



An  
Bord  
Pleanála

## Inspector's Report PL29S.247144

### Development

To install 7 no. shrouded panel antennas and 2 no. RT link dishes and ancillary equipment at rooftop level with associated telecommunications equipment cabinets at ground level. Within curtilage of a protected Structure Orwell House.

### Location

Orwell Nursing Home, 112 Orwell Road, Rathgar, Dublin 6

### Planning Authority

Dublin City Council

### Planning Authority Reg. Ref.

2104/16

### Applicant(s)

Meteor Mobile Communications Ltd.

### Type of Application

Permission

### Planning Authority Decision

Refuse

### Type of Appeal

First Party

### Appellant(s)

Meteor Mobile Communications Ltd.

### Observer(s)

David & Breda Lyons

Kibon & Mary Aboud

Paddy & Sheila Marron

Declan & Mary Dunne  
Rathgar Residents Association.

09/11/2016

**Inspector**

Gillian Kane

## 1.0 **Site Location and Description**

The subject site refers to the rooftop of a 4-storey building Block F, to the rear of no 112 Orwell Road, all part of the Orwell Nursing Home, a large Nursing Home complex of a number of blocks constructed around the three storey former Rathgar House. Block F, is a four storey block of 20 nursing home beds plus day rooms running north-south to the rear of the dwellings on Orwell Road. To the east of the block is the car park serving the nursing home. To the south-east is a landscaped recreational open space / garden area. To the south-west is a further landscaped garden. The wider site slopes eastwards towards the Dodder resulting in only the flat roof section of Block F being visible from Orwell Road. Further west on Orwell Road are a series of detached dwellings. To the south of the site are dwellings on Rostrevor Road and the playing fields of The High School.

## 2.0 **Proposed Development**

- 2.1. The proposed development is within the grounds of Orwell House, a protected structure that is in operation as a Nursing Home. Permission was sought for the installation of 7 no. panel antennae and 2 no. RT link dishes with ancillary equipment cabinets at ground level. The proposed 7 no. antennae will be individually shrouded. The proposed telecommunications is to be shared amongst three providers as follows: Meteor / Three to share 3 no. panel antennas and 1 no. RT link and Vodafone will have 4 no. panel antennas and 2 no. RT link dish. The proposed panel antennas will be mounted onto ballast support poles and will have an overall height of 2.38m above roof level.
- 2.2. Details provided in the application form are:
- total site area 0.0468sq.m.
- 2.3. The application was accompanied by the following:
- Cover letter / Planning Report
  - Letter of Consent to the making of the application
  - Technical Justification

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

By order dated 29/07/16 a notification of decision to REFUSE permission issued. The reason for refusal stated:

"The proposed development by virtue of its configuration, position on the rooftop, and overall materials chosen to shroud the antenna, would be visually obtrusive and would have a negative visual impact. The proposed development would therefore contravene the zoning objective 'Z1', to protect, provide and improve residential amenity. Furthermore, it would be contrary to the proper planning and sustainable development of the area".

#### 3.2. **Planning Authority Reports**

3.2.1. **Planning Report:** Given the protected structure status of buildings on the site and the wider residential area, photomontages are required<sup>1</sup>. Applicant should be requested to demonstrate how the site is a 'last resort'. Further information required.

3.2.2. **Planning Report following submission of FI:** It is considered that the proposed antenna in their current configuration are visually obtrusive. The applicants justification for the proposed location is not satisfactory. Recommendation to refuse permission.

#### 3.2.3. **Other Technical Reports**

- **Conservation Officer:** No comment.
- **Drainage Division:** No objection.

#### 3.3. **Third Party Observations**

A large number of objections to the proposed development were submitted to the Council. The issues raised can be summarised as follows:

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<sup>1</sup> The Boards attention is drawn to the two planning reports dated 16/03/16 and 28/07/16 on the Boards file, both of which refer to a Conservation Report that mentions the location of antenna on the roof of a modern building and the impact on the protected structure. I note that the Conservation Report submitted by DCC to the Board is blank and makes no such commentary. Clarification was requested from the Council and a duplicate of the blank Conservation report was submitted. Examination of the documents relating to the file on the DCC website also shows a blank Conservation report. For the purposes of this appeal I have taken consideration only of the report on the Boards file.

