



An
Bord
Pleanála

Inspector's Report

ABP-305615-19

Development	Construction of a 18 metre high multi-user monopole carrying telecommunications equipment.
Location	Roslevan Tld , Ennis , Co. Clare
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	1962
Applicant(s)	Signal Infrastructure Ltd.
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Brendan White
Observer(s)	None
Date of Site Inspection	30 th December 2019
Inspector	Irené McCormack

1.0 Site Location and Description

- 1.1. The subject site is located within the grounds of Avenue United Football Club to the northeast of Ennis town centre. Rosslevan Shopping Centre is located to the south of the site and shares a boundary with the site. The west and northwest of the site comprises of light industrial/community facilities with residential development located to the north and northeast of the site.
- 1.2. The site is relatively flat and comprises the playing fields, dressing room facilities and associated car parking of the football club. It is proposed to locate the development along the southern site boundary adjacent to existing floodlight structures removed from the playing pitch and club house and car park. The site is partially screened on all boundaries by trees of varying height and density.
- 1.3. Access to the site is from an existing internal road network to the north of Rosslevan Shopping Centre.

2.0 Proposed Development

- 2.1. The proposed development comprises the erection of a 18m monopole telecommunications structure with associated antennas, dishes and ground base equipment enclosed in security fencing.

3.0 Planning Authority Decision

3.1. Decision

Permission was granted subject to 4 no. conditions. The relevant conditions are noted below:

Condition No. 1

- (a) The development shall be carried out and completed in accordance with the plans and particulars as received by the planning authority on the 4th February 2019 and the further information received by the planning authority on the 4th June 2019 and the 23rd August 2019 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, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

(b) The proposed development shall not be commissioned for first use unless and until the proposed planting as set out in the drawings and particulars received by the planning authority on the 23rd August has been completed. Any planting that is diseased or fails within 2 years of planting shall be replaced.

Reason: In the interest of clarity.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial Planners report (22nd March 2019) sets out the recent planning history in the vicinity of the site and observations received. The report notes the telecommunication infrastructure and DoEHLG, Planning Guidelines for Telecommunications Antennae and Support Structures (1996) and Circular letter PL 07/12. Further information was recommended in relation to alternative communication technologies, alternative sites and assessment of visual impact. Further clarification was sought to adequately address these issues. The final report (17th September 2019) recommends permission should be granted subject to conditions.

3.2.2. Other Technical Reports

None

3.3. Prescribed Bodies

Irish Aviation Authority – In their submission dated 1st March 2019 the IAA set out that they have no observations to make.

3.4. Third Party Observations

A total of two submissions were made in relation to the development. A brief summary of the issues raised in the submission to the Planning Authority are set out below:

- Principle of the development unacceptable noting planning Guidelines for Telecommunications Antennae and location in residential area.

- Development not identified within zoning matrix
- Devaluation and injury to the amenity of property
- Emissions and electromagnetic radiation
- Alternative locations not explored
- Reference to Section 8.8.10 of Development Plan regarding the importance of built heritage
- The development is a material contravention of the plan
- Impact on visual amenity
- Use for 5G should not be permitted

4.0 Planning History

Site

CCC Reg. Ref. 17/395 – Permission granted in 2017 for a temporary campsite, car park and ancillary works.

South

CCC Reg. Ref. 15/460 – Permission granted for development of vacant first floor business premises at Rosslevan Centre.

5.0 Policy Context

5.1. Development Plan

Clare County Development Plan 2017-2023 incorporating the Ennis Municipal District Written Statement and Settlement Plans

The site is located on lands zoned “Recreation” in the development plan. This category of zoning provides for the use of land for the provision of sports grounds/ playing pitches, golf courses, tennis courts and other active indoor and outdoor recreational facilities that contribute to meeting the leisure, recreation and amenity needs of the immediate community and/or the wider area.

Section 8.8.10 refers to Telecommunications Infrastructure

Objective CDP 8.44: To facilitate the provision of telecommunications services at appropriate locations within the County having regard to the DoEHLG

'Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities 1996 (as updated by PL07/12 of 2012)'.

