



An
Bord
Pleanála

Inspector's Report ABP-304869-19

Development	Removal of floodlight pole and replacement with an 18m shrouded pole with antennae, dishes and all associated development works
Location	Station Road, Blackabbey, Adare, County Limerick
Planning Authority	Limerick City & County Council
Planning Authority Reg. Ref.	19/390
Applicant(s)	Shared Access Ltd.
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Shared Access Ltd.
Date of Site Inspection	26 th November, 2019
Inspector	Kevin Moore

1.0 Site Location and Description

- 1.1. The site of the proposed development is off Station Road, Blackabbey in the centre of Adare village in County Limerick. There is an existing lighted CCTV pole within a car park area located to the rear of a Centra shop which fronts onto Main Street and which lies to the west of Station Road. The location of the pole adjoins a footpath in the immediate vicinity of a car park serving retail units. The location of the pole abuts a block wall along the rear boundary of property fronting onto Main Street.

2.0 Proposed Development

- 2.1. The proposed development comprises the removal of a 6.5m high floodlight pole and its replacement with an 18m high shrouded pole with floodlights attached, antennae encased within it, dishes, RRUs, cabinets, fencing and all associated development works for wireless data and broadband services. The proposed site would replace an existing site at Dunraven Arms Hotel which is unable to be upgraded due to landlord restrictions being imposed. It is intended that the site would improve local 2G, 3G and 4G wireless broadband and data services in Adare.
- 2.2. Details submitted with the application included a letter of consent from the landowner permitting the making of the application, a Planning Statement, a Photomontage and Wireless Report, an Assessment of Landscape and Visual Impacts, a Three Ireland Technical Justification, an ICNIRP Compliance Certificate, a letter of support from Eir Mobile and an email support from Limerick City & County Council Broadband Officer, and a Construction Method Statement.

3.0 Planning Authority Decision

3.1. Decision

On 12th June 2019, Limerick City & County Council decided to refuse permission for the proposed development for one reason relating to visual obtrusiveness and injury and depreciation of property values.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The Planner noted development plan provisions and reports received. There was concern that the proposal would detract from views of Adare village and would interrupt views of buildings within the Architectural Conservation Area. It was considered that an alternative suitable location should be sought. A refusal of permission was recommended.

3.2.2. Other Technical Reports

The Roads Design Office stated that it had no observations to make on the application.

The Archaeologist stated there were no archaeological issues in regard to the application.

The Conservation Officer submitted that the proposal would be visually obtrusive and would negatively impact on the settings and amenities of the Architectural Conservation Area for Adare and a number of protected structures, most notably the Courthouse. A refusal of permission was recommended.

3.3. **Prescribed Bodies**

Transport Infrastructure Ireland stated that it had no observations to make on the application.

4.0 **Planning History**

I have no record of any planning application or appeal relating to the site.

5.0 **Policy Context**

5.1 **Limerick County Development Plan 2010-2016 (as extended)**

Telecommunications

Objectives include:

Objective IN O49

It is an objective to support the development of telecommunication facilities and support the timely commissioning of transmission infrastructure. Proposals for the erection of masts, antennae or ancillary equipment for telecommunication purposes will take the following into account:

- a) the proper planning and sustainable development of the area;
- b) social, environmental and cultural impacts of the infrastructure proposed;
- c) designed so that it will achieve least environmental impact consistent without incurring expensive cost;
- e) proximity to structures that are listed for preservation, national monuments etc. have been taken into account.

Objective IN O53

It is an objective to support the co-ordinated and focussed development and extension of broadband infrastructure throughout the County.

5.2 Adare Local Area Plan

Zoning

The site is zoned 'Village Centre' with the objective to protect and enhance the character of Adare village centre and to provide for and improve retailing, residential, commercial, office, cultural and other uses appropriate to the village centre while guiding the development of an expanded and consolidated village centre area.

Architectural Heritage

The site lies outside of and to the north of Adare Architectural Conservation Area (ACA).

