



An
Bord
Pleanála

Inspector's Report ABP 307354-20

Development	Licence to construct a 15 metre high mobile telecommunications mono-pole to accommodate 2G, 3G and 4G antennae and 2 ancillary operator cabinets.
Location	Woodview Shopping Centre, Old Cratloe Road, Limerick.
Planning Authority	Limerick City and County Council
Planning Authority Reg. Ref.	L1901
Applicant	Signal Infrastructure Ltd.
Type of Application	Section 254 Licence
Planning Authority Decision	Grant subject to conditions
Type of Appeal	3 rd Party v. Grant
Appellant	Antoinette Coffee
Observer	Willie O'Dea
Date of Site Inspection	23/09/20
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

The site is on a grass margin to the front of the Woodview Shopping Centre car park which is accessed from Cratloe Road in north Limerick City. The mast and associated cabinet have been erected. A low brick wall delineates the boundary between the shopping centre grounds and the grass margin.

The small shopping centre consists of a number of single storey units anchored by a convenience outlet. It is served by surface parking to the side accessed both from Cratloe Road (south) and Kilbranish Drive (north). The said car parking is served by a flood light located immediately to the north of the erected mast. There is a pylon at the south-eastern corner of the car park at the junction of Cratloe Road and Woodview Park with a pedestrian crossing to the west in front of the retail units.

Kilbranish Drive to the north of the car park comprises of two storey semi-detached units. Cloonrairie Heights housing estate is to the south and setback from Cratloe Road and is served by one entrance. The dwellings within the estate that front onto Cratloe Road comprise of two storey detached units. The site is c. 200 metres to the north-west of the Limerick Institute of Technology.

2.0 Proposed Development

15 metre high monopole with antennae which are to be shrouded by a sheath to match the pole, to be served by a small cabinet.

3.0 Planning Authority Decision

3.1. Decision

Grant licence in November 2019 subject to 5 conditions:

Condition 1: Licence for 1 year unless a further licence is granted.

3.2. Planning Authority Reports

3.2.1. Planning Reports

None

3.2.2. Other Technical Reports

None

3.3. Prescribed Bodies

None

4.0 Planning History

I am not aware of any previous applications on the site.

5.0 Policy Context

5.1. Development Plan

Limerick City Development Plan, 2010 (as extended)

Policy EDS.10 It is the policy of Limerick City Council to support the development of a high quality energy and broadband network for the city and the region.

Policy EM.13 It is the policy of Limerick City Council to promote and facilitate the provision of appropriate information and telecommunications infrastructure (including broadband services) within the City and to encourage the provision of telecommunications based services at appropriate locations subject to environmental considerations in accordance with the Telecommunications Antennae and Support Structures Guidelines for Planning Authorities, 1996.

Chapter 16 addresses Development Management

In evaluating planning applications for the provision of telecommunications apparatus installations, Limerick City Council will have regard to the DEHLG 'Planning Guidelines for Telecommunications Antennae & Support Structures', 1996 (or as may be amended during the lifetime of the plan). Limerick City Council favours co-location of such facilities by different operators on the same mast in order to discourage proliferation and clutter. The Designer shall take cognisance of existing aircraft flight paths etc.

5.2. Natural Heritage Designations

None in the vicinity.

6.0 The Appeal

6.1. Grounds of Appeal

The appeal from Antoinette Coffee on behalf of residents of Coolraine Heights and Woodview Estate against the granting of the licence, which is accompanied by supporting documentation and photographs, can be summarised as follows:

- The application and documentation accompanying the application have inaccuracies and omissions. It should be invalidated.
 - The location given is incorrect.
 - The site is 300 metres not 800 metres from L.I.T.
 - There is a lack of detail on the drawings
 - Error in position of mast and inaccuracies in the photos and elevation drawings.
- Issues relating to the adequacy of the guidelines for telecommunications antennae and support structures and the section 254 licence process set out. The public had no notification of the proposed development in contravention of the Aarhus Convention and the Constitution.
- The developer has not satisfactorily demonstrated the potential for sharing/co-location or clustering of masts. There is a sufficient number of masts with adequate coverage in the area.
- There are contradictions as to the antennae to be installed on the mast. Whether 2G/3G/4G or 5G.
- The mast is within 1km of schools.
- The prominent location next to a busy road and surrounded by houses results in the mast being visually obtrusive and an eyesore. It dwarfs the adjacent

dwellings. It would adversely impact residential amenities. Coupled with the existing pylon it results in a crowded view. It is inappropriate for the area.

