



An
Bord
Pleanála

Inspector's Report ABP-300500-17

Development	Retention of existing 32.8m telecommunications monopole with associated equipment and fencing.
Location	Eir Exchange, Beau, Rush, Co. Dublin.
Planning Authority	Fingal County Council.
Planning Authority Reg. Ref.	F17A/0611.
Applicant(s)	Towercom.
Type of Application	Retention.
Planning Authority Decision	To grant with conditions.
Type of Appeal	First.
Appellant(s)	Towercom.
Observer(s)	None.
Date of Site Inspection	11 th April 2018
Inspector	Deirdre MacGabhann

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1.0 Site Location and Description

- 1.1. The c.0.005ha appeal site is situated c.2km to the west of Rush town in the townland of Beau, Co. Dublin. It lies in a rural area between Rush and Lusk, immediately north of the R128, a regional road connecting the two settlements.
- 1.2. The site lies within an existing telecom exchange. This facility comprises principally a small flat roof brick exchange building in a fenced and gated compound. Access to the compound is from the regional road. The appeal site lies to the west of the exchange building. It comprises a 32.8m monopole, with telecommunications equipment mounted on it, an external fence and small container situated outside of the fenced area (see photographs).
- 1.3. The R128 is a busy regional road, following the undulating topography in the immediate vicinity of the site (see photographs). Substantial mature trees line much of the road screening views of the compound and lower half of the monopole.
- 1.4. To the south of the site is a horticultural business and to the north a farm and residential property.

2.0 Proposed Development

- 2.1. The proposed development comprises the retention of the existing 32.8m telecommunications monopole with associated equipment and fencing. Existing equipment shown in the drawings accompanying the planning application comprises:
 - Radio aerials for emergency services (top of mast),
 - A number of existing antennas (sited under the radio aerials and on the upper part of the mast),
 - Potential future and existing operator antennas (just above the mid-point of the mast).
- 2.2. The applicant states that the installation is (a) a key element for Tetra Ireland's (the National Digital Radio Service), emergency services radio network for the Gardaí, Ambulance and Fire Services, and (b) provides for other wireless licence operators,

who wish to co-locate to provide 3G, 4G and broadband coverage to the local community.

- 2.3. Correspondence from Tetra Ireland confirms that it has equipment on the structure which forms a critical part of the National Digital Radio Service for emergency services.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 30th November 2017, the planning authority decided to grant permission for retention of the development subject to 5 no. conditions. Condition no. 2, which is the subject of the appeal, stipulates a maximum of 12 no. antenna to be attached to the mast, with no more than 8 no. being dish type. Maximum size of dish and panel type antenna are specified.

3.2. Planning Authority Reports

Planning Reports

- 3.2.1. The Planning Report (30th November 2017) describes the proposed development, the application site and its planning history. It summarises relevant development plan policies and considers that:
 - The development complies with the 'RU' zoning of the site – The applicant has demonstrated the strategic importance of the structure at this location. The principle of the development has been established through 2 no. previous (temporary) grants of permission.
 - The development is in accordance with objectives IT05, IT07, IT08 and development management objectives DMS 143 and DMS 144. (Given the planning history of the site it is considered that DMS 145 is not applicable).
 - The development is in accordance with the government's Guidelines for Planning Authorities on Telecommunications, Antenna and Support Structures (1996).

- Having regard to Circular Letter PL07/12, any grant of permission should be permanent.
- Additional dishes have been added to the monopole structure, over and above the single dish indicated in PA ref. F12A/0263.
- Whilst there are exemptions contained in the Planning and Development Regulations, 2001 (as amended) in relation to certain telecommunications infrastructure, the applicant cannot avail of exemptions having regard to Condition nos. 6 and 7 of PA ref. F12A/0263 which limit future alterations to the monopole structure.

3.2.2. The report recommends a grant of permission for retention subject to 5 no. conditions.

Other Technical Reports

- Water Services (13th November 2017) – No objections.
- Irish Water (14th November 2017) – No objections.
- Transportation Planning (23rd November 2017) – No objections.

3.3. Prescribed Bodies and Third Party Observations

None.

4.0 Planning History

4.1. The following are relevant to this appeal:

- PA ref. F07A/0985 – In 2007 permission was granted for a 32.8m support pole carrying 3 no. radio aerials for use by emergency services, together with equipment and fencing. Condition no. 3 limited the permission to a period of 5 years. Condition no. 5 limited use of the mast for the purposes described in the application and stated that the structure should not be made available to standard mobile telephone operators for the installation of additional antennae.
- PA ref. F12A/0263 – In 2013, retention permission was granted for continuation of use of a 32.8m telecommunications monopole together with

associated equipment and fencing previously granted for emergency services. Condition no. 2 limited permission to a period of 5 years. Condition no. 3 required the mast be made available to third party operators. Condition no. 6 required that transmitter power output, antennae type and mounting configuration be in accordance with the details submitted with the application and should not be altered without a grant of permission. Condition no. 7 required that no material change of use of the mast be made without a prior grant of permission.

