



An
Bord
Pleanála

Inspector's Report

ABP-307200-20

Development	An 18.1m free-standing telecommunications support structure
Location	Ballygibbon, Blarney, Co. Cork,
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	204192
Applicant(s)	Shared Access Limited.
Type of Application	Permission
Planning Authority Decision	Grant Permission with conditions
Type of Appeal	Third Party
Appellant(s)	Iarnród Éireann.
Observer(s)	Transport Infrastructure Ireland TII.
Date of Site Inspection	31 st July 2020.
Inspector	Bríd Maxwell

1.0 Site Location and Description

1.1. The appeal site 0.0064 hectares is located in the townland of Ballygibbon circa 3.3km to the north of Blarney town centre. The site is within an undulating landscape and lies between the Mallow Cork rail track to the east and the N20 road and River Martin to the west. The appeal site is located at the western end of an agricultural field adjacent to mature and semi mature trees which up to approximately 8m in height. Within approximately 100m the south are a dwelling and farm buildings. Access is from a cul de sac local road to the south.

2.0 Proposed Development

2.1 The proposal comprises a shared wireless broadband facility consisting of an 18.1m monopole supporting 6 no antennas, 9 RPUs and 2 no dishes for Eir, with provision for a second operator to co-locate on the structure. The site will be capable of accommodating 3G / 4G technologies. The monopole has an overall height of 18.1m. Application details outline that the existing Eir mast which is only 9.6m high to the south of the site will be decommissioned as it does not meet the coverage requirements of Eir in this area. The proposal will replace the existing Eir site and provide wireless broadband, in car and indoor data coverage for motorists travelling along the N20 and surrounding rural area.

3.0 Planning Authority Decision

3.1. Decision

3.1.1 By order dated 24th March 2020 Cork County Council issued notification of its decision to grant permission and 4 conditions were attached including:

Condition 2. Removal of all structures on cessation of operations

Condition 4 Sight viewing distance to be maintained.

Condition 4 No dust or debris onto public road.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planner's report considers visual impact to be not significant. Location within the proposed N20 Route Protection Corridor is noted however it is considered that the mast could be easily removed if required to facilitate M20 works. No objection subject to conditions.

3.2.2. Other Technical Reports

Area Engineer. No objection subject to conditions.

3.3. Prescribed Bodies

Irish Aviation Authority. No observations on the application.

Iarnród Eireann. No right of access over Railway Bridge Non OBC 382 which as a privately used accommodation bridge over the railway owned by Iarnród Eireann.

3.4. Third Party Observations

Submission from Seamus Murphy Ballygibbon - objects on grounds of duplication given proximity to an established mast. As owner of the farmyard adjoining sharing right of way the laneway which is considered inadequate to cater for the development.

4.0 Planning History

4.1 No planning history on the appeal site.

Nearby to the south

13/5969 Telefonica Ireland Limited Permission granted for retention and operation of 9m high telecommunications monopole carrying link dishes with equipment cabinets. Height 9.5m security fencing as previously granted 08/5114.

5.0 Policy Context

5.1. NATIONAL POLICY

5.1.1. Telecommunications Antennae and Support Structures - Guidelines for 5.1.Planning Authorities (1996)

These set out current national planning policy in relation to telecommunications structures and address issues relating to, inter alia, site selection; minimising adverse impact; sharing and clustering of facilities; and development control. The Guidelines are generally supportive of the development and maintenance of a high-quality telecommunications service.

5.1.2. Telecommunications Antennae and Support Structures and DoECLG 5.2.Circular Letter PL07/12

The 2012 Circular letter set out to revise sections 2.2. to 2.7 of the 1996 Guidelines. The 1996 Guidelines advised that planning authorities should indicate in their development plans any locations where, for various reasons, telecommunications installations would not be favoured or where special conditions would apply, and suggested that such locations might include lands whose high amenity value is already recognised in a development plan, protected structures, or sites beside schools. While the policies above are reasonable, there has, however, been a growing trend for the insertion of development plan policies and objectives specifying minimum distances between telecommunications structures from houses and schools, e.g. up to 1km. Such distance requirements, without allowing for flexibility on a case-by-case basis, can make the identification of a site for new infrastructure very difficult. Planning authorities should therefore not include such separation

distances as they can inadvertently have a major impact on the roll out of a viable and effective telecommunications network.