Objectives for the ACA include:

Objective EH 2: Architectural Conservation Area (ACA)

It is the objective of the Council to protect, conserve and where appropriate, enhance the ACA as identified in Map 4.

Objective EH 3: Protected Structures

It is the objective of the Council to protect structures entered onto the Record of protected structures, or listed to be entered onto the Record and to encourage their appropriate re-use and restoration.

5.3 Appropriate Assessment

It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any designated European Site and a Stage 2 Appropriate Assessment and submission of a NIS is not therefore required.

5.4 EIA Screening

The proposed development does not fall within a class of development set out in Part 1 or Part 2, Schedule 5 of the Planning and Development Regulations.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of the appeal may be summarised as follows:

The Planning Authority Decision

- The appeal may warrant a judicial review as the decision for refusal is based on the stated 'Telecommunications Antennae Support Structures – Guidelines for Planning Authorities, 1998' which do not exist.

Previous Three Ireland Refusal

- The proposal is substantially different from a previous Three application which was refused permission because it is intentionally not located within the Adare ACA and is in a much more discreet location. It is also proposed for two

mobile operators' equipment on a single structure on a slender shrouded pole, hence the increased height.

- The optimum location has been chosen which has a negligible impact on the ACA.

Technical Justification for the Proposal

- For the newer 4G and 5G technologies, due to the required data speeds for applications like social media, internet browsing and downloading, the technology range which depends on the number of users at any one time can be several hundred metres or as short as 100m, hence why a structure located outside the town will simply not meet the technical needs of the mobile broadband operator (4G, 5G) or customer needs for data hungry services.
- The Board is asked to show greater flexibility for the newer technologies with regards to siting, whilst protecting amenity.
- The applicant's Technical Justification shows the search area in which it has been trying to find a viable site.

Sequential Approach to Site Choice

- The applicant explored 10 different locations within Adare and has categorically addressed the matter of considering viable alternatives in full.
- The siting was decided upon after firstly deciding to find a potentially suitable site outside the Adare ACA then analysing the requirements to provide new and improved 3G, 4G and 5G data coverage here. The target coverage area is the centre of Adare. The more data intensive wireless 4G and 5G technologies have to be closer to the users compared with the older 2G technology and to a lesser extent 3G technology. A sequential approach was taken to choosing the site in accordance with the County Development Plan and 1996 Guidelines. A number of potential options were then investigated. For efficiency, alternative sites must be within a short radius of the cell search area. There were no suitable existing structures or masts capable of providing the required transmission links and the level of 3G and 4G coverage required.

- There is no viable existing option available and as a last resort a new structure has to be built. A 'planning balance' has been achieved with the proposal.

Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities 1996

- The Guidelines recommend a hierarchy of suitable locations for telecommunications equipment and sharing/clustering is encouraged. The applicant has gone beyond what may be considered reasonable in planning terms with regard to searching for alternative sites.

Residential Amenity

- There are no dwellings directly facing the proposal so it would not seriously injure and depreciate property values in the area.
- There were no objections from the local community.
- Emission limits are regulated.
- The visual impact that would arise would not detract from residential amenities especially as the proposal would advance the realisation of the national strategy on mobile communications infrastructure.

Impact on ACA and Protected Structures

- The applicant's photomontages clearly demonstrate that the telecommunications pole is capable of being absorbed into the streetscape without creating any adverse visual impacts due to the design, location and the existing built and natural environment.
- The proposal to place the pole outside of the ACA and replacing an existing pole shows the applicant has done everything possible to try to conserve and enhance the Adare ACA and protected structures while fulfilling technical needs.

The appeal included precedent appeal case reference numbers and reports included in the application to the planning authority.

6.2. Planning Authority Response

I have no record of any response to the appeal from the planning authority.

7.0 Assessment

7.1 Introduction

7.1.1 I consider that the principal planning issues relating to this application are the validity of the planning authority's decision, the development in the context of the Telecommunications Antennae and Support Structures Guidelines, and the impact on protected structures and the Adare Architectural Conservation Area (ACA).

