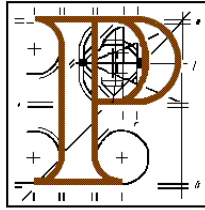


# An Bord Pleanála



## Inspector's Report

**Appeal Reference:** PL29N.245812

**Development:** Retain existing 45m telecommunications structure (Ref: PL29N.235982) which carries antennas and link dishes, associated equipment cabinets and containers and fencing at Unit 1, Slaney Road, Dublin Industrial Estate, Dublin 11

### Planning Application

Planning Authority: Dublin City Council  
Planning Authority Reg. Ref.: 3564/15  
Applicants: Three Ireland Services Ltd.  
Type of Application: Retention permission  
Planning Authority Decision: Refuse permission

### Planning Appeal

Appellants: i. Three Ireland Services Ltd.  
ii. Edward McKiernan  
Type of Appeal: First and Third Parties  
Observer(s):  
i. John Cassidy  
ii. Una & Martin Lyes  
iii. David & Pauline Dooley  
iv. Miriam O'Connell  
v. Cllr. Cieran Perry  
vi. Jim & Lena Ward  
vii. Ruth Donald & others

- viii. Liam Connolly & others
- ix. Michael O'Connor & others
- x. Liam Donnelly & others
- xi. Peter Morley
- xii. Fern Gallagher & Jim Doyle
- xiii. Joe Costello TD & Cllr. Brendan Carr
- xiv. Liam & Martha Savage
- xv. Martin McCormack & Ronnie Sheehan
- xvi. Mona Cooke
- xvii. Michael King and others
- xviii. Tony Sheerin
- xix. Michael Brophy & others
- xx. C. & M. Boylan
- xxi. N. & B. Quinlan & others
- xxii. N. & J. Leahy and others
- xxiii. Phyllis Sheill
- xxiv. Patricia A. O'Connor
- xxv. Patricia O'Connor
- xxvi. T. & D. Casey and others
- xxvii. P. O'Connor & G. Healy
- xxviii. Neil & Elizabeth Collins and family
- xxix. J. Connolly
- xxx. B. & T. Coakley
- xxxi. Claremont and The Willows Residents Mast Committee
- xxxii. D. Nolan & others
- xxxiii. C. & M. Rowan
- xxxiv. Siobhan O'Leary & others
- xxxv. C. Rooney & others
- xxxvi. Christopher Cooke
- xxxvii. Brendan Coleman & others
- xxxviii. Monica & Michael Walsh & others

Date of Site Inspection: 9<sup>th</sup> February 2016

**Inspector:** Donal Donnelly

**Appendices:** Photographs & maps

## **1.0 SITE LOCATION AND DESCRIPTION**

- 1.1 The appeal site is located on Slaney Road in Glasnevin approximately 3km north-west of Dublin city centre. Slaney Road is the main access road through the Dublin Industrial Estate off Finglas Road (R135). The road commences at a 'Y' junction with the R135 to the east and the appeal site is located approximately 300m from this junction.
- 1.2 The stated area of the site is 76.93 sq.m. There is an existing telecommunications mast and associated structures on site. The structure has a "birdcage" type design. There is a second mast of similar height and appearance within the industrial estate approximately 400m to the west.
- 1.3 The site is located to the rear of Unit 1 of the Industrial Estate, which is a single storey building accommodating a Christian church. There is a layby to the front of the site on Slaney Road. Other uses in the immediately surrounding area are a carpet outlet, car sales business and a marketing company. The site is also adjoined to the east by Glasnevin Business Park, which includes a DIY store.

## **2.0 PROPOSED DEVELOPMENT**

- 2.1 Permission is sought for the retention of the following:
  - 45m high telecommunications structure (previously granted under Reg. Ref: 4285/09 and Ref: PL29N.235982);
  - Link dishes and antennas;
  - Associated equipment cabinets and containers; and
  - Security fencing.

## **3.0 TECHNICAL REPORTS**

- 3.1 The recommendation to refuse retention planning permission, as outlined within the planning report, reflects the decision issued by the Planning Authority.
- 3.2 Under the assessment of the application, the Case Planner notes the applicant's assertion that the site is a vital transmission hub and without it would render a large area without a service for Three and Meteor customers. The applicant also submits that failure to maintain this installation would result in an immediate and negative impact of coverage levels in Finglas, Glasnevin and the North Dublin, Louth and Meath areas.
- 3.3 The applicant refers to the development within the context of Telecommunications Guidelines and subsequent Circular, the National Development Plan and City Development Plan. Finally, it is stated that a

refusal of permission would force the applicant to seek permission for an alternative structure in the same area to fill the coverage deficit.

