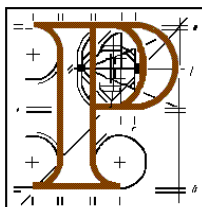


An Bord Pleanála



Inspector's Report

Retain a 20metres high telecommunications Mast with associated antennae and link dishes, equipment cabinets, security fence re Reg. No. SD2A/0193 Palmer Park/ Pearse Brothers Park, Ballyboden, Dublin 13

Planning Application

Planning Authority:	South Dublin County Council
Planning Authority Reg.	SD15A/0389
Applicant:	Vodafone Ireland Ltd.
Type of Application:	Permission
Planning Authority Decision:	Grant Permission with Conditions

Planning Appeal

Appellant(s):	Palmer Park/ Pearse Brothers Park Residents
Type of Appeal:	3 rd Party Vs Decision
Observers:	(i) Manuel Doyle (ii) Marie McEvoy
Date of Site Inspection:	21/06/2016

1.0 SITE LOCATION AND DESCRIPTION

- 1.1 The site is located on elevated ground to the back of a residential estate Pearse Brothers park in Ballyboden. There is a small strip of green area separating the compound where the development is located and existing houses. There is a 20metre mast and associated structures on the site located with a compound enclosed by a palisade fence.
- 1.2 To the west of the subject site is a green area/ playing field. To the south west of the site is a national school. To the north and east is suburban housing.

2.0 DEVELOPMENT

- 2.1 Permission for retention of an existing 20metres high telecommunications support structure, with associated antenna and link dishes, associated equipment cabinets, security fence, associated site development works (Ref. previous planning SD12A/0193) which continues to form part of Vodafone Irelands existing GSM/ 3G and 4G broadband telecommunications network.
- 2.2 According to the submission documents, the established base station is a vital link to sites within the network. There are coverage plots submitted which illustrate the immediate effect of the loss of the site would result in if not retained.

3.0 SUBMISSIONS RECIEVED

A number of submissions were received from residents of the area objecting to retention of the development on the grounds the mast is too close to dwellings and a school, non-ionising emissions, no alternative sites considered, unauthorised developments on site, visual impact, and Planning guidelines.

4.0 TECHNICAL REPORTS

EHO : No objections grant temporary permission for 5 years.

Roads: No objections

Planning Report: Generally in line with planning authority decision to grant permission

5.0 PLANNING AUTHORITY'S DECISION

South County Dublin Co. Co. granted the proposed development for a period of five years.

6.0 APPEAL GROUNDS

6.1 The grounds of may be summarised as follows:

- The site is located within a residential area and close to a school. The site is zoned in an area *'to protect and / or improve residential amenity'* .
- The structure has been the subject of a number of previous planning applications. Permission was originally granted in 1996 under reference S95A/0520 (PL06S.098068). Another application was made for continuance of se in 2006 for five years and again in 2012 for five years.
- Planning permission has been applied for prematurely as the existing permission does not expire until April 2018. The applicants have not stated why this permission was applied for. The terms of the current permission requires that a new application should consider different circumstances from when the current permission was granted and this has not been done.
- There is no clarity to the additional items that are attached to the mast since the last permission has been granted. They may also require planning permission.
- In previous appeal decisions it was made clear that a repeat application should be accompanied by an assessment of the development having regard to changes in technology. There is no reference to such an assessment. The applicant merely states that there is no site available in the relevant area.
- The development is located close to a school, this is contrary to the planning guidelines and the development plan stating there should be a maximum distance of 100metres maintained. The subject mast is within 100metres of classrooms and 25No. dwellings.
- The mast is located on a central elevated position and it can be seen from a large number of dwellings within the area and open space areas. It is particularly obtrusive form front windows and front gardens of houses to the north of the state, and from rear gardens and rear windows form houses to the eats of the site. The mast is 50-60 metres from the boundaries of these houses. The planning authority consider the structure to be visually obtrusive and this is frustrating for the residents.

7.0 RESPONSES

7.1 The planning authority confirms it's decision.

7.2 *The Applicant*

The existing telecommunications structure has been in existence on the subject site for approximately 20 years at the existing ESB substation site. It has provided improved services to the general area from 2G, to indoor 3G and outdoor voice and data, and 4G Voice and Data. It provides coverage to a

wide area. The 3G and 4G voice data and video services is affected by distance from the base station and the data speeds that can be obtained.

