



An
Bord
Pleanála

Inspector's Report PL91.247208

Development	Continuance of use of existing 30m communications structure carrying antennae, equipment and 2.4m boundary fence.
Location	The National Technology Park, Castletroy, Co. Limerick
Planning Authority	Limerick City & County Council
Planning Authority Reg. Ref.	16/565
Applicant(s)	ESB Telecoms Limited
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	Third Party
Appellant(s)	ESB Telecoms Limited
Observer(s)	None
Date of Site Inspection	19/10/2016
Inspector	A. Considine

1.0 Site Location and Description

- 1.1. The site is located to the rear of the National Technology Park, Castletroy which is located to the east of Limerick City and adjacent to the University of Limerick Campus. The site itself is located within the ESB's Castletroy substation compound with the NTP. The compound is fenced and contains communications infrastructure. The site is landscaped along the boundaries.
- 1.2. The existing structure on the site comprises a 30m high monopole which supports a number of communication dishes and antennae.

2.0 Proposed Development

- 2.1. Permission is sought for the continuance of use of existing 30m communications structure carrying antennae, equipment and 2.4m boundary fence, all at the National Technology Park, Castletroy, Co. Limerick.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant planning permission for the proposed development subject to conditions including condition 4 which states as follows:

4. The transmitter tower, antennae type and mounting configuration shall be in accordance with the details submitted with this application and shall not be altered without a prior grant of permission.

Reason: To clarify the nature of the development to which this permission relates and to facilitate the full assessment of any future alterations to the network.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning report considered the details of the proposed development together with the policy requirements for the site. The report notes that temporary permission

for the continued use of the mast was granted under ABP ref PL13.239634 and no objections to the current application are raised. The report recommends that permission be granted subject to 4 conditions.

3.2.2. Other Technical Reports

There are no other technical reports on file.

3.3. Prescribed Bodies

There are no reports from prescribed bodies on file.

3.4. Third Party Observations

There are no third party observations noted on the file.

4.0 Planning History

- 4.1. **PA Ref 01/1130** – Permission granted for the erection of a 30m high communications structure on 13/12/01 subject to seven conditions. Condition No 1 placed a five year time limit on the development to allow the planning authority to re-assess the development in light of technological advances which may have occurred in the interim.
- 4.2. **PA ref 06/3222** – Permission granted for the retention of the 30 m high structure etc and for additional antennae and dishes. Condition No 5 required the payment of a financial contribution
- 4.3. **ABP ref PL13.239634 (PA Ref 11/619)** – Permission granted for the retention of 30m high structure, and permission to attach additional equipment to the structure to allow for future third party co-location at Castletroy 38 KV substation by the Local Authority. The decision included a financial contribution condition which was removed on appeal.
- 4.4. **PA ref 13/156** – Permission granted for the erection of a steel mast structure under the existing Casteltroy/Rivers 38kv line.

5.0 Policy Context

5.1. DoE Guidelines for Planning Authorities 1996: Telecommunications Antennae and Support Structures:

The Guidelines set out the criteria for the assessment of telecommunications structures, which include preferred location, access, co-location/shared facilities, use of existing forests, design, visual impact, health and safety. The relevant points to this case are summarised below.

- An authority should indicate any locations where telecommunications installations would not be favoured or where special conditions would apply.
- Such locations might include lands whose high amenity value is recognised in the Dev. Plan or sites beside schools which might give rise to local concerns.
- Substations operated by the ESB may be suitable for the location of antennae support structures.
- The sharing of installations and clustering of antennae is encouraged as co-location will reduce the visual impact on the landscape (Para. 4.5)
- All applicants will have to satisfy the local authority that they have made a reasonable effort to share facilities.

5.2. Development Plan

The site is located within the area of County Limerick which is covered by the Castletroy LAP 2009-2015. The site is located in an area zoned '*Enterprise & Employment*'.

Guidance on Telecommunications Antennae is found in the Limerick County Development Plan 2010-2016 where it is stated that the Council will adopt a positive approach to applications for telecommunications infrastructure (8.5.1).

Objectives are set out in Section 8.5.1, where it is stated that where permission is granted for telecommunications masts that it will generally be for a temporary period not exceeding five years (Objective IN 051).

The Plan also encourages the clustering and co-location of masts, antennae or ancillary equipment (Objective IN 049).

6.0 The Appeal

6.1. Grounds of Appeal

This is a first party appeal against the decision of Limerick County Council to include condition 4 in the grant of planning permission for the continuance of the use of the mast at this location. The submission presents details of the planning application and the site as well as the planning history associated with the site. The grounds of appeal are as follows:

- The is a Section 37 appeal against condition 4 which states:

The transmitter tower, antennae type and mounting configuration shall be in accordance with the details submitted with this application and shall not be altered without a prior grant of permission.

