



An
Bord
Pleanála

Inspector's Report

ABP-304418-19

Development	Retention of existing telecommunications installation and permission for additional equipment.
Location	Eir Exchange, Gorticmeelra Townland, Donamon, Co. Roscommon.
Planning Authority	Roscommon County Council
Planning Authority Reg. Ref.	1981
Applicant(s)	Eircom.
Type of Application	Permission.
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Michael & Claire Hussey Thomas Muldoon
Observer(s)	None.
Date of Site Inspection	12 th August 2019
Inspector	Sarah Lynch

1.0 Site Location and Description

- 1.1. The application site is located in the townland of Gorticmeelra, Dunamon, Co. Roscommon. The site fronts directly onto the East side of local road (L-1629), approximately 250m south of its junction with the N60, 1km south of Oran, and 4km north of Dunamon. The rectangular shaped site has c.12m frontage to the L-1629 local road and a depth of c. 20m. The topography of the site is flat and grassed.
- 1.2. The site is currently developed with an Exchange facility located centrally on the site, a single storey block building which contains a slim 13m high Vodafone wooden pole directly to the rear and a c. 15 metre steel pole and antenna to the north of this building.
- 1.3. There is also a c. 8m high electricity pole on the site. The site is fenced, with a gate located in the middle of the road frontage. An approx. 3m grassed verge separates the sites western boundary fence from the L-1629 local road. To the south of the site there is an established farm complex. The lands directly abutting the site appeared to contain wrapped hay bales. A dwelling house is located to the south of this farm complex. There is a mature dense treeline and hedgerow along this boundary and the site appears to be well screened from this farm and residential property. The remainder of the site is surrounded by fields.
- 1.4. The primary and predominant land use in the surrounding area is agricultural and characterised with what appear as low-density single farm homesteads.

2.0 Proposed Development

- 2.1. It is proposed to retain the existing development on site and seek permission for additional development as follows:

Retention:

- 15 metre telecommunications support structure and antennas.
- Associated equipment and fencing.

Permission:

- Additional antennas, dishes

- Cable ladder supported by two gantry poles.

3.0 **Planning Authority Decision**

3.1. **Decision**

Roscommon County Council determined to **Grant** permission for the proposed development.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

- The planners report reflects the decision of the planning authority.

3.2.2. Other Technical Reports

- None

3.3. **Prescribed Bodies**

- Irish Aviation Authority – no observations.

3.4. **Third Party Observations**

A number of submissions were received by the Local Authority from residents in the locality. The issues raised within the submissions are set out within the grounds of appeal.

4.0 **Planning History**

On site:

- ABP PL.20.230660 Permission was **Granted** to construct a 25-metre support pole to carry 3.no radio aerials and all associated equipment.

Recent similar development within the County:

- ABP 302557 Permission was **Granted** for a telecommunications support structure in Kilmore Co. Roscommon.

5.0 Policy Context

5.1. Development Plan

Roscommon County Development Plan 2014-2020

The appeal site is located in a rural area.

- Chapter 3 - promotes the delivery of key infrastructure and high-speed telecommunications to drive economic growth.
- Section 4.7 - Telecommunications.
- Section 4.7.2 - Mobile Phone Network Development
- Section 9.33 - Telecommunications
- Table 1 – Carparking Standards

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

5.2.1. 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 rural areas towers and masts can be placed in forestry plantations provided of course that the antennae are clear of obstructions (Section 4.3).
- Only as a last resort should free-standing masts be located within or in the immediate surrounds of smaller towns or villages. If such location should become necessary, sites already developed for utilities should be considered and masts and antennae should be designed and adapted for the specific location (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).

5.3. **Circular Letter PL07/12**

5.3.1. 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. Section 2.4 advises that the lodgement of a bond or cash deposit is no longer appropriate and instead advises that a condition be included stating that when the structure is no longer required it should be demolished, removed and the site re-instated at the operators' expense.