The requirements under 2.5.8 of the development plan that masts should be a minimum distance of 100metres from residential areas and school , does not apply to sites permission existed for the mast and in this case it did, prior to the introduction of the guidelines in 1996 . There is no breach of section 2.5.8 of the development plan.

The development also complies with the provisions of draft County Development Plan 2016-2022.

The appellant claims the application is 'premature' as per condition of PL06S.241424, the applicants are applying for permission for retention prior to the end of the period.

The Planner's report on file states the separation policy issues do not apply in this instance, the equipment to be added to the structure is minor in nature, there are no suitable sites in the locality that could replace the level of coverage provided from the existing site, and the structure is located within an existing ESB Substation at a low height of 20metres.

The structure complies with 1996 Guidelines, Department Circular PL07/12 and the development plan.

8.0 OBSERVATIONS

8.1 Manuel Doyle, 28 Pearse Brothers Park, Ballyboden, Dublin 16

Marie McEvoy, 51 Pearse Brothers Park, Rathfarnham, Dublin 16

The original mast was granted planning permission prior to the Guidelines been introduced in 1996. In 2010 Meteor applied for exemption to add three panel antennae and two link dishes, and the Board rejected the exemption and the development would have required planning permission. However meteor location to St. Enda's Historic park on Whitechurch road. The existing mast should be refused and the additional antennae be removed because of proximity to houses and a school.

9.0 PLANNING HISTORY

9.1 **SD12A/0193 (PL06S.241424):** Temporary permission for a telecommunications mast previously granted under SD06A/0360

9.2 **SD06A/0360 (PL06S.218839):** Temporary permission for a telecommunications mast.

9.3 **S95A/0520 (PL06S.098068) :** Original permission for the structure.

10.0 PLANNING POLICY

National Spatial Strategy

The documents supports cost effective delivery of public services and socially inclusive communities.

National Broadband Plan

The government is committed to a range of actions that will facilitate the more efficient roll out of infrastructure.

Ministerial Circular Letter PL07/12 Telecommunications Antennae and Support Structures 1996

Seeks to assist local authorities in their assessment of relevant cases and that unnecessary restrictions are not applied.

South Dublin County Development Plan 2010-2016

2.5.3 Strategy To facilitate the enhancement of telecommunications infrastructure to maintain economic competitiveness

2.5.6 Telecommunications Network

Policy EC3

Policy EC4 Telecommunications Network

It is the policy of the Council to promote and facilitate the provision of an appropriate telecommunications infrastructure, including broadband connectivity and other technologies within the County, and public WiFi zones in and around all public buildings.

2.5.8 Telecommunications Antennae and Support structures

In particular, 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.

In doing so, South Dublin County Council wishes to provide the maximum protection for the health and well being of its citizens, and to strike a fair balance between the rights of individual citizens and the general good.

A minimum distance of approximately 100 metres shall be provided between mobile communication masts/antennae and residential areas/ primary and secondary schools/ childcare facilities/hospitals. This requirement shall not

apply in the case of planning applications relating to sites where planning permission for such development has previously been granted.

11.0 ASSESSMENT

11.1 This development at the same location in Ballyboden, has been assessed at length under previous appeals, most recent of which **PL06S.241424** in 2012. Permission to continue the use of the telecommunications structure at this location had been granted by the Board in 2013 for a period of five years only. The temporary permission was because the Board had regard to the Guidelines relating to antennae and support structures for telecommunications issued by the Department of Environment and Local Government in July 1996.

11.2 In 1996 permission was granted for the structure on the subject site under reference S95A/0520 (PL06S.098068), which was planning permission for a 38kW substation a free standing steel lattice telecommunications mast, carrying mobile phone cellular antennae and microwave dishes with an overall height of 20metres, associated ground mounted equipment cabinet, security fence with a pedestrian gate to form part of the second planned G.S.M. network.

11.3 Following the five year period permission for retention was applied for and granted under planning reference SD06A/0360 (PL06S.218839) for a further five years. In 2013, under **PL06S.241424**, the Board was not entirely satisfied with permitting the development on a permanent or long-term basis, and permitted the development for a further five years.