7.2 The Validity of the Planning Authority's Decision

7.2.1 I note that the appellant has submitted that the appeal may warrant a judicial review as the decision for refusal by the planning authority is based on the stated 'Telecommunications Antennae Support Structures – Guidelines for Planning Authorities, 1998' which do not exist. The Board will note that it is dealing with the proposed development *de novo*. Thus, considerations and reference to the 1996 Guidelines will form part of the considerations in this assessment and, undoubtedly, part of the considerations by the Board itself.

7.3 The Development in the Context of the *Telecommunications Antennae and Support Structures Guidelines for Planning Authorities 1996*

7.3.1 I first note that the appellant has made reference to a relatively recent decision by the Board, under Appeal Ref. ABP-300664-18, to refuse permission for a 15.3m high pole incorporating shrouded antennae and a transmission dish on Rathkeale Road in Adare. The appellant has referred to the differences between that previous proposal and the current proposal, notably in the context of justification, alternatives and siting. It is important to acknowledge that the Board's reason for refusal in that previous decision made specific reference to the *Telecommunications Antennae and Support Structures Guidelines for Planning Authorities 1996* with regard to the siting

of free standing masts in smaller towns and villages. Consideration of the provisions set out in this guidance is a key issue when addressing this appeal.

7.3.2 I note the provisions set out in the *Telecommunications Antennae and Support Structures: Guidelines for Planning Authorities* published in 1996 as well as the Department Circular Letter PL 07/12 of October 2012. The Guidelines note that location for support structures, antennae and other dishes will be substantially influenced by radio engineering factors and that, in endeavouring to achieve a balance, a number of considerations are relevant. These include visual impact, access roads and poles, sharing and clustering, health and safety aspects, obsolete structures, and the duration of a planning permission.

7.3.3 The following is noted:

- With regard to visual impact, it is stated that, whatever the general visual context, great care will have to be taken when dealing with fragile or sensitive landscapes, with other areas designated or scheduled under planning and other legislation and that proximity to listed buildings, archaeological sites and other monuments should be avoided. It is further referenced that only as a last resort should free-standing masts be located on or in the immediate surrounds of smaller towns or villages. If necessary in such a location, sites already developed for utilities should be considered and masts and antennae should be designed and adapted for the specific location. The support structure should be kept to the minimum height consistent with effective operation. (Section 4.3)
- With regard to access, it is noted that the access road can sometimes cause greater visual impact than the actual installations. (Section 4.4)
- On the matter of sharing facilities and clustering, sharing of installations is promoted as this would normally reduce the visual impact on the landscape. (Section 4.5)
- On the issue of health and safety, operators are required to furnish a statement of compliance with the International Radiation Protection Association (IRPA) Guidelines or the equivalent European Pre-standard 50166-2. The Guidelines further note that the setting up of an independent regulator was pending who would be required to arrange for monitoring of

emissions of non-ionising radiation from base station towers and MMDS masts. (Section 4.6)

- On the matter of obsolete structures, the Guidelines note that these should be demolished, removed and the site reinstated. (Section 4.7)
- The Guidelines recommend that temporary, relatively short term permissions of one or two years duration should be avoided but that, because of rapid changes in technology and design, permissions should normally be granted for five years. (Section 4.8)

7.3.4 Circular Letter: PL 07/12 made some revisions to the Guidelines. The Circular included the following:

- Planning authorities are advised that from the date of the Circular letter, attaching a condition to a permission for telecommunication masts and antennae which limit their life to a set period should cease. Only in exceptional circumstances should a permission issue with conditions limiting its life. (Section 2.2)
- 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 additionally be regulated by the planning process. (Section 2.6)

7.3.5 The above referenced Guidelines and Circular clearly identify the key issues due for consideration with a planning application for telecommunications infrastructure.