Section 2.6 of the Circular letter refers to Health and Safety Aspects and reiterates the advice of the 1996 Guidelines that planning authorities should not include monitoring arrangements as part of planning permission conditions nor determine planning applications on health grounds. 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.

At 2.2 it is stated that only in exceptional circumstances where particular site or environmental conditions apply, should a permission issue with conditions limiting their life.

5.2. Development Plan

5.2.1 The Cork County Development Plan 2014 refers. The site falls within the Metropolitan Greenbelt area.

Objective ED 7-1 Telecommunications Infrastructure

“Support the provision of telecommunications infrastructure that improves Cork County’s international connectivity. 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” Have regard to environmental and visual considerations when assessing large-scale telecommunications infrastructure.”

Objective ED 7-2 Information and Communication Technology.

Facilitate the delivery of a high capacity ICT infrastructure and high-speed broadband network and digital broadcasting throughout the County. Support a programme of improved high-speed broadband connectivity throughout the County and implement the National Broadband Strategy in conjunction with the Department of Communications, Marine & Natural Resources.

TM3-1 National Road Network.

Seek the support of the National Roads Authority in the implementation of the major projects including M20. At 10.3.3. it is outlined that The Council in consultation with the National Roads Authority, will protect proposed national road route corridors where the route selection process has been completed / approved and where preferred route corridors have been identified.

The Spatial Planning and National Roads Guidelines 2012) of the Department of the Environment Community and Local Government is a key guiding document in relation to planning policy and National Roads.

The site lies within the Preferred Route Protection Corridor for the M20.

5.3. Natural Heritage Designations

The site is not within a designated area. The nearest such sites are

Blackwater River (Cork Waterford) SAC)Site code 002170) within 12km to the north and northeast.

Cork Harbour SPA 13km to the southeast. (Site Code 004030)

5.4. EIA Screening

- 5.1.1 Having regard to the nature and scale of the proposed development there is no real likelihood of significant effects on the environment. 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 The appeal is submitted by Iarnród Éireann. Grounds of appeal are summarised as follows:

- The applicant does not have legal right of access over bridge structure overbridge OBC 382 which was provided as an accommodation crossing and is agricultural in nature. Current landowners who enjoy this accommodation have no legal authority to grant right of access to third parties.
- Concerns regarding railway safety.
- Proposal would intensify use of the bridge from agricultural to commercial use.
- Legal Agreement required with Iarnród Éireann to regulate the use of the bridge during construction and operational phase.

6.2. Applicant Response

6.2.1 Response by Entrust Limited. Applicant is hoping to have an agreement in place for access over the railway bridge No OBC382 with Irish Rail soon and following negotiations it is hoped that the appeal will be withdrawn.

6.3. Planning Authority Response

6.3.1 The Planning Authority response indicates that it has no additional comment to make on the appeal.

6.4 Observers

6.4.1 Submission from Transport Infrastructure Ireland notes no prior record of consultation previous to referral by An Bord Pleanála. TII considers the proposal at

variance with official national policy in relation to control of development on/affecting national roads, as outlined in the DoECLG Spatial Planning National Roads Guidelines for Planning Authorities .

The site is located within an area considered for a future national road scheme. The proposed development could prejudice plans for the design of this scheme and the application is premature pending determination of the route.

The M20 Cork to Limerick Scheme is included for funding objective of the National Development Plan. The proposal is within the area being considered for the national road scheme. Limerick County Council working with Cork County Council have awarded the contract for Technical Advisors to progress the scheme to Statutory Orders. The planning and design of the scheme is progressing and a grant of permission is considered premature pending determination of a route for the M20 Cork to Limerick scheme.

A grant of permission is considered to be at variance with the provisions of Objective TM3-1 of the current Cork County Development Plan, 2014, which identifies the M20 scheme as a key project and outlines support for improvements to the national road network, including reserving corridors for proposed routes free of inappropriate development so as not to compromise future road schemes.

6.5 Further Responses

- 6.5.1** Submission by the appellant Iarnród Éireann further to circulation of TII submission notes that the issues raised in the observer's submission are a separate matter.

7.0 Assessment

- 7.1.** The central issue raised within the grounds of appeal relates to legal issues and rights of access over the railway overbridge structure OBC 382. I would note in response to issues regarding legal interest and access rights that all such matters are essentially civil matters between the parties and are not strictly matters for determination within the scope of planning legislation. In this regard I would refer the

parties to Section 34(13) of the Planning and Development Act 2000, as amended as follows: *“A person shall not be entitled solely by reason of a permission under this section to carry out any development.”*

7.2. I consider that it is appropriate to address planning merits of the development under the following broad headings.

Principle of development

Visual impact and impact on the amenities of the area

Implications as regards future design and construction of the M20

Appropriate Assessment.