5.0 Policy Context

5.1. National Guidelines

- 5.1.1. The Department of Environment's *Guidelines for Planning Authorities on Telecommunications, Antenna and Support Structures (1996)* aim to provide a modern mobile telephone system as part of national development infrastructure, whilst minimising environmental impact. Amongst other things, the Guidelines advocate sharing of installations to reduce visual impact on the landscape.
- 5.1.2. Circular Letter PL 07/12 revisits aspects of the above Guidelines. Having regard to the longevity of mobile telephony, the Guidelines state that attaching conditions limiting the life of a permission for telecommunication masts and antennae to a temporary period should cease (section 2.2).
- 5.1.3. The Planning and Development Regulations (2001) provides that certain development by statutory undertakers¹, comprises exempted development. This includes in Part 1, Schedule 2, Class 31(h), the attachment of additional antennae to an existing antennae support structure, subject to a number of restrictions including:
- The total number of antennae not exceeding 12 (with no more than 8 dish type),

¹ Statutory undertakers are defined in section 2 of the Planning and Development Act 2000 (as amended) and comprise a person authorised under an enactment or instrument to provide or carry out works for the provision of telecommunication services.

- The dimensions of any such antenna not exceeding the size of any antenna for mobile telephony of corresponding type already attached to the structure, and
- In any other case, dimensions not exceeding 1.5mx0.4mx0.15m (panel type antenna); 5m x0.1m (co-linear type antenna); or 1.8m diameter (dish type antenna).

5.2. Development Plan

5.2.1. The Fingal County Development Plan 2017-2023 recognises the essential need for high quality communications and information technology networks in assuring the county's economy and its role in supporting regional and national development. Having regard to government guidelines it sets out the following policies in respect of telecommunications:

- IT05 - Provide the necessary telecommunications infrastructure throughout the County in accordance with the requirements of *Telecommunications Antennae and Support Structures Guidelines for Planning Authorities, July 1996* except where they conflict with Circular Letter PL07/12, which shall take precedence, and any subsequent revisions or additional guidelines in this area.
- IT07 - Require best practice in siting and design in relation to the erection of communication antennae.
- IT08 - 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

5.2.2. Development management objectives for telecommunications include the following:

- DSM 143 - Require the co-location of antennae on existing support structures and where this is not feasible require documentary evidence as to the non-availability of this option in proposals for new structures.
- DMS 144 – Encourage the location of telecommunications based services at appropriate locations within the County subject to environmental and landscape/visual considerations.

- DMS 145 – Requires certain information at application stage for telecommunications structures, including compliance with government policy, location and context within the telecommunications network, information on sharing.

5.2.3. The appeal site is zoned RU, the objective of which is to ‘*Protect and promote in a balanced way, the development of agriculture and rural-related enterprise, biodiversity, the rural landscape, and the built and cultural heritage*’.

5.3. Natural Heritage Designations

5.3.1. The nearest Natura 2000 sites lie c. 670m to the south of the appeal site and comprise Rogerstown Estuary SAC (site code 000208) and Rogerstown Estuary SPA (site code 004015).

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The appellant objects to condition no. 2 of the permission. Grounds are as follows:

- The appellant provides co-location space for radio antennae for mobile network operators, fixed line operators (e. eir, BT), wireless internet services providers and emergency service provider Tetra.
- An average radio customer requires a minimum of 4 antenna (3 panel or co-linear and 1 dish antenna). There are two existing customers on the mast (one using omni’s and the other using 3 no. antenna). Condition no. 2 would limit the use of this mast to just 4 additional antenna, which would prevent use of the mast for co-location.
- Class 31 allows an additional 12 antennae to be added to an existing support structure. The class of exemption was granted to facilitate core national infrastructure development and facilitate shared utilization of structures. Condition no. 2 of the permission would seek to limit the utilisation of this monopole to less additional antennae than are allowed under the Class 31 exemptions

- The 1.5m size restriction is outdated. With the growth in data requirements, much larger antennae are required by networks, i.e. 2.7m x 0.4m x 0.15m (see page 2 of submission).

6.1.2. The appellant requests the removal of condition no. 2 and argues that it is against the principles intended by the Department of Environment 2001 Planning and Development Regulations. It is stated that the monopole is built to house 5 customers and a minimum of 20 antennae for co-location and should not be artificially restricted. At a minimum the exempted additional antennae (12) should be allowed and the restriction in length should be lifted to allow the larger antennae now required.

6.2. Planning Authority Response

6.2.1. The planning authority respond to the appeal as follows:

- Availability of exempted development provisions to applicant – The applicant cannot currently avail of the exemptions provided under Class 31 having regard to condition nos. 6 and 7 of PA ref. F12A/0263, which limit future alterations to the monopole, and the provisions of Section 9(1) of the Planning and Development Act, 2000 (as amended) which provides that development to which Article 6 relates shall not be exempted if the carryout out of such a development would contravene a condition attached to a permission under the Act.
- Condition no. 2 – Was attached in order to allow the applicant a degree of flexibility, specifically the ability to attach up to 12 no. antennae to the structure (inclusive of the existing antennae currently attached to the monopole) and to address ambiguity created by the appellant's reference to '*potential future and existing operator antennae*' on the drawings submitted. The condition mirrors the exemption provided under Class 31(h) and allows the applicant to avail of the exemption which is currently not available, due to condition nos. 6 and 7 of PA ref. F12A/0263.

