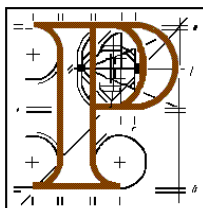


**An Bord Pleanála**



**Inspector's Report**

**Development:** Erection of 4 no. Vodafone Antennae on Support Poles in Church car park of St. Matthias Church (Protected Structure), Church Road, Ballybrack, Co. Dublin.

**Planning Application**

Planning Authority: Dún Laoghaire-Rathdown County Council  
Planning Authority Reg. Ref.: D15A/0245  
Applicant: Vodafone Ireland Limited  
Type of Application: Permission  
Planning Authority Decision: Refuse Permission

**Planning Appeal**

Type of Appeal: First Party  
Appellant: Vodafone Ireland Limited  
Observers: None  
Date of Site Inspection: 29<sup>th</sup> April 2016

**Senior Inspector:** **Fiona Tynan**

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## **1.0 SITE DESCRIPTION AND LOCATION**

- 1.1 The appeal site is located at St. Matthias Church, on Church Road in Ballybrack, Co. Dublin. The subject site is on an elevated section of Church Road which rises steeply from the N11 to the Killiney/Sallynoggin roundabout. The early twentieth century church is of two storey scale in scale apart from the bell tower which is situated proximate to the front boundary of the site. Within the grounds of the Church is a single storey detached Parochial Hall, situated to the rear of the Church together with a single storey detached structure identified as Ballybrack Scouts Den. The parish centre is in active use as a centre for Montessori schooling, and a hall was in use for fitness classes on the day of the site visit.
- 1.2 St. Matthias Church is located within a residential area. To the immediate south of the site is a Parochial House, to the rear of the site is Denville Court, which comprises of bungalows, whilst to the front and west of the site are the detached dwellings of Killiney Avenue and Coundon Court.
- 1.3 Attached to this report are photographs taken on the day of the site visit.

## **2.0 PROPOSAL**

- 2.1 The proposal is to extract the existing louvre windows on the bell tower of St. Matthias Church and to replace them with 4 no. Vodafone antennae on support poles to be located behind 4 no. GRP Louver windows. It is also proposed to erect an equipment cabinet located within the front boundary of the site to the southwest.
- 2.2 The supporting documentation with the application outlines that the site is ideally located to serve the immediate area of the base station. The bell tower provides good antennae height for effective radio signal propagation in all four directions from the church site. The precise location was chosen because of its height above the surrounding area and the structure to accommodate the antennae is in existence. The design of the antenna placed behind the GRP louvers on each face of the church tower is designed to comply with planning guidance for telecommunications in that it will be camouflaged from all public view points. The Applicant considers the proposal would not be visible at all within the locality and nor will it be detrimental to residential amenity of residents in Ballybrack.

## **3.0 PLANNING CONTEXT**

### **3.1 Departmental Reports:**

- 3.1.1 Drainage Dept.: No objections
- 3.1.2 Conservation Officer: The Report outlines that St. Matthias Church is a Protected Structure as per the County Development Plan. The Conservation Officer notes the absence of reference in the application documentation to the Protected Structure such as an Architectural Heritage Impact Report, Schedule of Works, Method Statements, Materials etc. The Conservation Officer's Report outlines that the

application should not have been validated. A request for further information is recommended.

3.1.3 Planning Officer: The Report assesses the proposal in the context of need and site sharing, visual impact and health and safety. It is outlined that Vodafone argue that the proposal will enhance GSM, 3G and 4G services in this area and that the height of the bell tower will offer them sufficient coverage in the area. In relation to compliance with the Development Plan requirements, it is highlighted that as per Section 16.14, the Applicant is required to demonstrate on a map the location of all existing telecommunication structures within a 1km radius of the proposed site and stating the reasons why it would not be possible to share existing facilities in the area. The Planning Officer notes that this has not been complied with. With respect to Visual Impact, the Officer concurs with the comments of the Conservation Officer and recommends that further information be requested in relation to the outstanding concerns. On the issue of health and safety, the Planning Officer also recommends a request for further information due to the proximity of the structure to a school. In this regard the Applicant should be required to ensure that the beam of greatest intensity from a base station should not fall on any part of the school grounds or buildings without agreement from the school and parents. It is not clear where the beam of greatest intensity will fall. Furthermore, the operator is required to provide evidence of consultation with the school arising from its proximity. In this respect a recommendation to request further information was issued.