5.2. **Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities, 1996**

These Guidelines set out the criteria for the assessment of telecommunications structures. The relevant points to this case are summarised below.

- An authority should indicate any locations where telecommunications installations would not be favoured or where special conditions would apply. Such locations might include high amenity lands or sites beside schools (Section 3.2).
- In rural areas towers and masts can be placed in forestry plantations provided of course that the antennae are clear of obstructions (Section 4.3).
- Only as a last resort should free-standing masts be located within or in the immediate surrounds of smaller towns or villages. If such location should become necessary, sites already developed for utilities should be considered and masts and antennae should be designed and adapted for the specific location (Section 4.3).
- The sharing of installations and clustering of antennae is encouraged as co-location will reduce the visual impact on the landscape (Section 4.5).

5.2.1. Circular Letter PL07/12

This Circular Letter revised the Telecommunication Antenna and Support Structures Guidelines, 1996. The circular advises that Planning Authorities should cease attaching time limit conditions to telecommunications masts, except in exceptional circumstances. With regard to Health and Safety Aspects it states the following: -

'The 1996 Guidelines advise that planning authorities should not include monitoring arrangements as part of planning permission conditions nor determine planning applications on health grounds. This Circular Letter reiterates that advice to local planning authorities. 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 be additionally regulated by the planning process'

It is also a requirement that Contribution Schemes include waivers for broadband infrastructure provision

5.3. **Chapter 13 – Development Management**

DM Standard 32: Telecommunications Masts

In order to facilitate the evaluation of development proposals for the erection of antennae and support structure with regard to the *DoEHLG, Planning Guidelines for Telecommunications Antennae and Support Structures* (1996 including any updated/superseding document) and DECLG Circular PI 07/12 regarding the 1996 Planning Guidelines.

5.4. **Natural Heritage Designations**

The site is not located within or directly adjacent to any Natura 2000 sites. The site is located 0.7km from the Lower River Shannon SAC (Site code 002165), 0.9km from Ballyallia Lake SAC (Site code 00014) and 1.7km from Ballyallia Lough SPA (Site code 004041)

5.5. **EIA Screening**

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, 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. An EIA - Preliminary Examination form has been completed and a screening determination is not required

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- It is set out that the site is located in a residential neighbourhood and there is a general presumption against free standing structures to support telecommunication antennae as per the Telecommunication Antennae and Support Structures Guidelines.
- Details lodged with the initial planning application are deficient in terms of technical justification for the site and lack clarity in terms of the drawings

submitted and identification of coverage issues. It is set out that the planning authority never sought clarity on this matter.

- The use of the site as a playing pitch for a variety of teams including junior teams is similar to use as a school and as such represent a 'last resort' based on guidance.
- The site is zoned for recreational use and the use for a telecommunication mast is a materially contravention of this zoning.
- The technical justification submitted is cursory in nature and not satisfactory.
- It is set out that while the Circular Letter PL07/12 ended the practice of putting separation distance in development plans Policy CDP 10.15 of the development plan sets a separation distance of 250m between masts and dwelling houses. The Circular Letter PL07/12.
- The location 4m from the appellants site boundary and 33m from his house immediately devalues this property and completely detracts from and is injurious to its amenity. It is set out that the appellant is concerned about emissions form the structure so close to his house which will impact on the potential resale value of the house. It is also noted that the evergreen tress currently buffering the development form the house are nearing the end of their life cycle and as such are unlikely to provide screening for much longer.

6.1.1. **Applicant Response**

4Site have prepared an appeal submission on behalf of Signal Infrastructure Ltd.

- The submission notes the Guidelines acknowledge that there is "limited flexibility as regards location, given the constraints arising from radio planning parameters " (Section 4.3)
- It is noted that while technologies have improved, the requirement to position telecommunications transmissions and receiving equipment above obstructions remains unchanged.
- The surrounding area reflects a mix of land use zonings.