- Proposed masts are not appropriate in a residential area, an area with protected structures and a school in close proximity.
- Proposed masts are visually obtrusive
- In previous An Bord Pleanála decisions, the Board stipulated that there was to be no further plant above roof level.
- Other sites in the vicinity are more suitable.

## 4.0 Planning History

4.1. The subject site has a long planning history. Relevant details as follows:

- 4.1.1. **PL29S.241956** (Planning Authority reg. ref. 2212/13): Planning permission was granted for the retention of works as constructed and new work.
- 4.1.2. **PL29S.235381** (Planning Authority reg. ref. 3276/09): Permission granted for demolition of modern three-storey bedroom wing and existing extensions to side and rear of Rathgar House Nursing Home; conversion of 108/110 Orwell Road (as sheltered accommodation); the restoration and refurbishment of Rathgar House (as nursing home); new development to comprise nursing home with accommodation and day care facilities also new sheltered accommodation all in six new Blocks (Blocks A-G) providing accommodation for 110 no. nursing home beds and 17 no. sheltered accommodation units.
- 4.1.3. **PL29S.223140** (Planning Authority reg. ref. 1455/07): Permission granted for revisions to reg. ref. 1132/05 (PL29S.212938) comprising reconfigurations to provide 50 no. nursing home units and 33 no. sheltered living units.
- 4.1.4. **PL29S.212938** (Planning Authority reg. ref. 1132/05): Permission granted for the demolition of existing building, construction of nursing home, day care facilities, 57 sheltered living units and refurbishment of Rathgar House. Condition no. 5 of the Boards decision stated that “No further structures, plant or antennae shall be erected on the roofs of any of the buildings in the development without a prior grant of planning permission”.
- 4.1.5. Planning authority ref. **3582/03** - Permission refused for the demolition of nursing home (67 no. bedrooms); demolition of Nos. 108-110 Orwell Road; construction of 3-storey over basement nursing home (68 bedrooms and day

care facilities) totally 5,071m<sup>2</sup> on 0.63 hectare site; closure of 3 no. existing vehicular entrances and provision of one entrance. The reasons for refusal related to the adverse impact on streetscape and character of area; overdevelopment by reference to plans for Rathgar House, excessive site coverage and inappropriate location and disposition of on-site private open space for residents; detrimental to setting of Rathgar House (protected structure) by reference to loss of certain mature exotic trees and overdevelopment, incongruous footprint, excessive site coverage, massing and proximity to boundaries.

## **5.0 Policy Context**

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

These Guidelines set out 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.

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

The 2012 Circular letter set out to revise sections 2.2. to 2.7 of the 1996 Guidelines. 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.

### 5.3. Dublin City Development Plan 2016-2022

5.3.1. While the application was assessed by DCC under the 2011-2016 development plan, the Dublin City Development Plan 2016-2022 was adopted on the 21<sup>st</sup> October 2016 and therefore is the operative plan for the subject site and for the proposed development before the Board.

5.3.2. In the plan, the site is zoned 'Z1 Sustainable Residential Neighbourhoods' which has the stated objective "to protect, provide and improve residential amenities".

5.3.3. Section 9.5.11 of the development plan refers to telecommunications stating that telecommunications infrastructure is a key requirement within the city of Dublin. The availability of services such as high-speed broadband is essential to the national economy but also to local communities in everyday life. Dublin City Council is mindful that the provision of telecommunications infrastructure, most notably antennae, can impact on residential amenity and visual amenity. Policies of note include:

- **SI29:** 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, ecommerce and distance learning.
- **SI30:** To support and facilitate the delivery of a high-capacity ICT infrastructure, broadband networks, and digital broadcasting in the city, having regard to the Government's Guidelines - Telecommunications Antenna and Support Structures – Guidelines for Planning

5.3.4. **Section 16.2.2.3** states that minor external additions to buildings such as plant, telecommunications and other equipment and associated cables and fixings shall be concealed within the building envelope where feasible or designed and sited to minimise their visual impact. All redundant equipment should be removed prior to installation of new equipment.