5.4. **Natural Heritage Designations**

- River Suck Callows SPA is located c. 7 km south east of the site.
- Corliskea /Trien/Cloonfelliv Bog SAC and Kilsallagh Bog SAC are located c. 10km north west of site.
- Ballintuly Turlough SAC is located c. 10km south east of the site.
- Lisnageeragh Bog and Ballinastack Turlough SAC is located c. 12km south west of the site.
- Lough Lurgeen Bog/Glenamaddy Turlough SAC is located c. 14.2km south west of the site.

5.5. **EIA Screening**

5.6. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, 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

Two no. third party appeals have been submitted; Michael & Claire Hussey who live directly west of the site and Thomas Muldoon on behalf of the Oran/Donamon Mast Group of Emlaghmore, Roscommon.

The issues raised within both of the grounds of appeal can be summarised as follows:

- Hussey family have been resident in the vicinity of the appeal site for generations.
- Children play hurling under the mast.
- There is a material difference between the use of the mast for emergency services and commercial.
- Drawings are inaccurate.
- No site notice was erected.
- Site notice is therefore flawed and did not adequately inform the public.
- Planning Authority Decision was made earlier than normal.
- Notification of decision to grant was not received by the appellant for 13 days.
- Sufficient notice wasn't given to the appellant to make his representations.
- The proximity of the proposed development to the appellants farm and home was not addressed.
- Mast and associated infrastructure were permitted on the basis that the use was only for emergency services and the roll out of the National Digital Radio Services.
- To permit a commercial service from the site would be contrary to the justification of the previous appeal.
- Development Plan states such masts shall not be located within 100metres of a dwelling.
- The proposal contravenes Sections 4.60, 4.61 & 9.33 of the development plan.

- National Guidance refers to the negative impact of overly prescriptive policies within development plans such as 1km radius.
- Appellants house is within 53 metres of the appeals site and his farm directly abuts the site.
- The 100-metre rule should apply given that the development is not for retention of the current use but an intensification of the use.
- Guidelines state that co-location for emergency services is not suitable.
- No suitable pull in area at site. Maintenance and repair cars are partially parked on the road which creates a traffic hazard.
- Intensification of this site will exacerbate the traffic hazard at this location.
- Suitable sight distances can not be achieved at this site.
- There is a stream to the rear of the site which links to the River Suck Callows SPA, no screening was carried out.
- Planner recommended that a further application was required for additional antennas etc but this requirement was removed.
- No justification was submitted in support of this change.

6.2. Applicant Response

Towercom on behalf of Eircom have submitted a response to the grounds of appeal. The issues raised can be summarised as follows:

- The existing telecommunications mast will continue to be utilised for emergency services and will be made available to improve telecommunication and broadband services in the region.
- Co-location of antennas is in accordance with the Development Plan policy.
- There is significant natural screening which mitigates the visual impact of the development.
- The height of the mast will be retained at 15 metres.

- Revised letter of consent has been submitted from Eir confirming consent for additional antennas.
- Previous decisions by the Board has permitted co-location of telecommunications masts.
- The existing and future telecommunications is and will be fully compliant with the ComReg Guidelines in relation to non-ionising radiation.
- Revised drawing submitted which provides one parking space for maintenance workers at front of site.
- Given the dispersal of residential development in rural Ireland any location will be close to a dwelling.
- Impact on property value is subjective and cannot be taken into account (excerpt from an Inspectors report for a similar development).

6.3. **Planning Authority Response**

- See planners report, Roscommon County Council do not wish to raise any further issues.

6.4. **Further Responses**

Michael & Claire Hussey have responded to the applicants' response to the appeal as follows:

- The Board is requested to consider the Section 5 declaration which was submitted for the appeal site.
- The previous application determined by the Board precluded commercial use at this site.
- The site was specifically permitted only for emergency services use.
- The 100-metre rule would have been applicable if it was a commercial venture.
- Emergency Services use is a sui generis use.
- The proposed use is technically and functionally different to the parent permission.