- 3.4 Reference is made by the Case Planner to Condition 1 of PL29N.235982 which allowed for a temporary permission to “*enable the operator to make provision for relocating the compound to a more suitable location, having regard to the close proximity of residential properties.*”
- 3.5 It does not appear that the applicant has investigated or considered the relocation of the structure and therefore it is considered inappropriate to permit the retention of this structure, even for a temporary period. It is stated that the works result in a dominant, overbearing and visually obtrusive development that seriously injures the amenities of nearby dwellings. It is therefore considered that retention development should be refused on the same grounds as Reg. Ref: 4285/09.

#### **4.0 PLANNING AUTHORITY’S DECISION**

- 4.1 Dublin City Council issued notification of decision to refuse retention permission for the following reason:

*The proposed telecommunications tower is sited close to housing areas at The Willows and Claremont, especially the western portion of the latter area. The height of the proposed telecommunications tower, in conjunction with its proximity to these areas, would cause it to have a dominant and overbearing relationship with nearby dwelling houses. Consequently, it would be visually intrusive and as such it would seriously injure the amenities of these dwelling houses and detract from the established character and ambience of these housing areas. Accordingly, it would be contrary to the proper planning and sustainable development of the area.*

#### **5.0 APPEAL GROUNDS**

- 5.1 A first party against the Council’s decision to refuse permission was submitted by the applicant and a third party appeal was submitted by a resident of Claremont Court on the grounds that the reason for refusal is not sufficiently comprehensive.
- 5.2 The grounds of appeal and main points raised in each submission are summarised as follows:

*First party*

- Reasons for refusal were unreasonable and fail to consider adequately the totality of information submitted with the application regarding this regionally important telecommunications installation.

- Visual impact of the structure has already been carefully assessed and evaluated by the Board and Council and has been deemed within an acceptable level.
- Visual intrusion is not dominant and overbearing on nearby properties given the distance involved and the industrial character of the immediate area.
- Structure in its current form has been part of the built environment since 2003 and a telecommunications structure has been on the site since 1977.
- Location is consistent and compliant with national and local policy – it is stated in the Guidelines and Development Plan that structures should preferably be located on industrial land. Public service installations are permitted in principle on Z6 zoning.
- Guidelines and Development Plan do not place a separation distance between the proximity of a base station and a dwelling – Circular states that Planning Authority should not include such separation distances.
- Installation contributes to the implementation of national policy objectives with regards to the promotion of information and communications technology.
- This important piece of telecommunications infrastructure helps provide broadband and radio connectivity that is critical for the development of a knowledge economy.
- Existing structure is of significant regional and local importance as a vital (SDH) transmission hub – structure links over 36 sites in the north Dublin area alone, (technical justification included in Appendix B). 60% of all phone users in the coverage range are dependent of service from this site. Site also a hub for 5 commercial operators, e.g. Mater Hospital.
- There is a lack of suitable alternative location within the surrounding area. Following comprehensive assessment of the area, it is considered that the existing location was the most suitable from both a technical and planning perspective.
- There are service implications associated with any relocation of this site.
- Line of sight is not possible to all of Three's remote locations from the nearby Vodafone structure. This structure does not currently have fibre connectivity and this will have a major impact.
- Moving the site to an alternative location would be extremely disruptive to local customers resulting in prolonged periods where they will have little or no mobile coverage.
- Site performs five main functions: (i) providing local 2G, 3G & 4G services for Three/ O2 and Meteor Mobile customers, (ii) acts as an important transmission hub on the Dublin SDH trunk ring acting as Inter-Core Site

National Voice Route carrying mobile to mobile and mobile to fixed traffic (iii) Eircom NGN fibre site collecting traffic from 29 2G and 24 3G/4G local base stations into the national network (iv) provides essential connectivity for Aviva Insurance, The Mater, Hegarty Building & Civil Engineering, Transport Infrastructure Ireland and The Bar Council and (v) co-location site for Meteor network providing 2G/3G/4G coverage to the area.