5.3.5. **Section 16.33** states that the provision and siting of telecommunications antennae shall take account of the Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities, (Department of

Environment and Local Government, 1996), as revised by DECLG Circular Letter PL 07/12, and any successor guidance. Section **16.33.1** refers to the siting, design and visual amenity of telecommunications antennae and supporting structures should preferably be located on industrial estates or on lands zoned for industrial/employment uses. Possible locations in commercial areas, such as rooftop locations on tall buildings, may also be acceptable, subject to visual amenity considerations. In assessing proposals for telecommunication antennae and support structures, factors such as the object in the wider townscape and the position of the object with respect to the skyline will be closely examined. These factors will be carefully considered when assessing proposals in a designated Conservation Area, open-space amenity area, historic park, or in the vicinity of protected buildings, special views or prospects, monuments or sites of archaeological importance. The location of antennae or support structures within any of these areas or in proximity to protected structures, archaeological sites and other monuments should be avoided. Section **16.33.2** refers to the sharing of installations stating 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.

## **6.0 Grounds of Appeal**

### **6.1.1. Meteor Mobile Communications Ltd.**

The grounds of the appeal can be summarised as follows:

- It is submitted that the Council's decision failed to take account of the totality of the information submitted with the application. The board is requested to grant permission for the proposed development on the grounds that the configuration, materials and screening of the proposed development is the most suitable, the proposal is not visually obtrusive and is in compliance with the development plan.
- The proposed location and configuration of the masts were chosen from a radio technical and visual impact perspective. 3 no. antennas will be



located at the north-western end of the building facing Orwell Road to provide coverage along Orwell Road. 2 no. antenna will be located at the eastern side to provide coverage to the Dodder Road Lower and Orwell Walk and Gardens. The final 2 antennae will be in the south-western corner to provide coverage to Rostrevor Road / Zion Road. Any reconfiguration of the proposal will lead to a reduction in performance.

- The proposed masts are located at the edges of the roof to beams clipping the roof and affecting coverage. Relocation of the masts inwards would require an increase in height of one to two metres, significantly increasing the visual impact.
- The proposed antenna will be shrouded with a modern style flue made of glass reinforced plastic (GRP) casing. This will allow the antenna to integrate into the existing building. The proposed link dishes will not be shrouded but will be colour matched. The option of mounting the antenna on the face of the building was considered but ruled technically infeasible. The option of shrouding the antennae in fake chimneys or leaving them bare were both discounted as visually inappropriate.
- The network sharing agreement between Meteor and Three will reduce the footprint of equipment and the visual impact of the installation.
- It is acknowledged that the proposed development will be visible from 3 no. of a possible 13 no. locations on Orwell Road. Photomontages submitted with the appeal show that the proposed development will not be visually obtrusive or have a negative visual impact. Views will be fleeting in nature and all antenna will be visible only from the front of the building. A small number of dwellings on Orwell Road will have views from the rear of their properties or from a distance. Dwellings on Rostrevor Road will have interrupted views of the mast proposed in the south-western corner of the building. Existing tree lines will screen the views.
- It is submitted that the proposed development will not have a major visual impact and will not detract from the character of Orwell House. The proposed development is in accordance with both Government and National policy on telecommunications.

- The proposed development is a direct replacement for the decommissioned Meteor, Three and Vodafone base station located at Marianella, 75 Orwell Road which was removed in Feb. 2016. Coverage loss has been experienced since the removal. Further loss will ensue if the subject site is not developed.
- The Council's decision is not consistent with the development plan. The subject site is zoned Z1, within which public services installations are a permissible use. Public service installations include electricity, gas, telephone, radio, television, drainage and other statutory undertakers. Meteor, Vodafone and Three are all statutory undertakers. The proposed development can be considered a public service installation as the majority of the population use wireless technology for telephone and communications services.
- The cover letter and the technical justification demonstrate the importance of the subject site.
- The Board is requested to grant permission.

## 6.2. **Planning Authority Response**

- The proposed development is contrary to the proper planning and sustainable development of the area.

## 6.3. **Observations**

### 6.3.1. Five observations were submitted to the Board:

1. Rathgar Residents Association
2. Declan and Mary Dunne
3. Paddy and Sheila Marron
4. Dr Kibon and Mrs. Mary Aboud
5. David and Breda Lyons

The issues raised in the observations are similar in nature and can be summarised as follows:

- The proposed development is not in accordance with the provisions of the development plan and not in keeping with the proper planning and sustainable development of the area.

