



An  
Bord  
Pleanála

## Inspector's Report ABP-304788-19

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<b>Development</b>	Remove 18m-high timber monopole structure and erect a replacement 20m-high steel monopole structure
<b>Location</b>	ESB Networks, Castle Street, Roscommon, County Roscommon
<b>Planning Authority</b>	Roscommon County Council
<b>Planning Authority Reg. Ref.</b>	PD/19/188
<b>Applicant(s)</b>	ESB Telecoms Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First-Party
<b>Appellant(s)</b>	ESB Telecoms Ltd.
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	30 <sup>th</sup> September 2019
<b>Inspector</b>	Colm McLoughlin

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## **1.0 Site Location and Description**

- 1.1.** The appeal site is located off Castle Street (R366 regional road) on the north side of Roscommon town in County Roscommon. The immediate area is characterised by a mix of residential, commercial, industrial and recreational land uses.
- 1.2.** The site is stated to measure 52sq.m and is situated behind security gates, centrally within a yard used by the ESB. It accommodates an 18.2m-high timber monopole structure with various telecommunications antennae mounted to it and with associated cabinets at its concrete base. This telecommunications compound area is bounded by a 1.8m-high steel palisade fence and a flat-roof shed structure to the east and is open to the south and west. Vehicular access to the service yard is available from the east off Castle Street with store buildings situated on the south side of the yard alongside parking for cars, vans and service vehicles. The service yard is bounded by a mix of 2m-high capped walls and post and wire fencing, frequently supplemented by trees and hedgerows. Ground levels in the surrounding area drop gradually moving eastwards.

## **2.0 Proposed Development**

- 2.1.** The proposed development comprises the following:
  - decommissioning and removal of an 18.2m-high timber monopole structure, including base cabinet equipment and the removal of seven-mounted antennae and three-mounted dishes;
  - erection of a replacement 20m-high steel monopole structure to accommodate seven-mounted antennae, three-mounted dishes and the equipment of an additional (fifth-generation [5G] telecoms) service provider.
- 2.2.** In addition to the standard planning application documentation and drawings, the application was accompanied by a Planning Statement report addressing the nature of the proposed development, the site planning history, the planning policy context and the rationale for the proposed development.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. The Planning Authority issued a notification of a decision to refuse to grant permission for the proposed development, for two reasons referring to the following:

Reason No.1 – materially contravenes the Local Area Plan, as the proposed use is ‘not normally permitted’ in an ‘outer town centre’ zone;

Reason No.2 – proposals would appear to facilitate the consolidation of unauthorised development.

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

#### **3.2.1. Planning Report**

The report of the Planning Officer (May 2019) noted the following:

- the zoning matrix in the Roscommon Town Local Area Plan 2014-2020 lists information and communication technology (ICT) masts as being ‘not permitted in principle’ in the ‘outer town centre’;
- policy SO1 of the Local Area Plan identifies two industrial upland areas to the north and south of the N60 Castlerea Road for ICT masts;
- the existing 18.2m-high timber monopole has a relatively low visual impact and the proposed 20m-high steel monopole would provide for a substantial visual feature in this area;
- there is no record of any permission relating to the telecommunications structure on site.

#### **3.2.2. Other Technical Reports**

- None requested.

### **3.3. Prescribed Bodies**

- The Heritage Council – no response;
- An Taisce – no response;

- Department of Culture, Heritage and the Gaeltacht – no response.

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

3.4.1. During consideration of the planning application by the Planning Authority, one submission objecting to the proposed development was received from two neighbouring residents of Castle Street. The issues raised in the submission can be summarised as follows:

- surprising to hear that the existing mast does not have planning permission;
- concerns regarding vegetation surrounding the mast have not been resolved;
- opposed to a significant increase or intensification in radiation emissions.