Third party

- Reason for refusal fails to make reference to Development Plan transitional zone areas and the Condition of the planning permission in 2003.
- Council has refused permission three times for the same structure for the same reasons.
- Visual arguments have been settled by the Council and Board Inspectors.
- Operator was told on appeal in 2010 to relocate and was given 5 years to do so.
- There is no new additional justification for this twice refused structure.
- Ground levels at the Vodafone Nore Road site and the appeal site are the same and there is 2m height difference between the structures. Most of the discs and antennas are at a lower level. It should be within the technological ingenuity of Three and Vodafone to raise the height of the Nore Road structure if necessary.
- Any contention that north Co. Dublin and parts of Meath and Louth cannot have phone services without this site is without foundation.
- Board added the phrase *“unless, prior to the end of the period, planning permission shall have been granted for their retention for a further period”* to Condition 1 of PL29N.235982.
- Any claim by the operator to an established use on site was forfeited in 2009 by their failure to observe the 5 year retention period
- Precedent has been established by the Board in refusing retention permission for communications structure at Spiddal, Co. Galway (PL07.235634). Condition attached to previous permission *“to enable the operator to make provision for relocating the compound to a more suitable location having regard to the close proximity to residential properties.”*

## 6.0 RESPONSES

### Second Party

- 6.1 Within its response to the first party appeal, the Planning Authority recognises the requirement for a strategic telecommunications installation within the Dublin Industrial Estate. However, it is considered that the visual amenities and residential environment of the Claremont and the Willows estates is seriously prejudiced.
- 6.2 Reference is made to the reason attached to the Board's Condition under PL29N.235982, which is an acknowledgement that the tower has a negative impact on adjacent residential properties.
- 6.3 It is considered from the appeal submission that the applicant does not appear to have investigated alternative sites with the serious view to moving the mast. Furthermore, it is stated that the applicant does not acknowledge the restrictive nature of Condition 1 of PL29N.235982 in terms of limiting the lifespan and relocating away from residential properties.

### Third party

- 6.4 The third appellant responded to the first party appeal with the following points of note:
- Threat of breakdown of local and regional services is an effort to put undue pressure on the Board to grant permission.
  - Line of sight survey findings do not fit with Vodafone's mast performance specification, as stated in their 2007 planning application (Reg. Ref: 3215/07).
  - Claim that *"the site has to be viewed within the overall context of the area and the backdrop of the surrounding industrial estate"* is meaningless when the height of the mast is many times the height of the industrial buildings.
  - Board has determined before that masts should be relocated to more suitable locations because of proximity to established residential areas, (PL29N.235982, PL06F.236974).
  - Fibre connectivity was not mentioned within 2003 or 2010 applications.
  - No alternative site has been put forward to be critically and objectively assessed versus the appeal site.
  - Z6 zoning extends over 57 hectares – there appears to be several alternative locations within this zoning that are remote from residential areas.
  - Alleged line of sight loss only relates to local district and city centre sites and not the SDH network.

- Three has at least 7 no. other masts nearby and a planned changeover would ensure minimal or no loss of service.
- It is not the primary function of the residents to find or decide on an actual site location or format for a telecoms tower structure.
- Line of sight survey has been carried out at the Slaney tower only and the results have been extrapolated to fit lines of sight from the Nore Road tower.

## 7.0 OBSERVATIONS

7.1 There are a total of 38 no. observations on the appeals from residents of the Claremont and the Willows housing estates. All observers support Dublin City Council's decision to refuse retention permission. The main points raised in each submission, avoiding repetition, are summarised below:

### John Cassidy, 137 Claremont Court

- Board should not grant retention permission as original permission (PL29N.235982) was temporary.
- Photo attached to show mast is visually intrusive from front of observer's home.

### Una & Martin Lyes, 102 Claremont Court

- Observers strongly support the grounds set out in the documentation prepared by Claremont Residents Association.
- Installation is a considerable eyesore being visible from Observer's house and their neighbours and also makes a poor impression on visitors to the estate.
- Mast not a reflection of national or local policy but rather results from a business decision from the applicant.
- If industrial estate was rezoned for housing, the mast would occupy an even more intrusive position, or may even stop rezoning from taking place.

### David & Pauline Dooley, 159 Claremont Court

- Mast is too close to houses and has a direct visual impact on 50 houses in Claremont Court and 15 houses in The Willows.

### Miriam O'Connell, 101 Claremont Crescent

- Operators have ignored the planning process since 2003 by letting temporary permissions expire.



- Residents have objected for 12 years on health and safety and aesthetic issues.

*Cllr. Cieran Perry, Members' Room, City Hall*

- Temporary permissions were to facilitate the sourcing of an alternative more appropriate site.
- It is stated in the Circular to the Guidelines that the future of communications systems lies in mast sharing.
- Levels in the industrial estate remain fairly consistent so alternative site should be possible to find.
- Revised Guidelines (May 2012) state that the renewal of retention permissions should cease forthwith except in exceptional circumstances where particular site or environmental conditions apply.
- Revised Guidelines also state that mast should be a minimum of up to 1km from houses or schools.

