



An
Bord
Pleanála

Inspector's Report ABP-306677-20

Development	Development of a single storey cable landing station, together with associated cabling, plant and ancillary works, enclosed within a palisade fenced compound.
Location	ESB Loughshinny, Featherbed Lane, Loughshinny, Skerries, Co. Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F19A/0169
Applicant(s)	ESB Telecoms Ltd.
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Observers	Noel Jordan & Others Michael O'Neill
Date of Site Inspection	13th May 2020
Inspector	Paul O'Brien

1.0 Site Location and Description

- 1.1. The subject site comprises a site with a stated area of 0.02 hectares located to the north of the Loughshinny to Baldungan road, L1285, also known as Featherbed Lane. The site is approximately 310 m to the west of the junction (Loughshinny Cross) of this local road and the Skerries to Rush Road, R128. Skerries village is approximately 3.5 km to the north and Rush is 3 km to the south east.
- 1.2. The site consists of an area of undeveloped land located to the east of an existing ESB electricity substation and immediately to the south of a telecommunication facility consisting of a monopole and compound of palisade fencing. Agricultural type gates provide for access to the site. To the east of the site is a detached house. The site is generally flat with loose gravel partially overgrown with grass.
- 1.3. The adjacent area is predominately rural with detached houses on individual sites, characteristic of the area. There is a short cul-de-sac of detached/ semi-detached houses in Baldungan Close to the east of the site.

2.0 Proposed Development

- 2.1. The proposed development consists of:
 - Construction of a single storey 'cable landing station'. This is a modular type building with a height of 3.65 m, a width of 8 m and a depth of 10 m. Overall floor area is stated at 81 sq m.
 - Enclosure of the site with palisade fencing.
 - All associated site works, cabling and plant.
- 2.2. The Planning Authority sought further information in relation to Appropriate Assessment Screening, details of the palisade fencing and in relation to drainage. The submitted information did not result in any revisions to the proposed development.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse permission for two reasons as follows:

1. 'Based on the information contained in the Appropriate Assessment Screening report (as revised), specifically the absence of information relating to the in-combination effects of the entire project, and the potential connectivity between the drainage ditch on the subject site and watercourses in the wider area and the absence of an assessment of any potential links between this drainage ditch and European sites, the Planning Authority is not satisfied that the proposed development individually, or in combination with other plans or projects would not adversely affect the integrity of nearby European sites. In such circumstances the Planning Authority are precluded from granting planning permission'.
2. 'Objective NH15 of the Fingal Development Plan 2017–2023 states 'strictly protect areas designated or proposed to be designated as Natura 2000 sites (i.e. Special Areas of Conservation (SACs) and Special Protection Areas (SPAs); also known as European sites) including any areas that may be proposed for designation or designated during the period of this Plan.' Having regard to the deficiencies in the Appropriate Assessment Screening Statement submitted as additional information, it has not been satisfactorily demonstrated that the proposed development would not result in significant adverse impacts on Natura 2000 sites. The proposed development would contravene materially Objective NH15 of the Fingal Development Plan 2017–2023 and would be contrary to the proper planning and sustainable development of the area'.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning report reflects the decision to refuse permission for the proposed development due to the lack of information in relation to in-combination impacts to

designated European sites and material contravention of Objective NH15 of the Fingal Development Plan 2017 - 2023.

I note that a time extension was granted to the applicant such that further information was to be submitted by the 9th of March 2020. I note a typing error here in that the applicant requested this time extension from Galway City Council, however the letter was addressed to Fingal County Council. The Senior Planner and Administrative Officer of Fingal County Council raised no concern regarding this and signed the order for the time extension.

3.2.2. **Other Technical Reports**

Water Services Department: No objection subject to conditions. A surface water drainage design with details was recommended to be conditioned to be provided prior to the commencement of development. The Planning Authority Case Officer decided to recommend that this be requested by way of further information. No objection following the receipt of further information and revised conditions were recommended.

Environmental Health Air & Noise Unit: No objection subject to recommended conditions.

Transportation Planning Section: No objection subject to condition.

3.2.3. **Prescribed Bodies Report**

Irish Water: No objection subject to recommended conditions.

3.2.4. **Objections**

A number of letters of objection to the proposed development were received. These are from individuals and also a petition with 36 names has been submitted opposing the development.

Issues raised included the following, in summary:

- Confusion as to who the applicant is, not sure if it is ESB Telecoms or Alcatel Submarine Networks or some other operator.
- Uncertainty as to the function/ use of this unit.
- Structure is visually obtrusive and is inappropriate in this location.
- Overdevelopment of the site.