## **4.0 Planning History**

### **4.1. Appeal Site**

4.1.1. I am not aware of any planning applications for development on the appeal site.

### **4.2. Surrounding Sites & Similar Applications**

4.2.1. Recent planning applications in the surrounding area primarily relate to housing developments, as well as alterations and extensions to commercial premises. The Board recently adjudicated on the following proposals for telecommunications developments in County Roscommon:

- Ref. ABP-304418-19 / Roscommon County Council (RCC) Ref. PD/19/81 – retention permission granted in August 2019 for a 15m-high telecommunications structure along with a grant of permission for additional associated antennae and other equipment at Gorticmeelra townland, Donamon, approximately 10km to the northwest of the appeal site;
- Ref. ABP-303777-19 / RCC Ref. PD/18/615 – permission was refused in June 2019 for a 24m-high telecommunications mast and associated antennae, dishes and other equipment at Elphin Co-Operative Livestock Mart in Elphin, approximately 24km to the north of the appeal site. The Board decided that

the proposed development would materially contravene the zoning objective for the site, as set out in the Elphin Area Plan, which forms part of the Roscommon County Development Plan 2014-2020.

## **5.0 Policy & Context**

### **5.1. National Guidance**

#### National Planning Framework – Project Ireland 2040

- 5.1.1. The National Planning Framework (NPF) acknowledges that telecommunications networks play a crucial role in enabling social and economic activity and the delivery of improved connectivity and broadband is critical to strengthening the rural economy and communities.

#### Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities (1996)

- 5.1.2. These Guidelines set out the criteria for the assessment of telecommunications structures. Section 3.2 of the Guidelines sets out that an authority should indicate in their Development Plan 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.
- 5.1.3. In the vicinity of larger towns, the Guidelines support operators of telecoms locating their structures and equipment in industrial estates or in industrially-zoned land. The Guidelines also state that substations operated by the ESB may be suitable for the location of antennae support structures and the possibility for same should also be investigated by the Planning Authority. In urban and suburban areas the use of tall buildings or other existing structures is always preferable to the construction of an independent antennae support structure. The sharing of installations and clustering of antennae is encouraged, as co-location would reduce the visual impact on the landscape according to Section 4.5 of the Guidelines.

#### Circular Letter PL07/12

- 5.1.4. Issued in 2012, this Circular Letter revises elements of the 1996 Guidelines. Section 2.3 of the letter sets out that separation distances between telecommunication structures and sensitive sites should not be incorporated into statutory plans. The

Circular Letter clarifies that Planning Authorities do not have competence to assess health and safety matters in respect of telecommunications infrastructure, as these matters are regulated by other codes.

## 5.2. Local Planning Policy

### Roscommon County Development Plan 2014-2020

- 5.2.1. The policies and objectives of the Roscommon County Development Plan 2014-2020 are relevant. Section 4.7 outlines the role of telecommunications investment in furthering the social and economic development of the county. Section 4.7.2 specifically addresses the 'Mobile Phone Network Development'. Section 9.33 of the Plan provides technical requirements for telecommunications developments, including minimum separation distances to housing, schools and hospitals, while outlining that telecommunications infrastructure will not be favoured in town centre areas that are architecturally important.

### Roscommon Town Local Area Plan 2014-2020

- 5.2.2. The Local Area Plan notes that mobile phone coverage, provided by a range of operators, is generally very good in and around Roscommon town. It also states that planning applications for ICT masts will be assessed on a case-by-case basis. Map 17 of the Plan identifies the appeal site as being located in an area with the land-use zoning 'TC3 – Outer Town Centre'. Section 7.8 of the Local Area Plan outlines policy, strategy and objectives for the development of telecommunications in the town.

## 5.3. Natural Heritage Designations

- 5.3.1. The nearest designated sites to the appeal site, including Special Areas of Conservation (SACs) and Special Protection Areas (SPAs), are listed in the table below.