*Jim & Lena Ward, 122 Claremont Court*

- Similar points raised in this submission.

*Ruth Donald & others, 156 & 158 Claremont Court*

- Urges Board to refuse permission in accordance with the stated views of the Board in 2010 and those of Dublin City Council.

*Liam Connolly & others, 9, 29, 36 47 & 48 The Willows*

- Planning notice was placed in the industrial estate in an obscure area where local people would not have reason to enter.
- First enforcement notice was issued in June 2009.
- Mast is located too close to The Willows and the visual intrusion seriously distracts from a beautiful residential area.
- Council refused to accept proposals for a tower up to 37m tall at the shopping centre site in Phibsborough.
- The present mast is an environmental and health concern.

*Michael O'Connor & others, 25, 19, 40 and 46 The Willows*

- Applicant has failed to meet deadlines for a second time and this reflects a worrying lack of professional responsibility and accountability.
- Minister stated in June 2015 that according to the 1996 Guidelines, “*only as a last resort and if all the alternatives are unavailable or unsuitable should free-standing masts be located close to residential areas*”.

- There has been a complete lack of effort to consult or communicate with the residents of Claremont and The Willows.
- Petition against the mast signed by 85% of Claremont and 64% of The Willows's house owners.

*Liam Donnelly & others, 2 & 3 The Willows*

- Not apparent whether Three have conducted a reliable and independent evidence-based investigation into alternatives.
- Threat that any change to the status quo will be disruptive to customers seems anecdotal.
- Changes to telecoms infrastructure and the simultaneous maintenance of services to customers is part of the operational landscape of the telecoms sector.

*Peter Morley, 4 The Willows*

- Similar points raised in this submission.

*Fern Gallagher & Jim Doyle, 157/ 178 Claremont Court*

- Industrial estate is very large and numerous other sites could be used effectively without impinging on either Claremont or The Willows.
- Slaney Road services can be replicated elsewhere - installing new fibre and re-triangulating antennae is "business as usual" work for any competent telecoms operator.

*Joe Costello TD & Cllr. Brendan Carr*

- Site is located adjacent to a Z1 residential zoned area and is approximately 80m from the nearest residential properties.
- Development Plan makes provision for transition between different zoned areas to avoid abrupt changes of land-use that could be detrimental to a residential area.
- In the original application, the applicant appears to be satisfied with the 42m high Vodafone mast (PL29N.201943).
- It is unclear what level of engagement has taken place between Three and Vodafone for a locational analysis of a possible co-location.
- Applicant stated that other sites were not available in the industrial estate in 2003, yet Vodafone could find a suitable site for the 42m mast 300m away from the nearest homes.

Liam & Martha Savage, 35 Claremont Crescent

- Similar points raised in this submission.

Martin McCormack & Ronnie Sheehan, 19 & 21 Claremont Crescent

- Similar points raised in this submission.

Mona Cooke, 153 Claremont Court

- Board gave the applicant an enabling position twice over two 5 year periods.
- Scoping assessment for new site was carried out in 2003 – many units in the industrial estate now remain vacant.
- Applicant has not properly or professionally checked the lines of sight from the Vodafone tower.
- If line of sight is required from the Vodafone tower, there is always the option of repositioning/ relocating the B-end antennae as required to facilitate this.
- Units in the industrial estate are low level buildings and do not hide the tower in any way.
- Telecoms company was given an enabling position to relocate away from residential areas within two years in a case in Skerries (PL06F.236974).
- Condition 1 of the previous permission was materially contravened and according to precedent, the current appeal should be refused.
- Reason for Condition 1 remains unchanged: *“to enable the operator to make provision for relocating the compound to a more suitable location, having regard to the close proximity of residential properties.”*

Michael King and others, 88 & 92 Claremont Court

- Applicant is seeking to have the questions considered in 2010 reargued in 2016.
- No systematic consideration of, or search for another site has taken place since a scoping exercise in 2003.
- Significant parts of the infrastructure, such as the fibre link to Blanchardstown, have very probably been installed since 2010 after the Board advised that the installation should be removed by 2015.

Tony Sheerin, 120 Claremont Court

- Similar points raised in this submission.

Michael Brophy & others, 115 & 27 Claremont Cres. & 32 Claremont Court

- Issues regarding the regional importance of the mast are technical in nature.

C. & M. Boylan, 67 Claremont Court

- Similar points raised in this submission.

N. & B. Quilan & others, 174 & 151 Claremont Court

- According to observers' research, the necessary optic fibre could be installed on the Vodafone mast to carry out the same function as the current temporary mast.