3.1.5 Further Information Request:

The further information request was issued on 2<sup>nd</sup> June 2015 in respect of 4 items summarised briefly below:

- (1) The Applicant is requested to submit information in the form of an Architectural Heritage Impact Report, Schedule of Works, Method Statement, materials, to enable the Planning Authority to have a clear understanding of the impact of the works on the architectural character and historic fabric of the Protected Structure. The Applicant is requested to readvertise the proposed development making reference to the protected structure status of St. Matthias Church.
- (2) Illustrate on a map the location of all existing telecommunication structures within a 1km radius of the proposed site. Also to state reasons as to why it is not feasible to co-share those structures.
- (3) Applicant requested to indicate where the beam of greatest intensity from the base station will fall and how it is intended to comply with Section 16.14 of the Dev. Plan.
- (4) Submit a statement from the operators of compliance with the Guidelines of the International Commission on Non-Ionising Radiation Protection (ICNIRP) published in 1998 in accordance with Section 16.14 of the Dev Plan.

3.1.6 A response to the request was submitted on the 1<sup>st</sup> December 2015. In brief it outlined the following:

- (1) Notices re-advertised and an Architectural Heritage Impact Assessment submitted.
- (2) Submitted a map showing all known telecom sites in a 1km radius of the site.
- (3) INCIRP declaration submitted illustrating the beam of greatest intensity falls at the 50, 140 and 320 degrees from the cell. The Radio has confirmed through the ICNIRP that due to these azimuths and distance from the schools, the beam of greatest intensity is not a factor in this instance.
- (4) ICNIRP Declaration submitted.

3.1.7 Conservation Officer: The Report in respect of the further information received makes reference to a previous decision by the Board where a similar proposal was refused permission on the grounds that it would affect the character and appearance of the protected structure and would be contrary to the development plan for the area. The report then considers the Conservation Impact Report and outlines that the reversibility of proposals is an important consideration but should not be used to justify inappropriate interventions. A recommendation to refuse permission on the grounds that it would adversely affect the character and appearance of the protected structure concludes the report.

3.1.8 Planning Officer's Report: The Report in response to the further information response supports the comments of the Conservation Officer and recommends refusal on identical grounds.

### 3.2 Decision of Planning Authority

On the 18<sup>th</sup> of December, 2015, Dún Laoghaire-Rathdown County Council issued a decision to refuse permission for the proposal for 1 no. reason as follows:

*"It is considered that the proposed development would adversely affect the character and appearance of the Protected Structure, and would therefore seriously injure the amenities of the area. The proposed development would be contrary to Policy AR1, to protect the architectural heritage of the County, in the 2010-2016 Dún Laoghaire-Rathdown County Development Plan, and would not comply with Section 4.3 of the Guidelines relating to Telecommunications Antennae and Support Structure issued by the Department of the Environment, Heritage and Local Government to Planning Authorities in July, 1996. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area".*

### 3.3 Planning History

#### 3.3.1 Subject site:

**A.B.P. Ref. PL06D.229521/ Reg. Ref. D07A/1407**: Refers to an application by Vodafone Ireland Limited and Meteor Limited at St. Matthias Church, Church Road, Ballybrack, Co. Dublin. The proposal in that instance is the same as that currently before the Board, where the Applicant sought to insert antennae and link dishes behind louver windows in the church bell tower. I

note that at the time of assessment, St. Matthias was not a protected structure, though it was considered to be a local landmark of architectural significance. Permission was granted by An Bord Pleanála on 13<sup>th</sup> January 2009.