7.3.6 One of the principal planning considerations relates to 'location'. This is clearly understood to be in the context of assessing the visual impact of telecommunications infrastructure. The proposed development is sited within the town centre of Adare, in an area where there is a wide range of differing land uses and different structures, structures of differing heights and associated support infrastructure. The site for the proposed development is in a relatively discreet location, to the rear of Main Street, abutting a car park and adjoining the rear boundaries of properties in the vicinity. It is noted also that this location lies to the north of the Adare Architectural Conservation Area and that there are protected structures within the ACA. The site itself is by no means a high profile town centre site and is very much backland.

7.3.7 In the context of visual impact, the Guidelines demand that proximity to protected structures be avoided and that only as a last resort should free-standing masts be located on or in the immediate surrounds of smaller towns or villages. I accept that the proposed development could be construed as being 'proximate' to protected structures in the town centre. The visual impact on these will be considered later in this assessment. It is also evident that the site for the proposed development, located in the heart of the town of Adare, fails in the first instance to adhere to the Guidelines' requirement relating to siting in towns and villages. However, it must be acknowledged that there is no blanket prohibition on free standing masts in towns and villages as the Guidelines refer to the use of sites already developed for utilities permitted to be considered if a town or village location is considered necessary. It is important to acknowledge that the proposed development seeks to replace a street light with the telecommunications structure. Thus, it can reasonably be determined that an established utility at this location is proposed to be replaced by the telecommunications structure. Further to this, the appellant has clearly identified a necessity for the proposed infrastructure to provide for an increased level of service within the town centre itself and has demonstrated comprehensively how a wide range of alternative sites were considered, culminating in the selection of the proposed site. I accept, given its context within the vicinity of buildings and other structures, that the support structure, demanding some clearance for antennae, can reasonably be seen to have been kept to the minimum height consistent with effective operation. Having regard to these considerations, the compatibility or otherwise of the proposal in the context of visual impact and the Guidelines falls to be decided on whether the impact of the proposal on protected structures is or is not significant, in my opinion.

7.3.8 I note that on Guideline matters relating to access, sharing and clustering, health and safety aspects, and obsolete structures that there are no notable planning and environmental concerns arising. With regard to the issue of public health, the Circular Letter is very clear. Planning authorities and the Board are to be primarily concerned with the appropriate location and design of telecommunications structures. These authorities do not have competence for health and safety matters in respect of telecommunications infrastructure as they are regulated by other codes.

7.3.9 I acknowledge that the Circular Letter places a clear emphasis on ceasing the attachment of a condition to a permission for telecommunication masts and antennae which limit their life to a set period and that only in exceptional circumstances should a permission issue with conditions limiting its life. In the event the Board grant permission for the proposed development, this location, in proximity to protected structures and the Adare ACA, could reasonably be viewed as a particularly sensitive location and, thus, exceptional circumstances would apply in this instance that would warrant limiting the life of the structure to a set period to allow its visual impact to be assessed prior to considering any permanent planning permission.

7.4 The Impact on Protected Structures and the Adare Architectural Conservation Area

7.4.1 Adare's Architectural Conservation Area is divided into 7 main areas of interest. The site of the proposed development lies outside of and to the north of *Adare A.C.A. 5 19th Century Core - Northside of Main Street*. All of the nearest protected structures listed in the Adare Local Area Plan are site within the ACA. Most are located with frontage onto Main Street, with the Courthouse sited at the junction of Station Road and Main Street.

7.4.2 The objectives for the ACA set out in Adare Local Area Plan are Objective EH 2, which seeks to protect, conserve and where appropriate, enhance the ACA, and Objective EH 3, which seeks to protect structures entered onto the Record of protected structures, or listed to be entered onto the Record and to encourage their appropriate re-use and restoration.

7.4.3 My considerations on the impact of the proposed development on the ACA and on protected structures are as follows:

- I acknowledge that the appellant, in seeking to improve the town centre's telecommunications service, has made a particular effort to site the proposed development outside of the ACA, all of which forms part of Adare's town

centre and extends to Adare Manor at the east end of the town. Thus, there is no direct impact on the ACA.