N. & J. Leahy and others, 129, 105 and 144 Claremont Court

- Similar points raised in this submission.

Phyllis Sheill, 56 Claremont Crescent

- Since erection of the mast it has been altered to include much more equipment and is now more intrusive and overloaded.

Patricia A. O'Connor, 101 Claremont Court

- Similar points raised in this submission.

Patricia O'Connor, 162 Claremont Court

- Application must be considered "de novo" as developer failed to apply for retention permission.
- If, as stated in the appeal, this mast is of such importance for mobile and commercial communications in the area, the developer failed to have a contingency against a possible refusal.
- Mast is a constant in observer's life.
- Applicants rely on a small footprint – less than 50 sq.m.
- Issue of fibre connectivity was not raised in the technical document to Dublin City Council – provision of fibre cable is not a major issue.
- Line of sight report is of poor quality and is another attempt to confuse.

T. & D. Casey and others, 138 & 136 Claremont Court

- Similar points raised in this submission.

P. O'Connor & G. Healy, 41 The Willows

- Similar points raised in this submission.

Neil & Elizabeth Collins and family, 97 Claremont Crescent

- Similar points raised in this submission.

J. Connolly, 161 Claremont Court

- Similar points raised in this submission.

B. Coleman & others, 95, 97, 91 & 89 Claremont Court

- Similar points raised in this submission.

B. & T. Coakley, 109 Claremont Court

- Structure is adjacent to residential communities, a Dublin City Council depot and its employees, a day nursery, supermarket and various other work places.

Claremont and The Willows Residents Mast Committee

- Committee represents 85% of residents of Claremont and 64% of residents of The Willows who signed a petition opposing the mast (petition attached).
- Estimated that 120 homes in Claremont and 28 in The Willows are impacted with clear views of the imposing mast.
- Only 2 dishes are operating on the highest section at 42m – why then is 45m an absolute minimum?
- Three are relying on a single ABP Inspector's Report from 2003 (when the mast did not exist).
- Objective SIO30 of the Development Plan seeks *“to avoid a proliferation of communications masts and antennae and facilitate the potential for future mast sharing and co-location.”*
- Vodafone informed the committee that no request (to share installations) has been made by Three.
- Dishes and antennae could be moved in stages at quiet times and this work could have been carried out over the past 5 years.
- Network Engineer on committee considers that new fibre connection could be carried out and there is likelihood that other telecoms providers will already have fibre at Nore Road or close to it.
- Line of sight survey from the “B-end” sites towards the Vodafone mast would have been more useful.
- There are no “tall buildings” within line of sight to Mater Hospital that would be liable to cause issues.

- Adjustment of the height, angles of dishes at the “B-end” sites would maintain links to an alternative mast.
- Expert in antennae designs and solutions stated for the committee that *“the technical solutions to solve this problem are definitely not as difficult as they make out...”*. It was also advised that solutions can be built on site to add capacity in high density locations such as the Mater. Furthermore, coverage map comparison does not include Vodafone tower and the introduction of Cellmax antennas would actually get better coverage by using very efficient antenna.
- Network engineer advised that a project for relocating a mast in an urban area would include site works, electronic and power supply equipment and installation, test and alignment of the antenna system, amplifiers, transponders, etc., installation of power supply and the emergency power system.
- Under PL06F.236974, it was considered that development would contravene Condition 1 of PL06F.221411, which stated that the permission was for 2 years and the structure shall be removed unless permission is granted for a further period to allow for replacement with a more visually acceptable mast.

*D. Nolan & others, 103 & 124 Claremont Court*

- Similar points raised in this submission.

*C. & M. Rowan, 82 Claremont Court*

- Fibre connectivity is generally available throughout Dublin.
- If mast is to be relocated locally, any fibre cable if installed could be spliced/ extended.
- Entire area is ducted and available for network access and installation.
- Applicant should provide substantive and transparent evidence if they say there is non-availability of circuits.
- If one mast fails, the other base stations take over the coverage, so temporary loss of line will not adversely affect availability to a significant degree.
- Realistically, there is no requirement for such a tall mast or the specific current location.
- Low level antenna in shape of a tree could be installed by commercial arrangement in the Glasnevin Cemetery, Tolka Valley Park or other locations.

Siobhan O'Leary & others, 11, 15 & 19 Claremont Court

- New miniaturised antennas eliminate the need for big bulky mobile masts.

C. Rooney & others, 55, 54 & 49 The Willows

- Similar points raised in this submission.