### 3.3.2 Reference Case:

Reference has been made by the Conservation Officer of Dún Laoghaire Rathdown County Council to the following case in her report:

PL06S.226145 / D07A/1136: Refers to a proposal for 3 antenna, 2 dishes and 3 equipment cabinets at Monkstown Church of Ireland (a Protected Structure), Monkstown Church of Ireland, Carrickbrennan Road, Monkstown, Co. Dublin. In that instance, permission was refused by the Board for the following 1 reason:

*“The proposed development is located on a protected structure of national importance, Monkstown Church, and in a conservation area in Monkstown. It is considered that the proposed development of three number panel antennae and two number dishes would adversely affect the character and appearance of the protected structure, would have a negative visual impact on the area and would seriously injure the amenities of the area. The proposed development would be contrary to the provisions of the current development plan for the area and would not comply with the guidelines relating to telecommunications antennae and support structures which were issued by the Department of the Environment and Local Government to planning authorities in July 1996. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area”.*

## 3.4 Planning Policy

3.4.1 The operative Development Plan is the Dún Laoghaire-Rathdown County Development Plan 2016-2022. This was adopted in March 2016. St. Matthias Church is situated within an area zoned “to protect and/or improve residential amenity”. St. Matthias Church is a Protected Structure. Therefore, Policy AR1 applies to the structure:

*It is Council policy to:*

- i. Include those structures that are considered in the opinion of the Planning Authority to be of special architectural, historical, archaeological, artistic, cultural, scientific, technical or social interest in the Record of Protected Structures (RPS).*
- ii. Protect structures included on the RPS from any works that would negatively impact their special character and appearance.*
- iii. Ensure that any development proposals to Protected Structures, their curtilage and setting shall have regard to the Department of the Arts, Heritage and the Gaeltacht ‘Architectural Heritage Protection Guidelines for Planning Authorities’ (2011).*
- iv. Ensure that new and adapted uses are compatible with the character and special interest of the Protected Structure.*

3.4.2 Chapter 5 considers physical infrastructure and in particular telecommunications infrastructure. Policy EI28 outlines that it is Council policy to promote and facilitate the provision of an appropriate

telecommunications infrastructure, including broadband connectivity and other technologies within the county. Telecommunications Antennae and Structures are further considered in section 8.2.9.9 of the Plan, wherein it is stated that in applications for such structures, applicants will be required to demonstrate:

- *Compliance with the Planning Guidelines for 'Telecommunications Antennae and Support Structures' (1996) and Circular Letter PL 07/12 issued by the Department of the Environment and Local Government (as may be amended from time to time), and to other publications and material as may be relevant in the circumstances.*
- *On a map the location of all existing telecommunications structures within a 1km radius of the proposed site, stating reasons why (if not proposed) it is not feasible to share existing facilities having regard to the 'Code of Practice on Sharing of Radio Sites' issued by the Commission for Communications Regulation.*
- *To what degree the proposal will impact on the amenities of occupiers of nearby properties, or the amenities of the area - e.g. visual impacts of masts and associated equipment cabinets, security fencing treatment etc. – and the potential for mitigating visual impacts including low and midlevel landscape screening, tree-type masts being provided where appropriate, colouring or painting of masts and antennae, and considered access arrangements.*
- *That the beam of greatest intensity from a base station does not fall on any part of school grounds or buildings without agreement from the school and parents. Where an operator submits an application, alteration or replacement of a mobile phone base station, whether at or near a school or college, the operator must provide evidence that they have consulted with the relevant body of the school or college.*
- *A statement from operators of compliance with the Guidelines of the 'International Commission on Non-Ionising Radiation Protection (ICNIRP)' published in 1998 and any amending Guidelines, in order to reduce genuine public health and safety concerns.*
- *Any impacts on rights-of-way and walking.*  
*Note: In circumstances where telecommunications antennae and structure(s) have the potential to adversely impact on the visual amenities of an area or on the existing building/structure, the Planning Authority would not normally grant permission. In cases where there is likely to be a visual impact, the applicant shall be required to submit a visual impact assessment.*

3.4.3 The DoEHLG issued the **Telecommunications Antennae and Support Structure guidance document** in 1996 wherein it is stated that the Council will discourage the location of antennae in residential areas and near primary and secondary schools and childcare facilities, and will set down and review standards in this regard from time to time. A minimum distance of approximately 100metres shall be provided between mobile communication masts/ antennae and residential areas/ primary and secondary schools/ childcare facilities/ hospitals.

Planning permissions for telecommunications antennae and support structures shall be for a temporary period of not more than five years.

