



An  
Bord  
Pleanála

## Inspector's Report PL17.247329

---

<b>Development</b>	Continuance of use of 30m high lattice communication structure previously granted under TA/111156
<b>Location</b>	The Commons, Longwood Road, Trim, Co. Meath
<b>Planning Authority</b>	Meath County Council
<b>Planning Authority Reg. Ref.</b>	TA/160833
<b>Applicant(s)</b>	ESB Telecoms Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	GRANT
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	ESB Telecoms Limited
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	19 <sup>th</sup> December 2016
<b>Inspector</b>	Niall Haverty

## **1.0 Site Location and Description**

- 1.1. The appeal site comprises a telecommunications compound, with a stated site area of 0.0148 ha on the western side of the R160 regional road, c. 1km south of Trim town centre. The telecommunications support structure is a 30 metre high steel lattice structure supporting a variety of antennae and dishes. The compound also includes a number of equipment cabins and is surrounded by a 2.4m high palisade fence.
- 1.2. The appeal site is adjacent to an existing ESB 38kV substation, with which it shares an access road. A development known as Knightsbridge Village, which includes a HSE Primary Care Centre, nursing home and retirement village, is located to the west, a fuel depot is located to the north west and a service station is located to the north.

## **2.0 Proposed Development**

- 2.1. The proposed development consists of the continuance of use of the existing 30m high lattice communication structure carrying communication dishes and antennae within an existing 2.4m high fenced compound, which was previously granted temporary permission under Reg. Ref. TA/111156.
- 2.2. It is stated that the structure is shared with four licensed mobile network operators, who all have equipment attached to the structure. The cabins and cabinets on the site are stated to be exempt under classes 31(e) and (f) of the Regulations.

## **3.0 Planning Authority Decision**

### **3.1 Decision**

- 3.1.1. The Planning Authority decided to grant permission and Condition 4 which forms the subject of this appeal states:

“The antenna and mounting configuration shall be in accordance with the details submitted with this application and shall not be altered without a prior grant of planning permission.

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

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

3.2.1. The Planning Officer was satisfied that the development was acceptable, given that:

- Number of pieces of equipment attached to structure has been reduced since previous grant of permission.
- No other change to the site since previous grant of permission.
- Site is 930m from River Boyne and River Blackwater SPA/SAC. No NIS is required due to lack of pathway, distance and scale of development.
- No changes to access arrangement are proposed.
- Site encroaches on flood risk area but given the nature of the development, no flooding risk arises.
- Development levies are not applicable.

### 3.3. **Other Technical Reports**

3.3.1. None received.

### 3.4. **Third Party Observations**

3.4.1. None received.

## 4.0 Planning History

4.1. The following planning applications relate to the appeal site:

- **01/1268:** Permission granted in 2002 for a 5 year duration for the construction of a 30m high communications mast, dishes and antennae, cabinets etc.
- **TA/60557:** Permission granted in 2007 for a 5 year duration for retention of lattice communications structure and cabinets. Condition 6 was the same as the condition under appeal.
- **TA/111156; ABP Ref. PL17.240472 (Contribution appeal):** Permission granted in 2012 for a 5 year duration for continuance of use of the existing lattice communications structure and to attach additional antennae and dishes. Condition 5 was the same as the condition under appeal.

## 5.0 Policy Context

### 5.1. Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities, 1996

5.1.1. These Guidelines set out the criteria for the assessment of telecommunications structures. 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 high amenity lands or sites beside schools (Section 3.2).
- In the vicinity of larger towns, operators should endeavour to locate in industrial estates or industrially zoned lands. Substations operated by the ESB may be suitable for the location of antennae support structures (Section 4.3).

- The sharing of installations and clustering of antennae is encouraged as co-location will reduce the visual impact on the landscape (Section 4.5).

## 5.2. **Circular Letter PL07/12**

- 5.2.1. This Circular Letter revises elements of the 1996 Guidelines. In particular, Section 2.2 advises Planning Authorities to cease attaching time limiting conditions to telecommunications masts, except in exceptional circumstances.

## 5.3. **Meath County Development Plan 2013-2019**

- 5.3.1. Sections 8.2 and 11.12 of the County Development Plan relate to telecommunications. The CDP notes that an efficient telecommunications system is important in the development of the economy. It supports co-location and sharing of existing structures and notes that the preferred location for telecommunication antennae is in industrial estates or areas zoned for industrial use or in areas already developed for utilities.