Table 1. Natural Heritage Designations

Site Code	Site Name	Distance (km)	Direction
000440	Lough Ree SAC	4.0km	Southeast
000588	Ballinturly Turlough SAC	5.2km	Southwest

002349	Corbo Bog SAC	6.5km	Northeast
004097	River Suck Callows SPA	6.9km	Southwest
004064	Lough Ree SPA	7.8km	East
000609	Lisduff Turlough SAC	9.2km	South
002200	Aughrim (Aghrane) Bog SAC	12.0km	Southwest
000611	Lough Funshinagh SAC	13.2km	Southeast
001637	Four Roads Turlough SAC	13.4km	South
004140	Four Roads Turlough SPA	13.4km	South
000448	Fortwilliam Turlough SAC	13.7km	East
002199	Ballygar (Aghrane) Bog SAC	14.4km	Southwest
000610	Lough Croan Turlough SAC	14.5km	South
004139	Lough Croan Turlough SPA	14.5km	South

#### **5.4. Environmental Impact Assessment - Preliminary Examination**

- 5.4.1. Having regard to the existing development on site, 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**

- 6.1.1. The issues raised in the first-party appeal can be summarised as follows:

#### Reason No.1 – Zoning Objectives

- all ESB properties have had a long-standing necessity for telecoms structures;



- the site has accommodated telecommunication monopoles for the purposes of enabling the SCADA 'remote safety system' network since the 1980s at the latest;

### Reason No.2 – Existing Development

- the existing monopole was erected in 2005 to replace a previous monopole, in compliance with the terms and conditions of Class 31(j) of Schedule 2 Part 1 of the Planning & Development Regulations 2001 (hereinafter referred to as 'the Regulations');
- photographs stated to show the previous telecommunication monopoles on site in 2002 and 2006 are appended to the grounds of appeal;
- a telecommunication service provider began using the monopole in 2006 and a second provider began using it in 2010. The additional height of the proposed replacement monopole would serve to enhance telecommunication services, including rural broadband;
- there is a necessity for base stations to be located proximate to the larger population centres, particular as technologies advance, such as 5G technology;
- proposals would result in minimal impact to the amenities of neighbouring residents, while meeting strategic planning objectives.

## **6.2. Observations**

6.2.1. None received.

## **6.3. Planning Authority Response**

6.3.1. The Planning Authority did not respond to the grounds of appeal.

## **7.0 Assessment**

### **7.1. Introduction**

7.1.1. I consider the substantive planning issues arising from the grounds of appeal and in the assessment of the application and appeal, relate to the following:

- Siting & Visual Impact;
- Existing Development;
- Zoning Objectives.

### **7.2. Siting & Visual Impact**

7.2.1. The proposed development would primarily comprise the removal of an existing 18.2m-high timber monopole structure and the erection of a replacement 20m-high steel monopole structure. The proposed monopole would be centrally positioned within an ESB service yard, which does not serve as a substation, and would be approximately 4m from the existing monopole. Section 4.3 of the Telecommunications Antennae and Support Structures Guidelines set out that locations proximate to protected structures, archaeological sites and other monuments should be avoided when locating telecommunications structures. An objective to protect the view to the southwest of the site in the direction of Loughnaneane Park is included in Map 18b of the Roscommon Town Local Area Plan 2014-2020. The site is 90m to the northeast of the town centre Architectural Conservation Area (ACA) and the closest protected structures to the site are both located along Castle Street, 70m to the northeast (RPS Ref. 03900639 - limestone kerbing) and 80m to the southeast (RPS Ref. 03900483 – post box). Roscommon Castle, a national monument (Ref. RO039-043001-), is situated 190m to the northwest of the site.

7.2.2. In assessing the proposed development, the Planning Authority stated that the existing timber monopole has a relatively low visual impact. Within the planning application, the applicant asserted that the colour (battleship grey), the positioning to the rear of buildings and screen planting would ensure that the proposed development would not adversely impact on the visual amenities of the area.