- 3.4.4 A Circular Letter PL07/12 – Telecommunications Antennae and Support Structure Guidelines was subsequently issued in 2012 where it is stated that *only in exceptional circumstances where particular site or environmental conditions apply should a permission issue with conditions limiting their life*

#### **4.0 GROUNDS OF FIRST PARTY APPEAL**

4.1 A first party appeal has been lodged by Focus Plus on behalf of Vodafone Ireland Ltd. The following extracts are a summary of their submission:

- Reference is made to a previous grant of permission issued by the Council and An Bord Pleanála under PL06D.229521 and that there has been no material change to the development proposal.
- The site is not located within an Architectural Conservation Area or other designated area.
- The Planner's Report or Conservation Officer's Report does not appear to reference the actual cause of impact on the Architectural Heritage of the area, be it internal fixings or external visual impact concerns.
- ABP has set a precedent for similar type developments, namely St. Flannans Cathedral in Killaloe, County Clare (PL03.208912) and the previous application at St. Matthias, Ballybrack (PI06D.229521).
- The Planning Authority's reference to a previous refusal in the Council area for a telecoms development on church property at Monkstown 06.226145 is not a relevant precedent as the antennae and other equipment in that development were on the external aspects of the church.
- The Planning Authority are not implementing the policies of the County Development Plan, particularly in relation to continued development of such networks and having a balanced spread. To refuse permission for the proposal is to delay a licensed operator providing modern telecommunications that is essential to South County Dublin.
- Reference is made to the DoE Guidelines which states "*the Government's telecommunications policy aims to place Ireland in the top quartile of OECD economies as regards the availability, price and quality of telecommunications services in order to promote industrial and commercial development, to improve personal and household security and to enhance social exchange and mobility*".
- Section 4.3 of the 1996 Telecommunications Guidelines clearly states: "*In urban and suburban areas the use of tall buildings or other existing structures is always preferable to the construction of an independent antennae support structure*".
- The only aspect of the development, according to the Applicant that will be visible will be the cable into the building however there are electricity and phone lines entering the building from outside. The



antennae are fully hidden in the bell tower behind the louvres and placed on free standing ballast.

- The Applicant fully complied with the DoEHLG document “*Architectural Heritage Protection Guidelines for Planning Authorities, 2004*”, with the submission of a full Architectural Impact Assessment as part of the response to further information. It is argued that the works would be minimally intrusive into the fabric of the building and would all be reversible, should it be desired in the future to remove the antennae and their ancillary equipment.
- The Applicant considered all of the existing site options in the general area and there is no existing site which meets the transmission connectivity and radio coverage requirements of the Vodafone network in the area. It is stated that the site design and fibre connectivity has been planned in a manner which would make it feasible for other operators to make use of the proposed development.
- Request the Board to overturn the decision of the Planning Authority to refuse the development.

## **5.0 PLANNING AUTHORITY’S SUBMISSION**

- 5.1 The Planning Authority made a submission to state that they have no further comments to make on the proposed development apart from a statement seeking that the Board uphold their decision.

## **6.0 ASSESSMENT**

- 6.1 I have read all documentation on file. I have reviewed all plans and particulars and have read the appellants’ grounds of appeal. I have read the relevant provisions of the statutory development plan for the area and I have carried out a site inspection. In my opinion, the main issues to be addressed in this appeal are as indicated hereunder.

- Protected Structure Status
- Development Plan Provisions

- 6.2 As previously cited, Vodafone Ireland Ltd. was granted permission in 2008 for 4 no. antennae on the bell tower of St. Matthias Church. The Church at that time was not a protected structure. The newly adopted Development Plan requires under Policy AR1 (iii) and (iv) to ensure that regard is had to the “Architectural Heritage Protection Guidelines” and to ensure that new and adapted uses are compatible with the character of the structure. I have had regard to the aforementioned document and there is no detailed guidance in relation to telecommunication structures. However, it does state in section 6.8.21 that where planning permission was granted previously and no works have commenced but where it would have an adverse effect on the character of a structure that has become a protected structure, that a planning authority should seek to request the applicant to revise the works taking account of the change in status of the structure.

Therefore, having regard to the foregoing, I would argue that whilst the site benefits from a previous but no longer valid permission, given the change in status of the structure to that of protected structure status, that the proposal put forward by Vodafone should be considered “*de nova*”.