- No assessment of alternative locations for co-location have been investigated.
- The proposed car space does not comply with road safety standards and is contrary to Section 9.5.1 of the Roscommon Development Plan. This access will create a traffic hazard at this location.
- The number of visits to the site at present are 4-5 a week, this will increase with the additional service.

7.0 Assessment

7.1. The appeal site is located in a rural area outside of any development boundary and is not subject to any zoning objectives or within a protected landscape area. It is important to note at the outset that the applicants have, in their response to the grounds of appeal, submitted a revised layout plan in relation to the provision of a parking space to the front of the site. This will be considered within the following assessment. In addition, I note that the issues raised within the appeal submitted by Thomas Muldoon are significantly similar to those raised by Michael and Claire Hussey and for this reason I consider it appropriate to address the issues raised by them. The issues for consideration before the Board can therefore be summarised as follows:

- Compliance with National Guidance and the Roscommon Development Plan in relation to siting and co-location.
- Impact on Residential Amenity.
- Devaluation of property.
- Access.
- Appropriate Assessment.
- Other Matters.

Compliance with National Guidance and the Roscommon Development Plan.

7.2. It is contended by the appellants that the proposed development is not merely the retention of the existing development but includes the introduction of a materially

different use and form of development by virtue of the proposed additional antennas, dishes and associated equipment required for the co-location of different users. It is stated that the use of the mast for emergency services is materially different to the use of the mast for commercial operators and as such Section 9.33 of the Roscommon County Development Plan 2014-2020 must be applied to the assessment of the proposal. This Section of the plan states that a minimum of 100 meters shall be provided between mobile communication masts/antennae and residential areas/schools/hospitals. This requirement does not apply in the case of planning applications relating to sites where planning permission for such development has previously been granted. It is argued by the appellants that, as this application is for additional development and not solely a retention application, this separation distance is applicable.

- 7.3. Whilst I note that the proposed development relates to both retention and permission, it is important to note in this regard, that Section 2.3 of the Circular letter PL07/12 states planning authorities should not include such separation distances as they can inadvertently have a major impact on the roll out of a viable and effective telecommunications network. It is of further note that Roscommon County Council, as evidenced by planning reference 18/317 granted permission for a telecommunications mast and associated antenna and dishes at a location directly adjacent to a number of residential dwellings, has determined to implement the key tenets of this circular letter in not implementing the development plan separation distance in this instance. This permission was appealed and subsequently granted by the Board under ABP ref 302557.
- 7.4. It is also important to note that at the time of the previous application on the appeal site ABP ref: 230660, the site contained an Eircom exchange building and a Vodafone pole. The presence of such utilities and associated infrastructure within the site was considered relevant to the appropriateness of the site for such development by the inspector at that time. The presence of these structures and the ability to co-locate this type of infrastructure was considered to be a positive factor in the assessment of the development.

7.5. However, The appellant contends within the grounds of appeal that the previous appeal (Ref:230660) on this site specifically limited the use of the telecoms infrastructure to the emergency services, this is not the case. Conditions imposed by the Board on this previous grant of permission include the following:

- The transmitter power output, antennae and mounting configuration shall be in accordance with the details submitted with this application, as amended by the conditions attached to this order, 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 National Digital Radio Service network.

- No material change of use of the mast shall be made without a prior grant of planning permission.

Reason: To safeguard the amenities of the area.

7.6. The above conditions do not restrict the use of the site in perpetuity but rather require that a planning application is made for any additional development. The applicant is therefore entitled to make a further planning application to facilitate further development at this site.

7.7. Of relevance to the assessment of this appeal, is the importance of ICT infrastructure for businesses to operate effectively, this is acknowledged within the National Planning Framework, in which the delivery of improved connectivity and broadband is identified as a National Strategic Outcome critical to strengthen the rural economy and communities. These sentiments are also recognised and supported by Roscommon County Council and it is the policy of the Council to support enhanced coverage and further co-ordinated and focused development and extension of telecommunications infrastructure including broadband connectivity within Roscommon as a means of improving economic competitiveness and enabling more flexible work practices.