Reason: To clarify the nature of the development to which this permission relates and to facilitate the full assessment of any future alterations to the network.

- The Exempted Development provisions, Class 31(h) of the P&D Regulations 2001-2015 allow for “the attachment of additional antennae to an existing antenna support structure” subject to conditions and limitations. It is submitted that the nature of the industry is fast moving and that there are constant changes to the equipment. The exemptions are for the purpose of providing infrastructure without the need to apply to the Planning Authority for every piece of equipment. It is submitted that if operators are required to wait months for planning permission, they will not use the existing mast structure and will look at using rooftops where the exemptions under the Regulations can be applied.
- The condition restricts the implementation of condition 3 of the grant of permission which states that:

The developer shall provide and make available, on reasonable terms, the proposed mast for the provision of mobile telecommunications antennae of third party licensed mobile telecommunications operators.

Reason: In the interests of the avoidance of a multiplicity of masts and visual clutter which would result in a loss of amenity to the area.

- The inclusion of the condition contrasts greatly with telecommunications guidelines and conditions from other planning authorities.
- It is further submitted that national policy is to facilitate co-location and there are no planning merits to such restrictions. It is considered that such a condition would delay the rollout of broadband improvements in the area.
- The appeal document highlights both local and national planning policy which supports the proposed development.

6.2. **Planning Authority Response**

None received.

6.3. **Observations**

None received.

7.0 **Assessment**

7.1. Having regard to the nature of the proposed development and the details submitted with the planning application and appeal documents, it is clear that this appeal relates only to the inclusion of condition 4 of the Planning Authority decision. In this regard, the provisions of Section 139 of the Planning & Development Act, 2000-2011 apply and the merits of the inclusion of the conditions should only be considered.

7.2. Condition 4 of the PAs decision states as follows:

The transmitter tower, antennae type and mounting configuration shall be in accordance with the details submitted with this application and shall not be altered without a prior grant of permission.

Reason: To clarify the nature of the development to which this permission relates and to facilitate the full assessment of any future alterations to the network.

7.3. Essentially, condition 4 of the Planning Authority's grant of permission seeks to de-exempt those elements of telecommunications equipment which is provided for in

Part 1 of Schedule 2 of the Planning and Development Regulations 2001. Class 31 states that the following constitutes exempted development in relation to the carrying out by a statutory undertaker authorised to provide a telecommunications service of development consisting of the provision of:

- (h) the attachment of additional antennae to an existing antennae support Structure

The Conditions & Limitations provided in the Regulations state as follows:

1. Where the total number of such antennae shall not exceed 12, of which not more than 8 shall be dish type (whether shielded or not).
3. The attachment of such antennae shall not result in the field strength of the non-ionising radiation emissions from the site exceeding limits specified by the Director of Telecommunications Regulation.

7.4. It is the recommendation of the 1996 Telecommunications Guidelines, Paragraph 4.5 to encourage co-location and the sharing of installations and clustering of antennae in order to reduce the visual impact on the landscape. It is further required that applicants satisfy the local authority that they have made a reasonable effort to share facilities. The Board will also note the inclusion of condition 3 in the decision by Limerick City & County Council to grant permission for the current appeal, which requires that the developer to make the mast available to third parties to co-locate.

7.5. The appeal relates to the continuance of use of a long established telecommunications support structure and associated equipment on the site. Given the planning history associated with the site, I am satisfied that the location of the mast has been considered appropriate and suitable for the mast structure. In terms of the requirements of national guidance with regard to telecommunications structures, which clearly promotes the principle of co-location and use of existing structures, together with the provisions of the Planning & Development Regulations, 2001-2015 which provides for exempted development in the area of telecommunications equipment, I do not consider it reasonable to include a condition which de-exempts such exempted development without clear and logical reasoning. The inclusion of condition 4 runs contrary to the spirit of the Regulations and national guidance in this area and would therefore, be contrary to the proper planning and sustainable development of the area, in my opinion.

8.0 Recommendation

8.1. Having regard to the nature of the condition the subject of this appeal, I am satisfied that the determination by the Board of the relevant application as if it had been made in the first instances is not warranted. I recommend that planning authority be directed, in accordance with Section 139, Subsection (1) of the Planning & Development Act, 2000-2011, to REMOVE condition 4, of the grant of planning permission.

9.0 Reasons and Considerations

9.1. Having regard to the Guidelines for Planning Authorities 1996: Telecommunications Antennae and Support Structures, the provisions of the current Development Plan and to the nature, form, scale and design of the development proposed for continuance of use, it is considered that subject to compliance with the conditions attached to the planning permission, the development would not seriously injure the amenities of the area or of property in the vicinity. The development proposed for retention would, therefore, be in accordance with the proper planning and sustainable development of the area.

A. Considine
Planning Inspector
25th November, 2016