- It would adversely impact on the value of property.
- Reliance on widely discredited guidelines of the ICNIRP regarding exposure to non-ionising radiation. Masts have a negative impact on health. Studies to support these views listed.
- The proposal contravenes the Limerick City Development Plan and Limerick City Biodiversity Plan. A full ecological assessment should have accompanied the application. There are adverse effects to biodiversity from radio frequency electromagnetic fields. Studies to support this view listed.
- Masts are contributors to climate change due to its high consumption electricity and carbon emissions.
- The mast has the potential to be a traffic hazard due to its location on a busy road close to a pedestrian crossing. The proposal does not comply with Green Book guidance.
- The green cabinet is a target for antisocial behaviour.
- Issues arising in terms of insurance cover.

6.2. Applicant Response

The submission by CMC Planning Consultants on behalf of the applicant can be summarised as follows:

- The proposal is for 2G, 3G and 4G services only.
- Primary mast type infrastructure normally located in rural or industrial urban locations is designed to provide outdoor coverage but is unsuitable to bring targeted indoor coverage to a specific area. Rooftop solutions are generally used to provide infill coverage, but typical infill sites have a low coverage radius and blackspots emerge in outlying areas, where coverage has dropped off but where demand is greatest. In this case demand is greatly influenced by the large student population in the area. The best engineering solution is

the provision of low level localised infrastructure in line with the planning guidelines on telecommunications antennae and support structures.

- The site is located in a mixed use neighbourhood with residential development alongside a commercial zone, community facilities and in proximity to an education centre. The closest industrial zoned land is c. 1km away and outside the 500 metre search ring.
- The drawings are accurate as to the development's location. The photomontage is marginally inaccurate. LIT is 300 metres away.
- Public service infrastructure is permitted in principle within the land use zoning provisions for the area.
- The area is considered suitable for utility infrastructure. There is a run of lampposts and other service development at the roadside and within the grounds of the commercial premises. It will be similar in impact to the floodlight in the adjacent car park. Its design is consistent with the type of utility development commonly in situ in suburban areas.
- It has to be expected that the solution deployed will be visible in the same way as other utility development. It is considered that the site's visibility will diminish as these types of solutions become more familiar in urban settings. The proposal will be no more dominant than existing street lighting structures and the floodlight in the shopping centre car park.
- The top of the structure will be visible intermittently from some views within 500m but none of the views will be terminating and the shroud and grey colouring will ameliorate the potential impact. The trees will act to break up views of the structure for passing road and path users.
- The proposal meets the guidelines 'last resort' requirements for siting infrastructure in a residential area.
- The nearest residential property is c.40 metres distant.
- Property values would not be impacted.
- Precedent set under ref. ABP 306033-19 and ABP 305114-19.

- Ecological Appraisal undertaken (copy attached) which concludes there will be no impact on biodiversity.
- Condition 3 attached to the licence details 4 requirements relating to road safety which have been complied with prior to the installation. The suitability of the location from a traffic safety viewpoint was considered against the Green Book guidelines by the roads engineer and the works were approved.
- The pole's location will not impede cyclists or pedestrians.
- To address the potential for anti-social behaviour the applicant is willing to paint the cabinet. It is also willing to landscape the green to the rear of the pole location.
- The issues raised about the Aarhus convention and the Constitution are beyond the scope of its assessment. There is no deficit in the planning assessment that a licence application under section 254 undergoes.
- The responsibility to ensure that technologies licenced in Ireland are in compliance with internationally adopted safety guidelines lies with ComReg. Circular Letter PL07-12 refers.

6.3. **Planning Authority Response**

None

6.4. **Observations**

The submission from Willie O'Dea TD. supports the appeal as summarised above referring to the mast's proximity to houses and impacts on residential amenities, property devaluation, visual environment and health and wellbeing. Issues of the Section 254 application process and lack of notification of residents also raised.

6.5. Section 131 Notice

The applicant's response to the appeal was circulated for comment.

6.5.1. Antoinette Coffee on behalf of residents of Coolraine Heights and Woodview Estate

In addition to reiterating points raised in the original appeal submission the following are noted:

- The errors in the application are not considered to be minor.
- The basis for the need for the mast is confused. LIT and the student villages have coverage. The applicant has not stated what type of antennae are on the mast – power, voltage etc.
- In terms of the zoning provisions public services is a broad term and cannot be considered to refer to a telecommunications mast. Objective ZO.2 states that the provision of public infrastructure and utilities are permitted provided they do not detract from residential amenity. This is not the case in this instance.
- The planning authority failed to take into consideration the proposed plans for a new Limerick Northern Distributor Road between Coonagh and Knockalisheen. This will connect up with the Cratloe Road. The position of the mast will restrict the development of cycle paths at this location.
- The mast is not on a wide grass area. The area is privately owned by the shopping centre and only a small verge of grass adjacent to the footpath is on Council land.
- The trees referred to are some distance from the pole and also impede road improvement and pedestrian and cycle path development.
- It will be a magnet for anti-social behaviour. Painting a mural on the cabinet will have no effect. The proposal is in contravention of section 254 10 (b).
- Precedent set for refusal of masts on grounds of adverse impacts on amenities of the area under refs. ABP 306616-20 and PL07.236377
- There is a proliferation of apparatus and structures in the area. The gap between the mast and pylon is too small and creates a crowded view.