6.3. Observations and Further Responses

None.

7.0 Assessment

7.1. Having regard to the government and development plan policy in respect of telecommunications, the planning history of the site, the nature of the proposed development and my inspection of the site, I consider that it is not necessary to consider the application as if it had been made to the Board in the first instance. I, therefore, confine my assessment to Condition no. 2 of the planning authority's grant of permission.

7.2. Condition No. 2

7.2.1. Condition no. 2 of the permission (a) provides that a maximum of 12 no. antenna (of which no more than 8 no. shall be dish type) shall be attached to the monopole structure, and (b) limits the size of such antennas.

7.2.2. Class 31(h) of the Planning and Development Regulations 2001 (as amended) provides for the exemption of '*the attachment of additional antennae to an existing antenna support structure*' subject to certain provisions set out in column 2. These include limiting the total number of such antenna to 12 and the dimensions of such antenna to the size of existing antenna already attached to the structure or to specific dimensions.

7.2.3. Under PA ref. F12A/0263, permission for the continuation of the subject telecommunications monopole was granted, by the planning authority, subject to condition (no. 6) that the transmitter power output, antennae type and mounting configuration be in accordance with the details submitted with the application and should not be altered without a grant of permission. In view of the exclusions provided under section 9(1) of the Planning and Development Regulations 2001 (as amended), I would accept that the permission granted precludes the applicant of availing of the exempted development provisions under Class 31(h) of the Regulations.

7.2.4. Under the current application, permission has been sought for the retention of the existing emergency services radio aerials, existing antennas and potential future operator antennas. The elevations submitted with the planning application illustrate the existing emergency services aerials and existing antenna observed on the top of

the monopole. However, it is difficult to discern what existing antennas are in place and what are proposed just above the mid-point of the mast (compare Drawing no. TDU6017-PL01 Rev A and photographs).

- 7.2.5. I would accept, therefore, that there is a lack of clarity regarding future (and existing) provision on the mast. Further, the open-ended nature of the permission sought specifically conflicts with the requirements of condition no. 6 of PA ref. F12A/0263.
- 7.2.6. I would therefore concur with the planning authority's approach to the which seeks to construct the permission to comply with condition no. 6 of the previous permission and, recognising the intention of the exempted development provisions, give the applicant some flexibility in the use of the monopole for additional antenna.
- 7.2.7. The appellant argues that the exempted development provisions facilitate an additional 12 antenna to an existing support structure and I would accept this point i.e. Class 31(h) specifically refers to the '*attachment of additional antennae to an existing antenna support structure*'. Further, in creating such a class of exempted development, the Minister has considered that development '*would not offend against principles of proper planning and sustainable development*' (section 4(2) Planning and Development Act, 2000 (as amended)).
- 7.2.8. The existing monopole is an established structure, situated on a site which is generally well screened from the public road network, with only glimpsed views of the larger structure. Within this context, and having regard to government policy on sharing of telecommunications infrastructure, I consider that an additional 12 antenna would be acceptable on the monopole (subject to clarification of the existing antenna on the mast, at the time of application).
- 7.2.9. Whilst I would accept the appellant's argument that the size restriction stated in condition no. 2 of the permission may be outdated, this restriction is based on the size of antenna set out in the exempted development provisions and is not, therefore, unreasonable.

7.3. **Appropriate Assessment**

- 7.3.1. Having regard to nature of the proposed development and its distance from the nearest European site, 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 Reasons and Considerations

Having regard to the planning history of the appeal site, condition no. 6 of the permission granted under PA ref. F12A/0263, and to article 9(1) of the Planning and Development Regulations 2001 (as amended) which restricts the application of the exempted development provisions where the carrying out of such development would contravene a condition attached to a permission under the Planning and Development Act 2000 (as amended) and the lack of clarity regarding the extent of the development, it is considered that the planning authority's condition no. 2 is reasonable (as amended), consistent with the provisions of the Planning and Development Act, 2000 (as amended) and Planning and Development Regulations, 2001 (as amended) and in the interest of the proper planning and sustainable development of the area.

9.0 Conditions

2. A maximum of an additional 12 no. antenna (of which no more than 8 no. shall be dish type) shall be attached to the monopole structure hereby permitted retention permission. No dish shall have a diameter greater than 1.8m. In the case of any panel type antenna, the dimensions shall not exceed 1.5m in length x 0.4m in width x 0.15m in depth or in the case of any co-linear type antenna, dimensions shall not exceed 5m in length and 0.1m in diameter.

Within 3 months of the date of this order the applicant shall submit revised elevations to the planning authority for written agreement, indicating the no. of antenna on the monopole at the time the planning application was lodged to the planning authority.

Reason: To define the extent of the development hereby permitted and in the interest of visual amenity and the proper planning and sustainable development of the area.

Deirdre MacGabhann
Planning Inspector

24th April 2018