- An Bord Pleanála under PL29S.212938 and PL29S.223140 stipulated that no plant was to be above roof level. It is submitted that the Board recognised the need to protect the residential amenity of the wider area
- The area is well served by masts. The applicant has not demonstrated that the subject site is a site of last resort. There are alternative sites in the wider area: ESB substation, Mount Carmel Hospital, Oakland Lodge, Lucena Clinic, Marianella, other existing masts – i.e. site sharing.
- The proposed masts are visually obtrusive and inappropriate in a residential area / area with protected structures. The visual impact of the proposed masts on the wider area has not been demonstrated. The applicants conclusions regarding the visual impact of the proposed development are rejected.
- The trees surrounding the building will provide screening for part of the year only. The applicant has identified these trees as being in need of trimming. This will further reduce their ability to provide screening.
- The proposed cabinets at ground level will generate noise pollution.
- The applicant has not demonstrated that the proposed development is in compliance with the International Radiation Protection Association Guidelines. The potential for electromagnetic interference must be assessed. The proposed development presents a health hazard.
- The Board has refused permission for telecommunications structures in the past and the operators have found alternative locations.

#### 6.4. **Other Responses**

The Applicants response to the Observations can be summarised as follows:

- The subject site is the only suitable option available. There are no base stations to co-locate, there are no green spaces or commercial / industrial options available. All other rooftops are residential or not available due to topography.
- Previous Board decisions required planning permission to be sought if plant is proposed for roof tops. The subject application is such a permission.

- In order to achieve a clear line of sight for transmission, the top 2m of trees will be pruned. A tree management plan was not required under the most recent permission (PL29S.241956). Such a plan can be submitted.

## 7.0 **Assessment**

On reading of all documentation submitted with the appeal, I consider the issues to be:

- Principle of the proposed development
- Site Justification
- Visual Impact
- Appropriate Assessment

### 7.1. **Principle of the Proposed Development**

- 7.1.1. The Applicant submits that the proposed development can be considered to be a public service installation, a use that is permissible in Z1 zones. Appendix 21 of the 2016-2022 DCC development plan defines a public service installation as *“a building, or part thereof, a roadway or land used for the provision of public services. Public services include all service installations necessary for electricity, gas, telephone, radio, telecommunications, television, data transmission, drainage, including wastewater treatment plant and other statutory undertakers....”* I am satisfied that the proposed development is a use that is permissible in Z1 zones.
- 7.1.2. With regard to previous decisions of the Board stipulating that no further development is to occur above roof level, I note that condition no. 5 of PL29S.212938 states that no further plant or antenna shall be erected on the roofs of any buildings without a prior grant of permission. Such a condition does not indefinitely prohibit the installation of such equipment; it simply requires the seeking of planning permission to do so.
- 7.1.3. I note the policy of DCC (policy SI29) 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, ecommerce and distance learning and policy SI30 which seeks to support and facilitate the delivery of a high-capacity ICT infrastructure, broadband networks, and digital broadcasting in the city, having regard to Government Guidelines which were amended by circular letter, where it can be demonstrated that the proposed development will not have significant adverse effects on the environment. Subject to normal planning considerations, the proposed development is acceptable in principle.

## 7.2. **Site Justification**

- 7.2.1. The proposed development is stated to be a direct replacement for the existing Meteor base station located at no. 75 Orwell Road. The existing mast was decommissioned (Planning Authority reg. ref. 2186/09 refers). Three operators are to share the proposed development: Meteor, Vodafone and Three. The applicant submitted a Technical Coverage Justification for the proposed development. The report states that a demonstrated need for further infrastructure exists due to the removal of the Marianella mast and the demand for services in the area. The report identifies four existing telecommunications sites in the area which were subsequently analysed to assess suitability for co-location. The ESB and Mount Carmel sites were discounted due to lower ground levels and the Lucena Clinic was discounted as it is outside the required coverage search ring. The report notes that notwithstanding the physical limitations of the above sites, that development at these locations would still leave a coverage gap along Orwell Road.
- 7.2.2. I note that the qualification of 'last resort' for proposed development has been raised by the Council and a number of the Observers. It must be noted that the national Guidelines reference to last resort options in residential areas refers only to free-standing masts and therefore is not applicable to the subject development. For development on an existing structure, the applicant is not required to demonstrate that the chosen site is a 'last resort'.
- 7.2.3. Telecommunications structures must be located in that area that represents optimum coverage as well as complying with national and local policy on site selection. It is not sufficient to identify locations that may offer better

outcomes from a visual amenity or less residential intensive perspective if those locations do not offer the required outcome from a coverage perspective. In a sequential test, there are no industrial commercial or retail sites that would provide coverage to the wider Orwell Road area. The subject site being neither residential nor a school is considered a suitable location. I am satisfied that the applicant has demonstrated that alternatives were considered before the subject site was chosen and that the proposed development represents the most suitable location for the proposed development.