Christopher Cooke, 160 Claremont Court

- Similar points raised in this submission.

Monica & Michael Walsh & other, 23 Claremont Crescent & 164 Claremont Court

- Similar points raised in this submission.

Paschal Donohoe, TD

- Similar points raised in this submission.

## 8.0 PLANNING HISTORY

### Appeal site

Dublin City Council Reg. Ref: 4585/09 (PL29N.235982)

- 8.1 The Board overturned the Council's decision and granted permission on 28th June 2010 to O2 for retention of 45m high permitted telecommunications structure carrying 12 no. antennas, 21 no. radio link dishes and associated works. Condition 1 attached to this decision stated as follows:

1. *This permission is 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.*

*Reason: To enable the operator to make provision for relocating the compound to a more suitable location, having regard to the close proximity to residential properties.*

- 8.2 It was also stated under Condition 2 that the site shall be reinstated on removal of the telecommunications structure and ancillary structures, with details to be submitted one month before expiry of the permission. Condition 4 required the lodgement of security for the satisfactory reinstatement of the site.

Dublin City Council Reg. Ref: 2726/06

- 8.3 O2 Communications Ireland Ltd were granted permission to collocate an additional 6 no. panel antennas and 4 no. 0.6m diameter link dishes on O2's existing 45m permitted telecommunications structure, together with a maximum of 6 no. associated outdoor units within existing compound to facilitate co-location by Meteor Mobile Communication plus another operator.

Dublin City Council Reg. Ref: 3205/02 (PL29N.201943)

- 8.4 The Board overturned the Council's decision and granted permission on 24th June 2003 to O2 Communications Ireland Ltd. for replacement of an existing 20m high telecommunications support structure with a 45m high support structure. Condition 1 attached to this decision stated as follows:

1. *The permission is 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.*

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

Dublin City Council Reg. Ref: 2134/99

- 8.5 Esat Digifone Ltd. was granted permission to retain the existing permitted (Reg. Ref: 1154/95) base station, including a 20m high steel lattice support structure, carrying GSM panel antennas and radio link dishes, fencing telecommunications exchange container, fencing and access.

Dublin City Council Reg. Ref: 1154/95

- 8.6 Esat Telecom was granted permission to erect a steel lattice transmission mast 20m high carrying cellular antennae, a prefabricated equipment container no greater than 3m x 2m x 2.4, palisade fencing 2.4m high and access driveway to form part of the cellular digital mobile communications network.

## **9.0 DEVELOPMENT PLAN**

Dublin City Development Plan, 2011-2017

- 9.1 The site is zoned "Z6 – Employment/ Enterprise Zones" where is it the objective "to provide for the creation and protection of enterprise and facilitate opportunities for employment creation." Public service installations are a permissible use in these areas. Section 15.9 refers to Transitional Zone Areas where the importance of avoiding abrupt transitions in scale and use zones is emphasised.



- 9.2 With respect to telecommunications (Section 5.2.4.13), it is a policy of the Council (SI58) *“to encourage and facilitate telecommunications infrastructure in appropriate locations throughout the city as a means of improving economic competitiveness and contributing to sustainable movement by reducing the need to travel through enabling e-working, e-commerce and distance learning.”*
- 9.3 It is stated in Section 17.35 that when evaluating proposals for telecommunications apparatus, the Council will have regard to the Telecommunications Antennae and Support Structures Guidelines and will favour co-location of such apparatus.
- 9.4 Appendix 18 – Guidelines on Telecommunications Antennae includes information on siting and design; possible sharing of installations; visual amenity; and health and safety.

## **10.0 NATIONAL GUIDELINES**

### *Telecommunications Antennae and Support Structures: Guidelines for Planning Authorities, DoEHLG 1996*

- 10.1 These Guidelines encourage the sharing of facilities and clustering to reduce the visual impact on the landscape.
- 10.2 A circular was issued under Section 28 of the Planning and Development Act, 2000 (as amended) to update certain sections of these Guidelines. Planning Authorities are now advised that temporary permissions should cease. It is also stated that planning authorities should not include monitoring arrangements as part of planning permission conditions nor determine planning applications on health grounds.

## **11.0 ASSESSMENT**

- 11.1 Planning permission is sought for the retention of a 45m telecommunications structure within an industrial estate in Glasnevin to the north-west of Dublin city centre. Retention permission for the structure was granted by the Board previously in June 2010 for a period of five years and this permission has now expired. A condition attached to this permission stated that the structure shall be removed unless, prior to the end of the 5 year period, retention permission is granted for a further period. The reason for this condition was *“to enable the operator to make provision for relocating the compound to a more suitable location, having regard to the close proximity to residential properties.”*
- 11.2 Dublin City Council has issued notification of decision to refuse retention permission on the grounds that the height and proximity of the structure to housing areas would cause it to have a dominant and overbearing relationship with the nearby dwellings. A first party appeal has been submitted against the Council’s decision to refuse permission and a third party appeal by a nearby

resident has been lodged on the grounds that the reason for refusal is not sufficiently comprehensive.