- The site was chosen to address coverage blackspots the telecommunications operators are experiencing as well as trying to improve broadband coverage for the area.
- The development is small in scale and will occupy an area of 45sqm .
- The development will generate revenue for the Club.
- Technical justification provided with the application is provided by Eir's technical team of radio engineers in consultation with Cignal. In addition, the applicant has consulted with Villicom Ireland, an independent company.
- The site is designed to support broadband communications for three mobile network operators and one wireless broadband provider.
- The maps provided illustrate coverage deficits in the area from both Eir and the Commission for Communications Regulation (ComReg).
- It is set out that an analysis of alternative sites was carried out and the proposal seeks to resolve the coverage deficit in the area whilst also providing for co-locating equipment.
- It is set out that the site is not located on or adjacent to a school and It is considered that the development is not an incompatible use with the primary use of the site for recreation use and does not contravene the zoning.
- It is set out that a balance needs to be achieved between visual impacts and coverage requirements and in this case the photomontages demonstrate the impact on residential amenities to be acceptable.
- The development will not devalue property but will have the opposite effect.
- It is stated that the development will attract investment to the area, will be compliant with relevant standards and will not detract from the visual amenity of the area.

6.2. **Planning Authority Response**

The planning authority's submission dated 22nd October 2019 sets out that following:

- It is set out that the assessment of alternative sites and reasons why said sites were not considered appropriate were considered acceptable in this instance.
- It is set out that while the land use zoning matrix does not include telecommunication infrastructure in the list of land uses, the limited spatial context of the development would not inhibit the use of the site for recreational use.
- In terms of adverse impacts on adjacent amenities, property prices and public health – the development will be monitored nationally by the Commission for Communication Regulations.
- It is set out that the evergreen trees afford screening to the site and that the structure is a monopole type structure and not a lattice structure which also reduces the adverse visual impacts on the area.

7.0 Assessment

- 7.1.1. Concerns are raised in the appeal that the electromagnetic field emitted by the telecommunication structure will negatively impacting on the health of local residents. The applicant has stated that the proposed structure will fully comply with the relevant Health and Safety legislation. Circular Letter PL07/12 states 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. It also notes that telecommunication infrastructure is regulated by other codes and such matters should not be additionally regulated by the planning process. The issue of health and safety and associated conditions applied by the planning authority will therefore not be considered any further.
- 7.1.2. The main issues of the appeal relate to residential and visual amenities. The issue of Appropriate Assessment will also be addressed. I am satisfied that no other substantial issues arise. The main planning issues can be dealt with under the following headings:
- Principle of Development - Site location and Technical Justification
 - Residential and Visual Amenities

- Appropriate Assessment

7.2. Principle of Development - Site location and Technical Justification

- 7.2.1. The proposed development is for a single monopole of 18 metres in height in an urban location. The appellant argues that the development is contrary to the zoning of the site for “Recreation” in the development plan. This category of zoning provides for the use of land for the provision of sports grounds/ playing pitches etc that contribute to meeting the leisure, recreation and amenity needs of the immediate community and/or the wider area. Whilst, I note the land use zoning matrix for does not include telecommunications as a specific land use within the zoning matrix. This does not preclude the development of a telecommunication monopole on the site in so far as the monopole will not detract from the primary use as a recreational facility.
- 7.2.2. The appellant contends that the site is located in a residential neighbourhood and there is a general presumption against free standing structures to support telecommunication antennae in residential areas as per the Telecommunication Antennae and Support Structures Guidelines. The appeal site is located on the grounds of Avenue United FC within the urban boundaries on Ennis Town adjacent to the Rosslevan Shopping Centre to the south, light industrial/community facilities to the west and north west and with residential development located to the north and northeast of the site. I am satisfied that the general area reflects a mix of development uses.
- 7.2.3. It is also argued that details lodged with the initial planning application are deficient in terms of technical justification. Of relevance to the assessment of this appeal, is the importance of ICT infrastructure for businesses to operate effectively, this is acknowledged within the National Planning Framework, in which the delivery of improved connectivity and broadband is identified as a National Strategic Outcome critical to strengthen the economy and communities. These sentiments are also recognised and supported by Clare County Council and it is the policy of the Council to support enhanced coverage and further co-ordinated and focused development and extension of telecommunications infrastructure including broadband connectivity within Clare as a means of improving economic competitiveness.

