essential infrastructure serving the domestic and commercial needs of the surrounding community.

8.3. Conclusion

I therefore consider that the proposed development falls within the exemptions set out under section 19 (e) of Monaghan County Councils General Development Contributions Scheme 2021 – 2026. I therefore am not satisfied that Monaghan County Council have properly applied the General Development Contributions Scheme 2021 – 2026 in this instance.

9.0 Recommendation

I recommend that Monaghan County Council be directed to REMOVE Condition no. 1 on the grounds that the terms of the General Development Contribution Scheme 2021 – 2026 have not been properly applied.

10.0 Reasons and Considerations

Having regard to:

- (a) The provisions of the Monaghan County Council General Development Contribution Scheme 2021 – 2026 which includes for exemption for telecommunications infrastructure (masts, antennae, dishes and other apparatus or equipment being installed for such communication purposes) that form part of the National Broadband Scheme or subsequent endorsed initiative as defined by the Department of Communication, Energy and Natural Resources; and
- (b) The location of the proposed development in an area of intervention in the National Broadband Plan, which demonstrates the proposed development is part of the National Broadband Scheme and the attachment of a financial

contribution in this instance would be contrary to the development contribution scheme.

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.

Kathryn Hosey
Planning Inspector

21st November 2024