- 5.3.2. Relevant Policies include:

- EC POL 25: To facilitate the delivery of a high capacity ICT infrastructure and broadband network and digital broadcasting.
- EC POL 26: To encourage the further co-ordinated and focused development and extension of telecommunications infrastructure including broadband connectivity.
- EC POL 27: To encourage coverage and capacity of mobile technology network infrastructure, while endeavouring to reduce the number of telecommunications structures.

- EC POL 28: To facilitate the development of telecommunications based services at appropriate locations within the County, subject to environmental considerations.
- EC POL 33: To promote orderly development of telecommunications infrastructure in accordance with the requirements of the Guidelines for Planning Authorities and Circular Letter PL 07/12.
- EC POL 34: To promote best practice in siting and design in relation to the erection of communication antennae.
- EC POL 35: To secure a high quality of design of masts, towers and antennae and other such infrastructure in the interests of visual amenity and the protection of sensitive landscapes, subject to radio and engineering parameters.
- EC POL 37: To encourage co-location of antennae on existing support structures.

#### **5.4. Trim Development Plan 2014-2020**

5.4.1. The site is zoned 'E2 General Enterprise and Employment' in the Trim Development Plan 2014-2020. Telecommunications structures are a permitted use under this zoning objective.

5.4.2. Section 9.1 of the Development Plan relates to telecommunications, and notes that the availability of high quality telecommunications infrastructure is vital in enabling Trim to remain competitive in the context of an ever changing technological sector, promotes industrial and commercial development, allows for better communication and offers a competitive advantage in attracting economic development. It states that the Planning Authority will seek to facilitate the provision of a competitive, high quality telecommunications network for Trim. This is supported by Policies TE POL 2, TE POL 3, TE POL 4 and TE POL 8.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. The appeal is a first party appeal seeking the removal of Condition 4 of the planning authority's decision which restricts any alteration to the antenna and mounting configuration at the site without a prior grant of planning permission.

6.1.2. The issues raised in the appeal can be summarised as follows:

- ESB Telecoms operates a policy of co-location and the structure is currently shared by four mobile operators. Availability of the structure protects the surrounding area from inappropriate development of single operator telecommunications structures.
- Structure is in most appropriate location in terms of visual impact, due to presence of ESB substation, overhead lines and dense perimeter landscaping.
- Previous permissions were for five year periods to allow the impact to be re-assessed in light of technological changes. There have been no technological advances that would warrant removal of the structure, and growth of mobile and wireless broadband mean that there is a continued requirement for the structure.
- Condition 4 inadvertently dissuades operators from locating on the structure due to the risk associated with obtaining planning permission and the associated time and costs involved.
- Exempted development provisions were created for the purpose of facilitating infrastructure development without constant recourse to the planning authority for each piece of equipment.

- Telecoms industry is fast moving, with equipment being changed or replaced at quick intervals due to fault or operator requirements.
- Additional antennae and dishes permitted under TA/111156 were never erected, and there is now less equipment on the structure than in 2012.
- Condition 4 contrasts with approach taken by other Planning Authorities and recent Board decisions (examples given).
- Condition 4 is at odds with national and local policy which promotes co-location and sharing of existing structures.

## 6.2. **Planning Authority Response**

The Planning Authority is satisfied that all matters outlined in the appeal were considered in the course of its assessment.

## 6.3. **Observations**

None received.

## 7.0 **Assessment**

### 7.1. **Nature of Appeal**

- 7.1.1. Having regard to the circumstances of this case, including the zoning objective for the site, planning history, site context and to the nature of the condition under appeal, I am satisfied that the determination by the Board of the application as if it had been made to it in the first instance would not be warranted. I consider, therefore, that the appeal should be dealt with in accordance with Section 139 of the Planning and Development Act 2000 (as amended).