- 7.2.4. The applicant has submitted a number of independent reports indicating a coverage deficit in the area. An analysis of alternative sites carried out determined that separation distance, terrain and clutter meant that the alternative sites would not provide the required coverage and service in the target area. It is set out that the development will bring a significant improvements in voice and broadband services to the area and will reduce capacity limitations on the existing sites in the area allowing them to provide better data and voice services, in addition to providing more choice of network operators for high speed broadband and mobile data services.
- 7.2.5. In order to achieve the National Strategic Outcomes of the NPF and ensure the economic viability of such areas a degree of flexibility is required in relation to the location of telecommunications infrastructure.
- 7.2.6. Given the established nature of the site in an urban context and, having regard to national guidance with respect to the delivery of improved connectivity and broadband, I am satisfied that the development is acceptable in principle at this location.

7.3. Residential and Visual Amenities

- 7.3.1. It is contended by the appellant that the location of the development 4m from his site boundary and 33m from his house immediately devalues this property and completely detracts from and is injurious to its amenity and the wider residential area. Both the planning authority and the first party state that a balance needs to be achieved between visual impacts and coverage requirements and the adverse impacts on adjacent amenities and property prices. I would agree.
- 7.3.2. In the case of the appeal site the applicant has prepared a detailed visual impact assessment which accompanied the application in which views were assessed from a number of vantage points in order to properly assess the impact of the proposal on the surrounding landscape. It was found that the impact would be insignificant. I have reviewed this assessment and consider that the visual impact of a single pole and associated infrastructure in this urban landscape to be minimal.
- 7.3.3. In relation to the appellants property to the immediate southeast of the site, I am satisfied that the existing mature evergreen trees within the appellants site afford a significant screening buffer from the development. In addition, the first party has proposed further screening to assist in assimilating the development into the

landscape. Should the Board be minded to grant planning permission, I consider it appropriate that the applicant submit a revised landscaping plan detailing all landscaping and boundary treatment to include a time frame for implementation.

7.3.4. I note that the appeal site is not located in an Architectural Conservation Area or within any designated protected landscape. The site, as aforementioned, is located within an urban setting where there is a variety of development types in the immediate vicinity. The Telecommunication Guidelines provides that 'views of the mast may be intermittent and incidental, in that for most of the time viewers may not be facing the mast. In these circumstances, while the mast may be visible or noticeable, it may not intrude overly on the general view or prospect'. Therefore, I am satisfied that due to the site location, the separation distance from the adjoining houses and the wider landscape screening, the structure will not injure the character of the area or the visual and residential amenities of area.

7.4. **Appropriate Assessment**

Having regard to the minor nature of the development, and the separation distance to any European site, and the location of the site within an urban built up and serviced area, 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.

8.0 Recommendation

I recommend that permission is granted subject to standard conditions.

9.0 Reasons and Considerations

Having regard to the provisions of the National Planning Framework, the Clare County Development Plan 2017-2023 , the Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities, 1996 and associated Circular Letter PL07/12 and the existing pattern of development in the area, and the nature and scale of the proposed development, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity. The proposed development would, therefore, 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 as amended by the further plans and particulars submitted on the 4th June 2019 and 23rd August 2019, 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. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. 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 nonfuture alterations.

4. The site shall be reinstated on the 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 as soon as practicable.

Reason: In the interest of orderly development.

5. Surface water drainage arrangements for the proposed development shall comply with the requirements of the planning authority.

Reason: In the interest of public health.

6. 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

Irené McCormack
Planning Inspector

7th February 2020