- 11.3 Having considered the contents of the planning application, the grounds of appeal, observations, planning history and the site context, I consider that this appeal should be assessed under the following:
- Development principle;
  - Visual impact and impact on residential amenity;
  - Technical justification/ alternatives.

Development principle

- 11.4 The appeal site is within a Z6 – Employment/ Enterprise zoning where public service installations are a permissible use. It is also stated in the Telecommunications Antennae and Support Structures: Guidelines for Planning Authorities, DoEHLG 1996 that *“in the vicinity of larger towns and in city suburbs operators should endeavour to locate in industrial estates or in industrially zoned land.*
- 11.5 The location of the telecommunications structure would generally be in compliance with zoning objective and with national guidance relating to the siting of such structures. Furthermore, the structure would be in accordance with Development Plan Policy SI58 which seeks *“to encourage and facilitate telecommunications infrastructure in appropriate locations throughout the city as a means of improving economic competitiveness and contributing to sustainable movement by reducing the need to travel through enabling e-working, e-commerce and distance learning.*
- 11.6 Reference is made in the third party appeal submission and in observations to Section 15.9 of the Development Plan regarding Transitional Zone Areas. In dealing with proposals in contiguous transitional zone areas, it is stated that developments that would be detrimental to the amenities of the more environmentally sensitive zone should be avoided. Therefore, an assessment should be carried out on the impact of the telecommunications structure on the more sensitive Z1 residential zoning, which is located as close as 82m. In my opinion, the main issue in this regard is the visual impact of the structure and this is assessed in more detail below.
- 11.7 Issues of health and safety were raised in submissions; however, as noted in the Circular to the Guidelines, 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.
- 11.8 Finally, when deciding if the proposal is acceptable or not in principle, I would refer again to the planning history and to precedent decisions. Condition 1 of PL29N.235982 states that the telecommunications structure shall be removed

unless *prior* to the end of the 5 year duration of this temporary permission, permission has been granted for a further period. The five year permission expired in June 2015 and no permission for a further period was been granted before this date. It is clearly stipulated in this Condition that the structure shall only remain if another permission is granted before the permission expires. I would therefore be of the opinion that a grant of permission for the current application would materially contravene Condition 1 of PL29N.235982.

- 11.9 In addition, the reasoning for the condition was to allow the applicant to seek an alternative location for the structure in view of its proximity to residential areas. A similar approach was taken by the Board under PL06F.236974 where it was decided that an application to retain a telecommunications mast in Skerries, Co. Dublin would contravene a condition of an earlier permission (PL06F.221411), which stated the permission was for a period of two years after which it shall be removed unless, prior to the end of this period, permission is granted for a further period. The reason for this condition was to allow for the replacement of the mast with a more visually acceptable design having regards to the proximity of a residential area. Reference is also made by the applicant to similar a case in Spiddal, Co. Galway PL07.235634) where the reason for the attachment of a temporary condition was to make provision for relocating the structure.
- 11.10 Having regard to the above, I consider that the development proposed to be retained fails to comply with Condition 1 of PL29N.235982, firstly on the basis that an application for retention was not made prior to the expiration of the permission, and secondly because the operator has not made any provision for relocating the compound, as required by this condition.
- 11.11 It should also be noted that the Circular to the Guidelines states that the attachment of a condition to a permission for telecommunication masts and antennae which limit their life to a set temporary period should cease. Therefore, any decision to grant permission would result in the permanent retention of the mast. In my opinion, given the planning history of the site, this is unacceptable.

*Visual impact and impact on residential amenity*

- 11.12 Condition 1 of PL29N.235982 is an acknowledgement that the mast gives rise to a certain degree of adverse impact on nearby residents. It is suggested that the mast is in close proximity to residential properties and should be relocated.
- 11.13 I inspected the mast from Claremont Court at street level and from within the rear garden of a property on the northern side of the road. The structure comes into view as one progresses westwards along Claremont Court and it is clearly visible within the cul de sac both on the near and far sides of the road. The visibility of the structure is exacerbated by the “birdcage” design which widens rather than tapers towards the top. The view from the rear garden was somewhat ameliorated by a high hedge to the rear of that property. However, the structure would be clearly visible within neighbouring properties and from rear facing windows.