- The development will prevent the future widening of the road, provision of footpaths etc.
- No landscaping plan has been submitted with the application.
- Concern regarding the removal of trees at the front of the site.
- Potential noise pollution from generators and other equipment on site.
- Also, nuisance will be caused to the area during the construction phase of development.
- Procedural issues.

Further comments were made on receipt of the further information response, however no new issues were raised.

4.0 Planning History

P.A. Ref. F17A/0691 refers to a January 2018 decision to grant permission for a 20 m high monopole communications structure with associated antennae and dishes. Development also includes associated ground mounted equipment and the provision of a 2.4 m high palisade fenced compound. The subject development is located on part of this site.

Also, relevant:

FS006915 refers to an application for a Foreshore Licence made to the Minister of Housing, Planning and Local Government, for a fibre-optic telecommunications cable landing at Loughshinny Co. Dublin. A Stage 1 Screening for Appropriate Assessment is included with this licence.

5.0 Policy and Context

5.1. Development Plan

- 5.1.1. Under the Fingal Development Plan 2017 – 2023, the site is zoned 'RU' Rural, and which seeks 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'. 'Utility Installation' is included in the 'Permitted in Principle' category of this zoning objective.

- 5.1.2. 'Green Infrastructure 1 – Sheet 14' indicates that the site is within an area designated as a 'Highly Sensitive Landscape'.
- 5.1.3. The following sections of the Fingal Development Plan 2017 – 2023 are considered to be relevant:

Chapter 7 – Movement and Infrastructure

Objective IT01: 'Promote and facilitate the sustainable delivery of a high quality ICT infrastructure network throughout the County taking account of the need to protect the countryside and the urban environment together with seeking to achieve balanced social and economic development'.

Chapter 9 – Natural Heritage

Objective NH15: 'Strictly protect areas designated or proposed to be designated as Natura 2000 sites (i.e. Special Areas of Conservation (SACs) and Special Protection Areas (SPAs); also known as European sites) including any areas that may be proposed for designation or designated during the period of this Plan'.

Objective NH37: 'Ensure that new development meets high standards of siting and design'.

5.2. National Guidance

Appropriate Assessment of Plans and Projects in Ireland - Guidance for Planning Authorities (DEHLG 12/2009, revised 2/2010)

5.3. Natural Heritage Designations

- 5.3.1. None.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The applicants have engaged the services of MKO Planning and Environmental Consultants to appeal the decision of Fingal County Council to refuse permission for this development.

Issues raised in the appeal include:

- The Appropriate Assessment Screening Report submitted with the application is suitably robust and addressed all relevant/ necessary issues.
- A ditch on the boundary of the site eventually feeds into a watercourse that discharges into the Irish Sea, but at a location that is not designated as a European site; there is no pathway between the development site and a European site.
- A separate Appropriate Assessment Screening Report was prepared for the off-shore cable – not part of this development.
- A separate cable will link the site to the off-shore cable in ducting that was completed in July/ August 2019. Directional drilling was used to provide this ducting.
- There is no connection between the cable route and any European site.
- The development will not impact on any European sites and is in accordance with Objective NH15 of the Fingal Development Plan 2017 – 2023.

6.2. Planning Authority Response

- 6.2.1. The Planning Authority have responded that they have no further comment to make and request that the decision to refuse permission be upheld.

6.3. Observations

Two observations have been received, attached to one is a petition with 36 signed names.

In summary these observations include:

- Procedural issues about the submitted application and the subsequent appeal.
- The proposed structure is visually obtrusive and is inappropriate in this rural location.
- The proposal will result in overdevelopment and is an inappropriate form of development in this rural location.

- Concern about the nature of the development and the potential for further similar development in the area.
- The development will impact on flora and protected species such as the Roseate Tern.
- The site is very small for the scale of development proposed and circulation space is very limited.
- The description of an adjacent watercourse as a stagnant ditch is incorrect and insufficient information has been provided to demonstrate that the development will not negatively impact on the watercourse in the area.
- The cumulative impact of this development has not been adequately identified or considered.
- The proposed ducting as indicated in Appendix 1 has already been built.
- The proposal will result in the loss of existing trees and planting and the development will not provide for the future needs of the locality.

7.0 **Assessment**

7.1. The main issues that arise for assessment in relation to the appeal can be addressed under the following headings:

- Procedural Issues
- Principle of Development
- Design and Impact on the Character of the Area
- Appropriate Assessment Screening – Reasons for Refusal
- Appropriate Assessment Screening – Comment on submitted Screening Report
- Other Issues

7.2. **Procedural Issues**

7.2.1. A detailed and lengthy observation signed by 36 people was lodged in opposition to this development. I do not intend to go through every single issue raised in this document and may only refer to items in the appeal assessment that I consider to be relevant.