7.8. In order to achieve the National Strategic Outcomes of the NPF and ensure the economic viability of rural areas a degree of flexibility is required in relation to the

location of telecommunications infrastructure. As aforementioned the proposed site has been established for this use for a considerable period of time, Vodafone have utilised this site for transmission in the past and Eircom have an established interchange facility within the site. National Guidance and local policy both support the notion of co-location in order to reduce a proliferation of masts and associated infrastructure. Given the established nature of the site and the limited additional development proposed and, having regard to national guidance and recent decisions by both the Board and Roscommon County Council, I consider the principle of locating the existing and proposed development proximate to the existing residential dwelling to the west to be acceptable in this instance.

Residential Amenity

- 7.9. It is contended by the applicants that their children play hurling under the mast and the presence of this mast has a negative impact on their residential amenity and enjoyment of their home. I noted at the time of inspection that the existing dwelling is located to the west of the site and there are a number of farm buildings between the appeal site and the existing dwelling. I also noted a large number of wrapped bales within the farm yard directly adjacent to the boundary with the site. This element of Michael and Claire Hussey's landholding appeared to be in use as an active farm yard and not a garden area associated with their dwelling. A dense treeline and hedgerow form the boundary with the appeal site and this landholding and whilst there is a minimal separation distance between the mast and this boundary, only the upper portion of the mast is visible from the farm yard.
- 7.10. It is important to note at this juncture, that health issues are not a planning consideration in relation to telecommunications structures, such structures are required to meet standards in regard to non-ionising radiation. Given the nature of the use and in the absence of any loss of privacy, noise disturbance or other such impacts, I consider that both the existing and proposed development would not have any adverse impacts on the residential amenity of the residential dwelling located directly to the west, or any other dwelling in the vicinity of the site. As such I consider the proposal to be acceptable in this regard.

Devaluation of property.

- 7.11. It is contended by Michael and Claire Hussey that the proposed development will devalue their property. They have submitted a report from a local auctioneer which states that the presence of the telecommunications mast has seriously affected the resale value of their property and any additional development permitted with further affect the market value and saleability of their home. Furthermore, the auctioneer states that the presence of the mast has negatively impacted on an additional property owned by the applicants on the opposite side of the road. It is stated that they cannot retain tenants for this dwelling due to the mast.
- 7.12. Whilst I acknowledge the concerns raised, it is important to note that the appellants have been aware of the presence of telecoms infrastructure at this site since the 1960's, as stated within their letter of appeal. Thus, given the longevity of the established use and having regard to recent decisions by both the Board and Roscommon County Council for such development proximate to residential uses, I do not consider that the additional development would have such a significant impact as to warrant a refusal. Furthermore, to refuse the proposed and existing development on this basis would seriously hamper the delivery of telecommunications and broadband infrastructure within both urban and rural locations across the country.

Traffic

- 7.13. It is contended by Michael and Claire Hussey within the grounds of appeal that the access to the site and lack of adequate parking is unacceptable and would create a traffic hazard. I noted at the time of site inspection that there is an existing pull in area to the front of the site, and there is adequate space available within the site to accommodate an enlarged parking area for maintenance workers. The adjacent local road has a speed limit of 80km and is delineated by a single white line. It is important to note at this juncture, that development has been established at this site for a considerable period of time in excess of 30 years and there are no parking requirements for such developments within the Roscommon County Development Plan 2014-2020.
- 7.14. However, in response to the above concerns Towercom Limited have submitted a revised layout plan which provides a parking space to the front of the site at the road edge. The proposed parking area is c. 2.9 metres in width and has sufficient length

to accommodate 2 cars. Whilst I consider the provision of a pull in area at this location to be acceptable given the longevity of the existing established development, it is also important to note that there is no requirement for parking spaces to be located at such structures. Section 4.5 of the 'Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities, 1996', acknowledges that it is unlikely that entrance and exit from these sites will give rise to traffic hazards as maintenance visits should not be more than quarterly. It is acknowledged, however that during the construction period, depending on the location of the site, special precautions may have to be taken in relation to traffic. Thus, if the Board is of a mind to grant permission I recommend that a condition is imposed which requires the developer to agree measures to ensure that construction traffic is managed appropriately so as not to create a traffic hazard on the adjacent public road.