7.2.3. Notwithstanding the increased height and additional telecommunications equipment, the scale, height, design and positioning of the proposed monopole and associated equipment would be similar to that of the existing monopole and associated equipment on the appeal site. The low-lying topography and the positioning of the proposed development to the rear of Castle Street and partially screened by planting to neighbouring property boundaries, would result in limited intermittent views of the proposed monopole from neighbouring areas. Furthermore, the proposed monopole would be reasonable separation distances to avoid impacting on the character and setting of the neighbouring features of architectural heritage value. I am satisfied that the scale, height, design and positioning of the proposed monopole would be appropriate, would not seriously injure the amenities of the area and would be in compliance with the advice set out in the Telecommunications Antennae and Support Structures Guidelines and the associated Circular Letter PL07/12, including advice supporting the sharing of installations. Accordingly, I am satisfied that permission should not be withheld for reasons relating to the siting and visual impact of the proposed development.

### **7.3. Existing Development**

7.3.1. The Planning Authority's reason for refusal no.2 of the planning permission was on the basis that the proposals would appear to facilitate the consolidation of an unauthorised development. The Planning Officer's report addresses this by stating that there is no record of any permission relating to the telecommunications structure and as a consequence, the existing monopole and telecommunications equipment are unauthorised. Within the grounds of appeal it is asserted that the first timber monopole for communications purposes was erected in the yard in the 1960s and that the existing timber monopole dates from 2005, when it replaced a previous timber monopole structure. It is also asserted that the erection of the existing timber monopole structure and associated equipment in 2005 was stated to have been undertaken in compliance with the terms and conditions of Class 31(j) of Schedule 2 Part 1 of the Regulations. The Planning Authority assert that exemptions from planning may have covered the erection of the replacement monopole structure, however, the exemptions for the telecommunications infrastructure, as set out in the Regulations, only extend to statutory undertakers responsible for the provision of

telecommunications services and the applicant has not provided proof that they meet this. I am not aware of an enforcement case relating to this matter.

- 7.3.2. Section 2(1) of the Planning & Development Act 2000, as amended (hereinafter ‘the Act’), defines a statutory undertaker as ‘a person, for the time being, authorised by or under any enactment or instrument under an enactment to ... (b) provide, or carry out works for the provision of, gas, electricity or telecommunications services’. The specific persons or bodies coming within the definition of a ‘statutory undertaker’ are not specified in the Act or the Regulations made thereunder. In subsequent sections the Act refers to a ‘statutory undertaker’ without further elaboration. Articles 17(3) and 223(3) of the Regulations refer to a statutory undertaker authorised to provide a telecommunications service of overhead telecommunications lines, while Class 31 of Part 1 of Schedule 2 to the Regulations refer to a statutory undertaker authorised to provide a telecommunications service.
- 7.3.3. The Planning Authority’s reason for concluding that the proposed development would consolidate an unauthorised development, appears to solely relate to the lack of evidence that the attachment of the telecommunications infrastructure to the existing monopole was undertaken by a statutory undertaker authorised to provide a telecommunications service. The applicant company, ESB Telecoms Ltd., is a commercial arm of the ESB, and a review of the basic licences held by the Commission for Communications Regulation (ComReg) reveals that the ESB holds a national telemetry licence, while ESB Networks holds third-party business radio (VHF) licences. The subject site, including the associated telecommunications services, are also registered for the measurement of non-ionising radiation emissions with ComReg. Furthermore, when assessing a section 5 referral on telecommunications matters in 2006 (ABP Ref. PL23.RL2384), the Board’s Inspector concluded that ESB Telecoms was a statutory undertaker authorised to provide a telecommunications service, a conclusion that is reflected in numerous subsequent referral cases. Accordingly, I am satisfied that it would be reasonable to conclude that the ESB is a statutory undertaker authorised to provide a telecommunications service.
- 7.3.4. In conclusion, I am satisfied that the Planning Authority’s reasoning for considering the existing development to be unauthorised would not appear to be justified. Accordingly, it would appear to be unreasonable for the permission to be refused

based on concerns that the proposed development would allow for the consolidation of unauthorised development on the site.