7.2.2. I note the concerns raised about the public site notice, however it is not a function of the Board to determine if the original application is valid or to adjudicate on the conduct of the Planning Authority in their assessment of the application as submitted to them. I am satisfied that that appeal is correctly lodged and that there is sufficient information to consider it.

7.3. Principle of Development

7.3.1. The proposed development is for the provision of a single storey 'cable landing station' with a stated floor area of 81 sq m on a site of 0.02 hectares. The 'RU' rural zoning permits in principle the development of utility installations and I would consider that the proposal is in accordance with this description.

7.3.2. The applicant has clearly described the development which is an exchange '..linking the subsea data traffic to the Irish telecoms network'. There appears to be some confusion over what the proposed development consists of. The appeal only refers to the cable landing station; the other elements consist of a subsea cable for which a Foreshore Licence has been applied for and the final element is cabling between the subsea cable where it reaches land, and the subject site. This cabling is to be provided within ducting in the ground, which is in situ. The provision of this ducting was subject to the Road Opening Licence process made to the Local Authority.

7.4. Design, Impact on the Character of the Area

7.4.1. From the site visit, it was evident that the location is dominated by existing ESB/ electricity infrastructure and associated buildings resulting in the site presenting a more industrial rather than rural appearance. I note the designation of the site as a 'Highly Sensitive Landscape', however from the site visit it was evident that the site has been much altered over time. The site cannot be considered to be highly sensitive located between an existing telecommunication monopole, associated equipment and a busy road on the western side of Loughshinny. I therefore, do not foresee that the proposed development will erode the character of the area and I also consider that the provision of any additional development here should seek to improve the visual amenity of the area.

7.4.2. Drawing No: 'Loughshinny38kV_PL_09' clearly illustrates the design and elevational treatment of this building. Although not clearly stated, the exterior appears to be finished in metal panelling. A quick search on-line indicates that these building can

be finished in a variety of materials and I am satisfied that a suitable finish could be provided to this building that would be neutral/ positive in this location. It would be important that any finish be non-reflective along this section of public road.

- 7.4.3. I note that the existing substation and telecommunications mast are secured by palisade fencing that is painted dark green. Both of these separate compounds are set back from the roadside edge and are partially screened by hedgerow/ trees. From the submitted site plan, Drawing No: 'Loughshinny38kV_PL_01', a separation of 1.4 m is provided between the grass verge to the north of the roadside edge and the proposed building. It would be desirable if a hedgerow could be planted in this space to screen the building and to restore the hedgerows that form part of the character of the area, though I do note the comments of the Fingal Transportation Planning Section regarding protection of sightlines. I would consider it appropriate if permission is to be granted, that an alternative boundary treatment to palisade fencing be provided on the southern and approximately halfway on the eastern and western sides of the site. Round bar railings on a low plinth wall would be visually acceptable whilst ensuring that the security of the site can be maintained to an acceptable level.

7.5. **Appropriate Assessment Screening – Reasons for Refusal**

- 7.5.1. The reasons for refusal as issued by the Planning Authority are noted, reason 1 referred to an '...absence of information relating to the in-combination effects of the entire project, and the potential connectivity between the drainage ditch on the subject site and watercourses in the wider area and the absence of an assessment of any potential links between this drainage ditch and European sites'. There are two separate issues here. I refer back to Section 7.3.2 of this report in relation to the three elements that form this development, the subject cable landing station, the cable within ducting on land, and the undersea cable.
- 7.5.2. I do not foresee any in-combination effects from these three elements of development. The overall development is to allow for telecommunications to be undertaken in an efficient manner by fibre optic cable. Fibre optic cabling does not require a power source along its length with signals passed by light. Fibre optic telecommunications do not have an impact on the environment during the operational phase and I note that the ducting for the land-based cable is already in place. I also note that the subsea

cables are subject to consideration under the Foresee Licence process and does not form part of this appeal. I am satisfied that permitting this development would not increase any impact arising from the installation of the subsea cable.