- 6.3 In this instance, the Planning Authority has sought to refuse permission on the grounds that it would interfere with the character and structure of the Church. The Applicant has argued that the Planning Authority has not elaborated upon their reasoning for refusing permission. From an assessment of the drawings submitted, it would appear that the structural interference with the bell tower would be minor. The existing louvres of the bell tower are to be replaced with similar radio transparent louvres. The details submitted at further information stage with the Council indicate that the cables linking the antennae to the equipment cabinet on the ground level are to be painted to match the existing elevation. Having considered the drawings, it is my opinion that the visual impact of the said works would be minimal. I have also had regard to the Historical and Historic Building Survey carried out of St. Matthias on behalf of the Applicant wherein it is outlined that the Church was erected in the 1820's and that the works proposed would be “*minimally intrusive into the fabric of the boundary and would all be reversible*”. The Conservation Officer has cited a previous Board decision in making her recommendation to refuse permission. PL06D.226145 refers to a proposal to erect antennae, dishes and equipment cabinets at Monkstown Church of Ireland, which is also a protected structure. In that instance, the proposal was to erect the antennae on the outside of the Church structure but flush with the turrets. As a consequence the said structures would have been externally visible. Therefore, the Board in their decision to refuse permission cited that the “*three number panel antennae and two number dishes would adversely affect the character and appearance of the protected structure and would have a negative visual impact on the area and would seriously injure the amenities of the area*”. I would argue that this differs from the current proposal where the antennae are not externally visible due to their location behind GRP Louvre windows and therefore would not impact upon the character and protected structure status of the Church. Whilst acknowledging that the status of St. Matthias Church has changed since the Board has last considered the proposal, I consider it reasonable to require by condition, in the event of a grant of permission, that the louvres to the bell tower are retained and stored appropriately such that it is possible to reuse them at a future date.
- 6.4 I would express concerns regarding the proximity of the Montessori building and the outside play area to the antennas in the bell tower. During the course of the Application, the applicant was referred to Council policy in relation to the location of antennae in proximity of schools. However, the said Montessori playschool was not identified in the request nor was it referred to in the response made by the Applicant. Rather, the Applicant has submitted a letter from NetShare Ireland to state that the proposal would be in full compliance with the

requirements of the radio frequency public exposure guidelines of the International Commission on Non-Ionizing Radiation (ICNIRP) as expressed in the EU Council recommendation of 12<sup>th</sup> July 1999.

- 6.5 The Montessori on site is located 30m west from the Bell Tower where the antennae is to be situated, whilst the outdoor play area is circa 35m to the southwest. I note that the Development Plan states (as per Section 8.2.9.9) that where an operator proposes telecommunications structures at or near a school evidence must be provided to illustrate that they have consulted with the relevant body of the school. There is no such letter on file from the operator of the Montessori. Therefore, I consider that whilst the Applicant has provided an INCIRP declaration, their failure to provide a letter demonstrating consultation and acceptance by the operator of the Montessori facility on site, fails to accord with the requirements of Section 8.2.9.9 of the Dún Laoghaire Rathdown County Development Plan 2016-2022.

## 7.0 CONCLUSION

- 7.1 In conclusion, it is considered that the proximity of the antennae and support equipment to an operating Montessori and outside children's play area, located within the overall confines of the site give rise to health and safety concerns, and would conflict with Development Plan policy whereby proposals for telecommunication structures in the vicinity of schools must be accompanied by evidence of consultation with the respective body of the school.

## 8.0 RECOMMENDATION

- 8.1 I have read the submissions on file, visited the site and paid due regard to the provisions of the Dún Laoghaire-Rathdown County Development Plan 2016-2022. I recommend that planning permission be **REFUSED** for the development based on the reasons and considerations hereunder

## REASONS AND CONSIDERATIONS

Having regard to-

- The Dún Laoghaire Rathdown County Development Plan 2016-2022 and the provisions of section 8.2.9.9 which relates to the issue of proximity to schools,
- the guidelines relating to telecommunications antennae and support structures which were issued by the Department of the Environment and Local Government to planning authorities in July, 1996, and the Circular Letter PL07/12,

- the proximity of the proposed development within the Bell Tower of St. Matthias Church and its support equipment in the said grounds to an operating Montessori and outside children's play area which are located within 35m of the said proposal and within the site's configuration, and
- the absence of any evidence of consultation with the operator of the Montessori on file,

it is considered that the proposed development would give rise to health and safety concerns, and would be contrary to the provisions of the Development Plan concerning schools/colleges. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Fiona Tynan  
Senior Planning Inspector  
05/05/16