7.2.4. I note the use of the proposed masts by three service providers. This is considered to be in accordance with Objective SIO30 and Policy SI3 of the development plan, both of which seek to avoid a proliferation of communication masts and antennae and facilitate mast sharing.

7.2.5. In relation to the comment of the Observer that the proposed development has not complied with the International Radiation Protection Association Guidelines, I refer to section 2.6 of the Circular letter. This 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.

### 7.3. **Visual Impact**

7.3.1. The national policy on telecommunications recognises the importance of assessing the visual impact of telecommunications structures. The guidelines note the sensitivity of protected structures (section 4.3 refers) and recommends that such locations be avoided where possible. The guidelines recommend that where development is proposed in a city suburb that industrial locations be the first preference. Where that is not an option, commercial or retail options, including ESB sub-stations should be explored.

Other options to consider are tall buildings or other existing structures, before the option of a freestanding structure is considered. The guidelines note that “only as a last resort” should free standing masts be located in a residential area or beside schools.

7.3.2. The 2016 -2022 DCC development plan refers to the visual impact Section **16.33.1** refers to the siting, design and visual amenity of telecommunications antennae and supporting structures should preferably be located on industrial estates or on lands zoned for industrial/employment uses. Similar to the national policy, the plan refers to preferential locations and the avoidance of sensitive locations where possible. As noted above, the subject site has been assessed against the required alternative site criteria of the national and local policy and found to be acceptable.

7.3.3. Both the first party and some of the Observers have submitted photomontages / photographs of the impact of the proposed development. The proposed antennae are to be covered with circular ‘shrouds’ in a colour complimentary to the subject building. I am satisfied that the scale of development on the wider Orwell site, including the four storey subject building, is such that the installation of 7 no. antennae and other equipment will not have a significant visual impact. The provision of roof top equipment has become commonplace in urban and suburban areas and as such the visual impact is significantly reduced by the frequency of such occurrences. I do not agree that the proposed masts will be visually obtrusive or have a negative visual impact. I do not agree that the proposed development will impact the residential amenity of the subject site or the wider residential area. I am satisfied that the proposed development is in keeping with the Z1 zoning objective of the subject site and is in accordance with the policies and objectives of the development plan.

#### 7.4. **Appropriate Assessment**

7.4.1. Having regard to the nature and scale of the proposed development and / or the nature of the receiving environment, and / or proximity to the nearest European site, no appropriate assessment issues arise and it is considered that the proposed development would not be likely to have a significant

effect individually or in combination with other plans or projects, on a European site.

## **8.0 Recommendation**

- 8.1. I have read the submissions on file, visited the site, and have had due regard to the provisions of the Dublin City Development Plan 2016 – 2022, the planning history of the site and all other matters arising. It is considered that, subject to compliance with the conditions set out below, the proposed development would not injure the amenities of the area and would be in accordance with the proper planning and sustainable development of the area. I recommend permission be GRANTED subject to the following conditions:

## **9.0 Reasons and Considerations**

- 9.1. Having regard to the provisions of the Dublin City Development Plan 2016-2022, to the planning history of the site, to the scale and nature of the proposed development, the national strategy regarding the improvement of mobile communications services, 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 existing character and pattern of development in the vicinity it is considered that, it is considered that, subject to compliance with the conditions set out below, the development proposed for retention would not seriously injure the visual amenities of the area, would not be prejudicial to public health and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **10.0 Conditions**

1. The proposed development shall 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 within three months from the date of this order and the development shall be in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The height of the antennae shall be strictly in accordance with the dimensions indicated on the drawing and documentation submitted to the Planning Authority. Notwithstanding the provisions of the Planning and Development Regulations, 2001, and any statutory provision amending or replacing them, the configuration of the mast to be retained shall not be altered without a prior grant of planning permission.

**Reason:** To clarify the nature and extent of the permitted development to which this permission relates and to facilitate a full assessment of any future alterations

3. In the event of the structures becoming obsolete and being decommissioned the developers shall, to the satisfaction of the planning authority, remove the antennae and associated structures and return the site to its original condition.

**Reason:** In the interest of visual amenity

4. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall

be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

*Gillian Kane*

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Gillian Kane  
Planning Inspector

25 November 2016