11.4 On appeal the applicant, Vodafone Ireland Ltd, has stated the communications structure plays a vital role in the progression of telecommunications services in the area, and its removal would be detrimental to the area. This is not substantiated on appeal, and there have been a large number of taller masts permitted in the general area since this structure was originally permitted, and yet this has not been considered a relevant issue. Is there really a necessity to keep this structure in such close proximity to a primary school and a multitude of residential properties whereby the structure is highly visible and creates a dominant feature from the views of the adjoining houses. I note **Circular Letter PL 07/12** has stated that prescribed separation distances should be avoided in development plan policy to allow for flexibility on a case by case basis. The relevant policy states:

A minimum distance of approximately 100 metres shall be provided between mobile communication masts/antennae and residential areas/ primary and secondary schools/ childcare facilities/hospitals. This requirement shall not apply in the case of planning applications relating to sites where planning permission for such development has previously been granted.

Circular PL 07/12 supersedes the development plan policy which has not been amended accordingly. Therefore I believe the separation distances can be reviewed on their own merits.

11.5 I consider the applicant should have investigated more comprehensively an alternative site for the structure in area over the preceding years. The Board

indicated its reluctance to grant permission for the structure permanently on the subject site. There does not appear to be co-location on the site, therefore Vodafone Ireland could relocate to an existing mast in the locality if the Board decided to refuse further retention of the existing mast.

- 11.6 I consider the mast should be removed from this location, as its proximity to the school and the houses creates an anachronism at this location in terms of the visual amenity of the area. The site is the highest point within the suburban area, and the monopole is highly visible from the adjoining houses, road network and school. Although the infrastructure may be up to date, there is no necessity to retain the use of the existing site as a telecommunications mast. The issue of a less conspicuous site within the locality has not been investigated.
- 11.7 The visual impact of the structure has been stated clearly in in preceding planning reports on this case. The Inspector's report on the previous case, PL06S.241424, stated the development was intrusive on the landscape, and the structure is intrusive when viewed from adjoining residential properties. However, it was deemed to be acceptable because the mast is located within an ESB substation. I viewed the substation site from the adjoining residential and open space areas, and the substation site is low profile and well screened from public view. The mast is an is an overdominating when viewed from all directions in close proximity.
- 11.9 It is my opinion, the current location of the telecommunications mast is no longer tenable, there is a negative visual impact on residential amenities , and it has an overdominating presence within the area. The underlying zoning objective for the area is Residential *'To protect and/ or improve residential amenity.* After twenty years of temporary permissions and a constant opinion that the structure visually detracts from the visual amenities of the area and is positioned less than 100metres from houses and a school, it should be relocated away from the built up area and the school. I do accept it forms a critical part of the area's telecommunications infrastructure and should be retained at this location until an alternative site has been acquired and planning permission has been obtained by the applicant.
- 11.10 Therefore recommend that the continuance of use be granted by the Board because of the structures strategic and national importance for a further period of three years only.
- 11.11 **Appropriate Assessment**
Appropriate assessment (AA) considers whether the plan or project alone or in combination with other projects or plans will adversely affect the integrity of a European site in view of the site's conservation objectives and includes consideration of any mitigation measures necessary to avoid, reduce or offset negative effects. The requirements for AA stems directly from Articles 6 (3) and 6 (4) of the Habitats Directive 92/43/EEC. Having regard to the nature and scale of the proposed development sought together with its separation from any designated European site I would not consider that an NIS or Appropriate Assessment is necessary in this case.

12.0 RECOMMENDATION

I recommend the permission be granted for three years only to enable the applicant to procure and alternative site in the general area, and obtain planning permission for same.

REASONS AND CONSIDERATIONS

Having regard to the national strategy regarding the improvement of mobile communications services and the fact that no alternative sites are being considered by the applicant within the general area, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be retained and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be retained and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. This permission is for a period of three years from the date of this order. The telecommunications structure and any ancillary structures shall then be removed from site at the end of this period 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 applicant to procure a suitable alternative site for the re-location of the telecommunications mast to provide for the continuation of mobile telephony service and to prevent disruption to service in the area in the interim period in the interests of the proper planning and sustainable development of the area.

3. No material change of use shall be made to the development hereby granted without a prior grant of planning permission.

Reason: In the interest of orderly development.

Caryn Coogan

Planning inspector

06/07/2016