- There are no protected structures on or immediately adjoining the appeal site. Thus, there is no direct impact on any protected structure. The nearest protected structures are to the south of the site fronting onto Main Street (RPS Nos. 874, 875 and 876 and to the south-east at the junction of Station Road and Main Street, namely RPS No. 870, the Courthouse.
- Between all of the nearest protected structures and the appeal site there are significant complexes of structures. Those on Main Street form part of an extensive terrace of buildings.
- It is noted that the most sensitive protected structure can reasonably be determined to be the Courthouse. This structure fronts directly onto Station Road. Its primary elevation faces east. In appreciating its physical contribution to the streetscape, one best gains this appreciation from Station Road and on the very limited view on the eastern approach to the road junction along Main Street. The latter views are greatly impeded by tree lines on Main Street. The proposed development would not be dominant in the view if one is seeking to attain this appreciation. To suggest that the proposed development would interfere with this structure's setting could reasonably be determined to be an overstatement. It must be understood that this structure is not alone flanked by structures that are not protected structures, but between it and the proposed site there are extensive numbers of structures of varying types and heights which would aid in masking the visual impact of the proposed development on the setting of the courthouse.
- It is accepted that the proposed 18 metre high mast may potentially be glimpsed from the streetscape of Adare in the town centre but at distance due to the built-up nature of the streetscape and the limited availability of views that would result. To suggest that it would somehow significantly adversely affect individual protected structures, from which it would be distinctively separated and which themselves are bounded more often by other non-protected structures, modern structures, etc., cannot reasonably be accepted.

7.4.4 In conclusion, I am satisfied to determine that the proposed development would not likely result in a significant adverse impact on the Architectural Conservation Area of Adare nor on the town's protected structures.

7.4.5 Due to the sensitivity of the town as an important tourism destination arising from the historic fabric of the town, I consider that it would be appropriate to limit permission for the proposed telecommunications structure to a period of five years from the date of the Board's Order to allow for a review of the visual impact of the structure on the town before determining the acceptability of its permanence.

7.5 Impact on residential Amenity

7.5.1 The proposed development site is remote from residential properties. There would be no adverse impact on residential amenity or property values.

8.0 **Recommendation**

8.1. I recommend that permission is granted in accordance with the following reasons, considerations and conditions.

9.0 **Reasons and Considerations**

Having regard to:

(a) the strategic importance of the national broadband service,

(b) the *Telecommunications Antennae and Support Structures: Guidelines for Planning Authorities* issued by the Department of the Environment and Local Government in July, 1996,

(c) Circular Letter PL 07/12 issued by the Department of the Environment, Community and Local Government in October, 2012,

(d) the policies and objectives set out in the Limerick County Development Plan 2010 (as extended) and the Adare Local Area Plan 2015, and

(e) the siting and design of the proposed development and the existing pattern of development in the vicinity,

it is considered that, subject to compliance with the conditions set out below, the proposed development would provide a necessary upgraded telecommunications service for the town of Adare, would not seriously injure the character, setting and visual amenities of the Adare Architectural Conservation Area or the protected structures in the vicinity, would not seriously injure the amenities of property in the vicinity, and would be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. 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.

Reason: In the interest of clarity.

2. (a) This permission shall apply for a period of five years from the date of this Order. The telecommunications structure and related ancillary structures shall then be removed unless, prior to the end of the period, planning permission shall have been granted for their retention for a further period.

(b) The site shall be reinstated on removal of the telecommunications structure and ancillary structures. Details relating to the removal and reinstatement shall be submitted to and agreed in writing with the planning authority at least one month before the date of expiry of this permission.

Reason: To enable the impact of the development to be re-assessed, having regard to changes in technology and design during the specified period.

3. Details of the proposed colour scheme for the telecommunications structure, ancillary structures and fencing shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of the visual amenities of the area.

4. The transmitter power output, antenna 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 a prior grant of planning permission.

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.

5. 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 a prior grant of planning permission.

Reason: In the interest of the visual amenities of the area

6. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the

Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Kevin Moore
Senior Planning Inspector

29th November 2019