7.15. Appropriate Assessment

7.16. It is contended by the Michael and Claire Hussey that the appeal site is adjacent to a stream that connects to the River Suck Callows SPA. I noted field drainage at the time of inspection. However, having regard to the minor nature of the development, and the separation distance to any 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.

Other Matters

7.17. It is stated within the grounds of appeal that the site notice was not erected and there was no reference to a change of use at the site. It is contended by the appellants that the public was misled in relation to the nature and extent of the proposed development. I note that the site notice describes the development for retention and specifies additional telecommunications antennas, dishes and associated equipment.

7.18. Whilst I acknowledge the appellants concerns in relation to the above, issues such as the location of a site notice etc are not matters that the Board can adjudicate on, furthermore I consider that the description of development within the site notice adequately describes the proposed development.

- 7.19. Further concerns were raised by Michael and Claire Hussey in relation to the decision date of the planning application. It is contended that the decision was issued too early. I note that Roscommon County Council determined the proposed development on the 12th of April 2019 which is approximately 7 weeks after the receipt of the application. The relevant 5-week submission date had expired at this time and the decision was made within the appropriate period.
- 7.20. Additional concerns have been raised in relation to the authorised status of the development and the expiration of the temporary permission pertaining to it. The status of the development and any enforcement proceedings relating to it are not a matter that the Board can adjudicate on.
- 7.21. Thomas Muldoon, within his grounds of appeal specifically raised concerns in relation to the letter of consent provided by Eircom, it was stated that this letter merely referred to the retention permission and not to the new elements of the development. A revised letter of consent has been submitted with the appeal which outlines consent for all aspects of the proposal. I consider this letter to be adequate.

Conclusion

- 7.22. Overall having regard to the foregoing assessment, I consider the retention of the telecommunications mast and proposed new telecommunications infrastructure to be acceptable and in accordance with the provisions of both the Roscommon County Development Plan 2014-2020 and the Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities, 1996.

8.0 Recommendation

- 8.1. I recommend that permission is granted subject to standard conditions.

9.0 Reasons and Considerations

- 9.1. Having regard to the provisions of the National Planning Framework, the Roscommon Development Plan 2014-2020, the Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities, 1996 and associated Circular Letter PL07/12 and the existing pattern of development in the area, and the nature and scale of the proposed development, it is considered that subject to

compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out, completed and retained in accordance with the plans and particulars lodged with the application and with the appeal, 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 prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Details of the proposed colour scheme for the telecommunications structure and ancillary structures shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of the visual amenities of the area.

3. Prior to the commencement of development, the developer shall agree in writing with the planning authority, a traffic management plan for the construction phase of the proposed development.

Reason: In the interest of traffic safety.

4. Landscaping of the site shall be carried out in accordance with a landscaping scheme, which shall be submitted to and agreed in writing with planning authority prior to commencement of development.

Reason: In the interest of the visual amenities of the area.

5. No advertisement or advertisement structure shall be erected or displayed on the proposed structure or its appendages or within the curtilage of the site without a prior grant of planning permission.

Reason: In the interest of the visual amenities of the area.

6. Surface water drainage arrangements for the proposed development shall comply with the requirements of the planning authority.

Reason: In the interest of public health.

7. The site shall be reinstated upon the removal of the telecommunication structure and ancillary structures. Details of the reinstatement shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of orderly development.

8. 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.

Sarah Lynch
Planning Inspector
19th August 2019