- 7.5.3. The Planning Authority, Reason 1 for refusal also refers to the 'potential connectivity between the drainage ditch on the subject site and watercourses in the wider area..'. The appeal report identifies the hydrological network in the area and in summary a drainage ditch to the north of the site connects into a stream 400 m to the north of the subject site and in turn flows east and then north before discharging into the Irish Sea, a route of approximately 2 km between the subject site and the sea. There are no designated sites at or within 700 m of the point of entry into the sea. I again note the location of the development and its relatively small site/ structural areas. I note the existing use of the land here and surrounding sites and the extensive amounts of hardstanding/ gravel in place. I do not foresee any significant run-off from this building, I do not foresee any significant impact from the development to the stream or the watercourse that enters the Irish Sea, and I do not foresee any impact on designated Natura 2000 sites.
- 7.5.4. I note the second reason for refusal and again I would be satisfied that the proposed development will not impact on any Natura 2000 sites. As already reported, the site has undergone much alteration through development by the ESB and the proposed development is not of a scale that would change the character of the area or impact on any Natura 2000 sites, either directly or by impact to watercourses in the area. I note that air conditioning/ cooling will be provided to keep temperatures at a consistent level, however this system will be electrically powered and again I foresee no impact from this on the environment.
- 7.5.5. In conclusion, appropriate assessment (AA) is described as an assessment of the potential adverse effects of a plan or project (in combination with other plans or projects) on Special Areas of Conservation (SAC) and Special Protection Areas (SPA). Screening is undertaken to ascertain the need for Stage 2 - Appropriate Assessment. Considering the scale of development and the nature of watercourse links between the site and Natura 2000 sites, I am satisfied that the development will not impact on these designated sites either independently or in combination with other elements of this telecommunication infrastructure.

7.6. Appropriate Assessment Screening – Comment on submitted Screening Report

- 7.6.1. The subject site is located approximately 2.6 km to the south west of Skerries Islands SPA (site code 004122), 2.67 km to the west of Rockabill to Dalkey SAC (site code 003000) and 4 km to the Rockabill SPA (site code 004014). The submitted Appropriate Assessment Screening Report prepared by McCarthy Keville O'Sullivan, Planning and Environmental Consultants concludes that 'the proposed project in combination with other plans or projects will not have a significant effect on any European site'.
- 7.6.2. Having regard to the nature and scale of the proposed development and the location of the site in an area significantly altered by utility works/ development, and the separation distance to the nearest European site, no Appropriate Assessment issues arise, it is considered that the development would not give rise to a significant effect individually or in combination with other plans or projects on an European site.

7.7. Other Issues

- 7.7.1. I note the issues raised in the observations. Mr O'Neill has clearly stated his objection to this development. I have already considered the issue of impact on watercourses/ designated sites and I have no further comment to make on this. The layout of the development in terms of health and safety is not a matter for the Board. I note the comments regarding the provision of ducting in the area, that is a matter for the Roads Authority who appear to have issued Road Opening Licences in this regard.
- 7.7.2. Whilst Mr O'Neill's comments are clear and precise, the comments made by Mr Jordan are not as clear. I am uncertain as to what the main issues of concern are as the submitted observation lists many issues, several of which are not relevant to planning. I am satisfied that adequate information has been included in the application and subsequent appeal to enable a full assessment in terms of the proper planning of the area, and in terms of environmental protection. Subject to suitable conditions, the proposed development should not have a negative impact on the visual amenity of the area.

8.0 Recommendation

8.1. I recommend that permission be granted in accordance with the following conditions and reasons.

9.0 Reasons and Considerations

9.1. Having regard to the provisions of the Fingal Development Plan 2017 - 2023, to the location of the development within an established utility site and to the nature, form, scale and design 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 existing environmental, residential or visual amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 24th of April 2019 and as amended by the further plans and particulars submitted on the 20th of December 2019, except as may otherwise be required in order to comply with the following conditions.</p> <p>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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The proposed development shall be amended as follows:</p> <p>(a) The front/ southern elevation of the building that addresses the public road shall be finished in visually suitable brick/ stone. Sample panels to be provided on site for the written agreement of the Planning Authority of all elevational finishes.</p>

	<p>(b) The boundary along the southern/ front elevation and for a length of a minimum of 3 m on the eastern and western sides, measured from the front, shall consist of a low plinth wall with round bar railings over to a height of 2.4 m, painted black/ dark green. The remaining compound boundary may consist of palisade fencing painted dark green.</p> <p>(c) The front boundary hedgerow shall be trimmed back to the fence line and the hedgerow to be augmented where gaps have arisen, to improve site screening.</p> <p>Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interests of visual amenity and in the interest of sustainable transport provision.</p>
3.	<p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
4.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
5.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, noise management measures and off-site disposal of construction/demolition waste.</p>

	Reason: In the interests of public safety and residential amenity.
6.	That all necessary measures be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works. Reason: To protect the amenities of the area.

Paul O'Brien

Planning Inspector

30th June 2020

Encl. I have included the Stage 1 Screening for Appropriate Assessment that was provided with the Foreshore Licence for the subsea cable.