#### **7.4. Zoning Objectives**

- 7.4.1. Reason for refusal no.1 of the Planning Authority's decision refers to the proposed use as being 'not normally permitted' in the subject 'TC3 - Outer Town Centre' zone, therefore, the proposed development would materially contravene the zoning objectives of the Local Area Plan. The grounds of appeal assert that the applicant has had a longstanding presence of communications structures and equipment on the appeal site for communications purposes.
- 7.4.2. The Local Area Plan includes a land use zoning matrix with details of land uses 'permitted in principle', 'open for consideration' and 'not normally permitted', under specific use classes. The appeal site is located in an area with the land-use zoning 'TC3 – Outer Town Centre' and the zoning matrix identifies that ICT masts are 'not normally permitted' in this zone. The Local Area Plan includes a list of objectives for this area, primarily addressing the desire to preserve the existing uses and the character of the area. The Local Area Plan states that a use which is 'not normally permitted' is one that will be considered unacceptable by the Planning Authority except in exceptional circumstances. Such uses would not normally be permitted due to their perceived effect on existing and permitted uses, their incompatibility with the policies and objectives contained in the Plan or the fact that they may be inconsistent with the proper planning and sustainable development of the area.
- 7.4.3. The Local Area Plan also outlines land use zoning objectives with respect to 'established uses' and 'non-conforming uses' in the town. With respect to established uses the Local Area Plan states that these exist in locations where they do not correspond to the designated land use zoning objective for their respective areas. Improvement works to established premises may be permitted where the proposed development would not be injurious to the amenities of the area and where it would be consistent with proper planning and sustainable development. Based on the assessment outlined in Section 7.3 above, I am satisfied that the existing development on site conforms to an established use and I would consider the works, including increased height and additional equipment for the replacement monopole, as outlined in the grounds of appeal, would allow for improvements to the

telecommunications services in the area. I would also note that the Local Area Plan also refers to existing uses that do not conform to the zoning objectives of the Local Area Plan. The Local Area Plan states that these 'non-conforming uses', may include uses that have no permission and may not be the subject of enforcement proceedings. The Plan states that proposals involving an improvement of a premises accommodating non-conforming uses would generally be permitted where the development does not seriously injure the amenities of the area or result in an overconcentration of a development type. The Planning Authority states that the existing development does not have planning permission and, as previously noted, I am not aware of any enforcement action in relation to this. As per the assessment conclusion in section 7.2 above, I am satisfied that the proposed development would not seriously injure the amenities of the area and an overconcentration of telecommunications infrastructure developments is not evident in the immediate area.

- 7.4.4. I am satisfied that the subject use of the site for a replacement ICT mast and associated equipment would be acceptable based on both the provisions set out within the Local Area Plan allowing for improvements to an established use or non-conforming use of a site. In conclusion, the proposed development would not materially contravene land-use zoning objectives for the site and permission should not be refused for this reason.

## **8.0 Appropriate Assessment**

- 8.1. Having regard to the existing development on site, the nature and scale of the proposed development, the nature of the receiving environment and the proximity to 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.

## **9.0 Recommendation**

- 9.1. I recommend permission be granted, subject to conditions, for the reasons and considerations set out below.

## 10.0 Reasons and Considerations

1. Having regard to the provisions of the Roscommon Town Local Area Plan 2014-2020, the 'Telecommunications Antennae and Support Structures Guidelines for Planning Authorities' issued by the Department of the Environment and Local Government in 1996 and the associated Circular Letter PL 07/12, 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, would comply with the land-use zoning objectives for the site as set out in the Roscommon Town Local Area Plan 2014-2020 and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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. The site shall be reinstated upon the removal of the telecommunication structure and ancillary structures/equipment. 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.

4. 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.

5. Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

6. Site development and building works shall be carried out between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

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Colm McLoughlin  
Planning Inspector

2<sup>nd</sup> October 2019