11.14 The Circular to the telecommunications guidelines explicitly states that planning authorities should not provide recommended separation distances between masts and houses, as they can inadvertently have a major impact on the roll out of a viable and effective telecommunications network. In this case, however, it is noteworthy that the height of the mast is more than half separation distance to the nearest residential property. Moreover, the rear elevations of approximately 10 no. properties are within 100m of the mast. There are approximately 49 no. properties fully or partly within 150m of the mast. The nearest properties within The Willows are approximately 260m from the mast. Whilst the structure is visible at a distance from within that cul de sac, the main adverse visual impacts would be from the rear gardens of the western most properties in The Willows.

11.15 Overall, I would be in agreement that the structure has a dominant appearance along the street scene of Claremont Court. To the rear of properties along the northern side of this cul de sac, it forms a strident and obtrusive feature. I consider that the structure has had a detrimental effect on the living conditions of residents of the cul de sac by reason of visual intrusion and that permission for its retention should be refused.

Technical justification/ alternatives

11.16 There is an existing mast within the industrial estate at a distance of approximately 400m from the subject mast. This mast is centrally located within the estate and is situated approximately 370m from Claremont Court and approximately 250m from the nearest residential properties. This mast has a similar "birdcage" design but carries less equipment.

11.17 It is stated in Section 17.35 of the Development Plan that when evaluating proposal for telecommunications apparatus, the Council will favour co-location of such apparatus. Appendix 18 – Guidelines on Telecommunications Antennae states that *"where existing support structures are not unduly obtrusive, the City Council will encourage co-location or sharing of antennae on existing support structures, masts and tall buildings. Applicants must satisfy the City Council that they have made every reasonable effort to share with other operators."*

11.18 In my opinion, the operator should present convincing evidence that the need for the telecommunications structure in proximity to a residential area outweighs the harm which will be caused to visual amenity. In this regard, the first party appellant has submitted a Technical Justification which includes a coverage map with and without the subject telecommunications mast. It should be noted, however, that no mapping is provided to show coverage with the existing equipment on the mast relocated elsewhere, most notably the nearby Vodafone mast.

11.19 The first party appellant submits that the loss of the mast would result in major disruption to all Three services in Dublin city centre and in the north Dublin area. It is stated that there may be difficulty in providing fibre services to the Vodafone mast. Furthermore, the applicant notes that the subject mast provides an important commercial connectivity function.

11.20 A local residents' group has sought advice on the technical issues raised by the first party appellant. The first party appellant's claims regarding the difficulty of fibre connection are refuted and it is submitted that technical solutions can be built on site to add capacity in high density locations such as the Mater Hospital. It is also considered that a line of sight survey should have been carried out at the nearby Vodafone mast.

11.21 It would appear to me, having regard to the evidence within first and third party appeals and within observations that the applicant has not presented a comparative study of the level of service provided by the subject structure against the likely alternative service provision. I do not doubt that there will be serious service disruption without the mast and all associated equipment. However, this equipment would not be completely removed and would instead be relocated elsewhere. It would appear to me that the Board has not been made fully aware of the applicant's contingency in the event that permission for the retention of the structure is refused. As noted by observers, it would not be prudent of the operator to include the subject mast as a critical location for the provision of services when no permanent planning permission for the structure has ever existed.

*Appropriate Assessment*

11.22 Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely an urban and fully serviced location, no appropriate assessment issues arise

## **RECOMMENDATION**

I have read the submissions on file, visited the site and paid due regard to the provisions of the Dublin City Development Plan, 2011-2017 and the Telecommunications Antennae and Support Structures: Guidelines for Planning Authorities, DoEHLG 1996 (as amended by Circular Letter PL07/12). I recommend that planning permission be refused for the development based on the reasons and considerations hereunder.

## REASONS AND CONSIDERATIONS

Having regard to the planning history pertaining to the subject site, and in particular, the permission granted under planning register reference number 4585/09, appeal reference number PL29N.235982, it is considered that the the mast proposed to be retained at this location would contravene materially a condition attached to this previous permission for development, namely condition number 1 which explicitly requires the removal of the telecommunications structure and related ancillary structures within five years from the date of that order and the reason for the condition being *“to enable the operator to make provision for relocating the compound to a more suitable location having regard to the close proximity to residential properties”*. The development proposed to be retained would, therefore, be contrary to the proper planning and sustainable development of the area.

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**Donal Donnelly**  
**Inspector**

4<sup>th</sup> March 2016