



An  
Bord  
Pleanála

## Inspector's Report ABP-303444-19

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<b>Development</b>	Continued use for a period of 3 years of the 30m high, free standing lattice communications structure carrying associated communication equipment to be shared with 3 <sup>rd</sup> party operators.
<b>Location</b>	Clonburriss SDZ, Balgaddy 38kV Substation, Tullyhall Rise, Lucan, Co. Dublin
<b>Planning Authority</b>	South Dublin County Council
<b>Planning Authority Reg. Ref.</b>	SD18A/0378
<b>Applicant(s)</b>	ESB Telecoms Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant subject to conditions
<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>	02/04/2019
<b>Inspector</b>	A. Considine

## 1.0 Site Location and Description

- 1.1. The site is located at the ESBs Balgaddy 38kV Substation site at Kishoge in Lucan, Co. Dublin. The surrounding area immediately adjacent to the substation is undeveloped and comprises an open landscape while access to the subject site is restricted with the presence of a high gate adjacent to the houses at Tullyhall Rise. The mast itself lies approximately 100m to the east of these houses.
- 1.2. The wider area to the north and west comprise extensive residential development while the Adamstown Link Road runs from the south of the site towards the north east. The Railway Line also lies to the south of the site. The site lies within the wider Strategic Development Zone lands.
- 1.3. The compound is fenced and contains communications infrastructure as well as electrical infrastructure. The site is landscaped along the boundaries. The existing structure on the site comprises a 30m high structure which supports a number of communication dishes and antennae.

## 2.0 Proposed Development

- 2.1. Permission is sought for the Continued use for a period of 3 years of the 30m high, free standing lattice communications structure carrying associated communication equipment to be shared with 3<sup>rd</sup> party operators, all at the Clonburris SDZ, Balgaddy 38kV Substation, Tullyhall Rise, Lucan, Co. Dublin.

## 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 2 which states as follows:

#### 2. Duration of Permission

This permission is for a period of 2 years from the date of this grant of planning permission. The telecommunications structure and related ancillary structures shall then be removed unless, prior to the end of the period,

planning permission shall have been granted for their retention for a further period by the Planning Authority or by An Bord Pleanala on appeal.

Reason: To enable the impact of the development to be reassessed, having regard to the development of the Clonburriss SDZ lands, the advances in technology and design of radio equipment and antennae, changes in the design of support structures, more stringent or other standards.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The planning Report formed the basis for the Planning Authority decision to grant permission. The report noted the planning history associated with the site, as well as the location of the site within the Clonburriss SDZ. The condition limiting the permission to 2 years arises from the Forward Planning Section Report which states that the site is located within the Kishoge North West Development Area 7 and within the Planning Scheme made in June 2018 (the subject of an appeal ABP-301962-18 refers).

The report did not include screening for Appropriate Assessment.

#### 3.2.2. Other Technical Reports

**Roads Section:** No objection.

**Environmental Health:** No objections subject to the inclusion of condition.

**Water Services:** No objection.

### 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

### Site:

**ABP ref PL06S.129728 (PA Ref S01A/0615)** – Permission granted on appeal for the erection of a 30 m high structure etc and for additional antennae and dishes.

**ABP ref PL06S.227246 (PA Ref SD07A/0798)** – Permission granted for the retention of the 30m high structure for a period of 5 years.

**PA ref SD13A/0125** – Permission granted for the continued use of the 30m high structure for a period of 5 years.

### Wider area:

**ABP ref ABP-301962-18:** Decision pending for the Balgaddy – Clonburriss Strategic Development Zone Planning Scheme.

## 5.0 Policy Context

### 5.1. National Policy:

- Telecommunications Antenna and Support Structures – Guidelines for Planning Authorities 1996.
- DoEHLG Circular Letter PL07/12

### 5.2. Development Plan

5.2.1. The South Dublin County Development Plan 2016-2022 is the relevant policy document pertaining to this appeal. The subject site is located within the Clonburriss SDZ lands and is zoned as such. The zoning objective for the SDZ is 'to provide for Strategic Development in accordance with Approved Planning Schemes'. There is a road proposal identified to the south of the subject site.

5.2.2. Other relevant sections of the Plan include:

- Section 7.4 of the plan deals with Information & Communications Technology Infrastructure. Infrastructural & Environmental Quality (IE) Policy 4 information and Communications Technology (ICT) states that

'It is the policy of the Council to promote and facilitate the sustainable

development of a high quality ICT network throughout the County in order to achieve balanced social and economic development, whilst protecting the amenities of urban and rural areas.’