## 7.2. Condition 4

- 7.2.1. Condition 4 seeks to prevent any alteration to the antennae and mounting configuration on the lattice structure for the stated reasons of clarifying the nature of the development to which the permission relates and facilitating a full assessment of any future alterations. The Planning Officer's report does not contain any explanation or rationale for the inclusion of this Condition, although I note that the previous 5 year permissions for the structure included similar Conditions. It is arguable that the existence of this condition within the most recent permission establishes a precedent for its inclusion, however I would refer the Board to the decisions made in cases PL01.245143 and PL06F.246597, where the Board removed similar conditions which sought to restrict the addition of antennae on telecoms masts in Carlow and Swords, respectively, over and above those already in existence. In their Orders, the Board stated that they did not consider that particular circumstances arose that would necessitate the limiting of exempted development in those cases.
- 7.2.2. As noted above, the stated reason for Condition 4 is to clarify the nature of the development to which the permission relates and to facilitate a full assessment of any future alterations. However, Class 31(h) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended, explicitly allows for additional antennae and dishes to be added as exempted development, subject to conditions and limitations relating to the size and number of such items. In the absence of Condition 4 the appellant could add or replace antennae/dishes and, subject to compliance with the relevant conditions and limitations, such development would not comprise unauthorised development. Any further development over and above the provisions of the exemption would require planning permission.
- 7.2.3. I consider that the Class 31(h) exemption is appropriate given the pace of technological advances in the telecommunications sector and the need to replace or

supplement equipment on a regular basis to maintain good and uninterrupted telecommunications services. In this regard I note that the structure is utilised by four mobile network operators.

- 7.2.4. The proposal is for the continuance of use of a long established telecommunications support structure. It has been established through the planning process on multiple occasions that the appeal site is a suitable location for such a structure. Having regard to this and national and local policy for telecommunications structures that encourages co-location and shared use of existing structures I consider that it is unreasonable to attach a planning condition that de-exempts exempted development for no clear reason.
- 7.2.5. The telecommunications support structure is located in a suitably zoned area and is adjacent to existing electrical infrastructure (substation and powerlines). There are no existing residential dwellings or schools in close proximity to the site, and the structure pre-dates the nursing home complex located to the west. The site is not part of a sensitive landscape and there are no protected views or prospects in the vicinity. I do not consider that the addition or replacement of antennae/dishes, subject to compliance with the relevant conditions and limitations, would result in a significant additional visual impact or be so injurious to the visual amenity of the area as to warrant a full re-assessment by the Planning Authority. Furthermore, I consider that the restrictions imposed by Condition 4 could give rise to a demand for additional telecommunications support structures in the area which would have the potential for impacts on visual and residential amenity.
- 7.2.6. In conclusion, I consider that there is no clear basis for imposing Condition 4 and no rationale has been provided by the Planning Authority to support the inclusion of the Condition. Given the clear conditions and limitations attached to the relevant exemption, the site's context and zoning, and local and national policy guidance

which seeks to promote co-location and maximise the use of existing structures, I therefore recommend that the Planning Authority be directed to remove Condition 4.

### **7.3. Appropriate Assessment**

- 7.3.1. Having regard to the nature and scale of the proposed development, which relates to the continuance of use of a long-established structure previously permitted on a temporary basis, the nature of the receiving environment and the proximity to the nearest European sites, I am satisfied that no appropriate assessment issues arise and it is not considered that the proposed development would 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. Having regard to the nature of the condition the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the Planning Authority under subsection (1) of section 139 of the Planning and Development Act, 2000, as amended, to REMOVE Condition 4.

### **9.0 REASONS AND CONSIDERATIONS**

- 9.1. Having regard to:

(a) The location of the appeal site within an area for which telecommunications structures are identified as a permissible use under the zoning objective, as defined in the Trim Development Plan 2014-2020

(b) The location of the telecommunications support structure adjacent to a 38kV electrical substation and powerlines;

- (c) the Telecommunications Antennae and Support Structures Guidelines for Planning Authorities 1996 and the amending Circular Letter PL07/12;
- (d) the provisions of the Meath County Development Plan 2013-2019 and the Trim Development Plan 2014-2020 which encourage co-location and sharing of existing antennae support structures; and
- (e) the provisions of the Planning and Development Regulations 2001, as amended, in respect of exempted development for telecommunications infrastructure and the conditions and limitations contained therein,

the Board does not consider that the said condition is necessary or justified in this case.

---

Niall Haverty

Planning Inspector

21<sup>st</sup> December 2016