7.3 **Principle of Development**

7.3.1 Having regard to the National Policy as set out in the 1996 Guidelines

Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities and Circular Letter PL07/12 Telecommunications Antennae and Support Structures which promote the provision of modern telecommunications infrastructure, and to policies within the development plan including Objective ED7-1 Telecommunications Infrastructure and ED7.2 Information and Communication Technology, it is considered that the provision of a telecommunications mast at the site should be considered to be acceptable in principle subject to detailed proper planning and sustainable development considerations.

7.3.2 As regards the need for the mast, I note that the applicant indicates that the existing Eir Mast to the south does not meet the coverage requirements and will be decommissioned following commissioning of the mast on the appeal site. I note that the proposal provides for future mast sharing and co-location and this approach remains a significant pillar of national and local planning policy. On the basis of

information provided and in the context of broad policy support I consider that the principle of development is acceptable.

7.4. Visual impact and impact on the amenities of the area

7.4.1 The “Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities” published by the Department of the Environment in 1996 as noted, state that visual impact is one of the more important considerations which have to be taken into account. The Guidelines advocate a sequential approach with regard to the identification of suitable sites for telecommunications installations. The Guidelines recommend that great care be taken when dealing with fragile or sensitive landscapes, with other areas designated or scheduled under planning and other legislation, for example, Special Amenity Areas, Special Protection Areas, the proposed Natural Heritage Areas and Special Areas of Conservation and National Parks. Proximity to listed buildings, archaeological sites and other monuments should be avoided. I note that the site is not within a designated area and there are no recorded monuments in the immediate vicinity. The site is not sensitive in visual terms and I consider that the landscape is significantly robust to accommodate the proposed monopole structure. I consider that the landscape character and tree cover in the vicinity serves to mitigate the visual impact.

7.4.2 As regards traffic safety and capacity I consider that in light of the nature of the development significant traffic would not arise and construction traffic would be appropriately managed by way of a suitably designed traffic management plan.

7.5. Implications as regards the future design and construction of the M20

7.5.1 As outlined above the site is located within the route protection corridor for the M20 route as depicted in volume 4 maps of Cork County Development Plan 2014. The submission of Transport Infrastructure Ireland TII, contends that the proposed

development could prejudice plans for the design of the M20 scheme and on this basis it is asserted that the proposal is premature pending determination of the route. I note that the Council Planner considered that the mast could be easily removed if required to facilitate M20 works. While the Board might consider a temporary grant of permission I note that Circular Letter PL07/12 notes that masts and antennae tend to remain in place for many years and remain a key feature of telecommunications infrastructure for the foreseeable future and therefore advise against the limitation of life of permission for this type of infrastructure and therefore recommend that only in exceptional circumstances where particular site or environmental conditions apply, should a permission issue with conditions limiting their life.

7.5.2 I note that as the M20 remains a strategic objective of both County Development Plan Objective TM3-1 and National Policy as outlined in the National Development Plan 2018-2027 it is crucial to protect the corridor to ensure that future options remain viable. This is consistent with the advices regarding protection of alignments for future national road projects 2.9 of the Spatial Planning and National Roads, Guidelines for Planning Authorities issued by the Department of the Environment Community and Local Government January 2012. Given the strategic importance of the route I am inclined to conclude that the proposed development is premature pending a determination by the Planning Authority or the road authority of a final road layout for the M20.

7.6 Appropriate Assessment

7.6.1 As regards Appropriate Assessment having regard to the nature and scale of the proposed development and to the nature of the receiving environment and proximity to the nearest European Site, 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 be refused for the reasons and considerations set out below:

Reasons and Considerations

The proposed development is located within a route corridor identified for the M20 Cork to Limerick Scheme the reservation of which is an objective of the Cork County Development Plan 2014 and the National Development Plan 2018-2027.

Accordingly, it is considered that development of the kind proposed would undermine the achievement of these strategic objectives and would be premature pending the determination by the planning authority, or the road authority, of a road layout for the M20 and would be at variance with the recommendations of the Spatial Planning and National Roads Guidelines for Planning Authorities issued by the Department of the Environment Community and Local Government, January 2012. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Bríd Maxwell
Planning Inspector
9th September 2020