- This section includes a number of objectives.
- Chapter 11 of the Plan deals with Implementation where Section 11.6.2 deals with Information and Communications Technology.

### **5.3. Natural Heritage Designations**

The site is not located within any designated site. The closest European Site is the Rye Water Valley/Cartron SAC, (Site Code 001398) located approximately 5km to the north west. In addition, the South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) is approximately 13km east and the Glenasmole Valley SAC (Site Code 001209) approximately 13km to the south.

### **5.4. Environmental Impact Assessment**

Having regard to the nature of the subject site, together with the limited scale of the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

This is a first party appeal against the decision of South Dublin County Council to include condition 2 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 notes the content of Circular Letter PL07/12 issued by the Department which advises planning authorities to cease attaching conditions which limit their life to a set temporary period.

The submission notes that the only reason for limiting the permission to 2 years relates to the progression of the Clonburris SDZ. In submitting the application for 3 years, ESBT acknowledged the need to seek an alternative site in the area. Significant changes are being made to the electricity network in the area with the implementation of the permission granted under VA0019. The 3 years sought for the continued use is considered a realistic amount of time needed to allow new distribution substations to be constructed in the area and for the relocation of the telecoms compound. Works on the distribution substation have not yet commenced. It is requested that condition 2 be amended to allow for the 3 years requested.

## 6.2. **Planning Authority Response**

The Planning Authority submitted a response advising that issues raised in the appeal have been covered in the planners report.

## 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 2 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.

7.1.1. Condition 2 of the PAs decision states as follows:

### 2. Duration of Permission

This permission is for a period of 2 years from the date of this grant of planning permission. The telecommunications structure and related ancillary structures shall then be removed unless, prior to the end of the period, planning permission shall have been granted for their retention for a further period by the Planning Authority or by An Bord Pleanala on appeal.

Reason: To enable the impact of the development to be reassessed, having regard to the development of the Clonburris SDZ lands, the advances in technology and design of radio equipment and antennae, changes in the design of support structures, more stringent or other standards.

7.2. Essentially, condition 2 of the Planning Authority's grant of permission was included following consultation with the Forward Planning Section of South Dublin County Council in terms of the Clonburris SDZ Planning Scheme. The location of the existing substation and telecoms mast are identified within the scheme area – currently under consideration by the Board – as a local park and square. Included in the scheme, is a phasing programme which ensures the coordinated and incremental development of the lands. The Planning Report submits that it is considered appropriate to condition a time limit of the continued use of the mast to ensure that there is opportunity to reassess the impact of the continued use on the implementation of the SDZ Planning Scheme in two years time.

7.3. In terms of the first party appeal, the Board will note the requirements of Circular Letter PL07/12, Telecommunications Antennae and Support Structures Guidelines, and in particular, section 2.2 of the Circular which deals with Temporary Permissions. The Circular advises that

‘attaching a condition to a permission for telecommunication masts and antennae which limit their life to a set temporary period should cease. Where a renewal of a previously temporary permission is being considered, the planning authority should determine the application on its merits with no time limit being attached to the permission.’

7.4. The Circular further notes that only in exceptional circumstances should a permission issue with conditions limiting their life. In terms of the subject appeal, the Board will note that ESBT have acknowledged that the existing mast, as well as the ESB substation within the wider compound, will have to be relocated as part of the wider development of the lands through the implementation of the Clonburris SDZ. I have considered their submission and consider that the logic is both reasonable and acceptable and that given the nature and scale of the works required to implement the changes to the electricity network in the area, the 3 years continuance sought is acceptable and appropriate.

7.5. In this regard, I do not consider it reasonable to include a condition which reduces the continuance period of three years sought in the planning application. The inclusion of condition 2 runs contrary to the spirit of 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 2, of the grant of planning permission.

## 9.0 Reasons and Considerations

Having regard to the planning permission sought, being for a period of continuance of use for three years, Guidelines for Planning Authorities 1996: Telecommunications Antennae and Support Structures, Circular Letter PL07/12, together with the planning history of the site, the ongoing works to the electricity network in the area and pending the determination of the Board on the current appeal, ABP-301962-18 - the Balgaddy – Clonburriss Strategic Development Zone Planning Scheme, 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 continuance of use would, therefore, be in accordance with the proper planning and sustainable development of the area.

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A. Considine  
Planning Inspector  
16<sup>th</sup> April, 2019