6.5.2. Willie O'Dea TD.

- The location of the site in proximity to LIT and increased demand for mobile broadband services are not relevant to the application for the pole in the precise location. The defect in infrastructure could be accommodated by a similar pole in a more suitable location in the area.
- The pole is uncomfortably close to residences.
- It will be a magnet for anti-social behaviour. Painting a mural on the cabinet will have no effect.

7.0 Assessment

I consider that the issues arising can be assessed under the following headings:

1. Section 254 application process
2. Justification and need for proposal
3. Impact on amenities of adjoining property
4. Health and safety
5. Road safety
6. Other issues

7.1. Section 254 Application Process

In view of the location of the monopole on a grass margin alongside the public road the provisions of section 254 in terms of application for a licence are considered to be the appropriate consent mechanism. I note the appellant's concerns regarding the process involved in such a licence application procedure, issues in terms of 3rd party participation and contravention of the Aarhus Convention and the Constitution. Notwithstanding, the legislative provisions prevail. Any further contention as to the acceptability of the legal framework would more appropriately be pursued through the applicable legal channels.

7.2. Justification and Need for Proposal

At the outset I note that the mast is to provide for 2G, 3G and 4G services only.

The applicant in response to the appeal notes that primary mast type infrastructure normally located in rural or industrial urban locations is designed to provide outdoor coverage but is unsuitable to bring targeted indoor coverage to a specific area. Rooftop solutions are generally used to provide infill coverage, but typical infill sites have a low coverage radius and blackspots emerge in outlying areas, where coverage has dropped off but where demand is greatest. The pole is required to address coverage and capacity issues on eir Mobile's network in Caherdavin with details in support of this assertion provided in the appeal response. It is also confirmed that no existing sites or structures are suitable to facilitate the co-location of the proposed development and that options, including locations on industrial lands and within the Limerick Institute of Technology which is c. 200 metres to the south-east, have been exhausted.

Whether or not the demand is influenced by the large student population or whether residents find no shortcomings in broadband service in the area are moot points. I consider that the applicant has provided sufficient detail to support the need for the proposal.

Taking into consideration the emphasis placed in national and regional policy documents on the provision of adequate telecommunications including broadband and the fact that the policies and objectives of the current Limerick City Development Plan reflect this priority, I consider that the principle of the development is acceptable. I also submit that the caveat as set out in the guidelines on telecommunications antennae and support structures which allows for consideration of free standing masts in residential areas as a last resort can be applied in this instance.

7.3. Impact on Amenities of Adjoining Property

I consider that the vicinity of the site is characterised by a mix of uses. It is directly adjacent to the Woodview shopping centre. The nearest dwelling is in the region of 40 metres distant (south). The dwellings to the north along Kilbranish Drive are separated from the site by the surface car park serving the shopping centre. The nearest dwellings within Coolraine Heights to the south are separated by Cratloe

Road and an internal access road. I consider these separation distances to be reasonable in such an urban context. Public utilities synonymous with such an urban location, in addition to a floodlight serving the shopping centre car park and the pylon at the south-eastern corner, influence the street views available. Cratloe Road was noted to be relatively well trafficked with a pedestrian crossing outside the shopping centre.

The design of the proposed development, comprising a single monopole structure with a diameter of less than 0.35 metres and height of 15 metres and antennae which are to be shrouded, complies with the requirements of the guidelines on telecommunications antennae and support structures for such an urban location.

I submit that in the context of the existing visual environment the proposal would not be unduly intrusive in terms of its impact on the character and setting of the neighbouring residential lands.

I note the applicant's proposal to landscape the area to the rear of the mast and cabinet. This would involve access onto the shopping centre lands. No evidence that consent has been secured from the relevant landowner to undertake such works has been provided. Notwithstanding, I do not consider that such landscaping would have a material impact on the visual amenities.

7.4. Health and Safety

I note the appellant's concerns as to the implications of such facilities on health and safety in addition to the standing of ICNIRP. A number of papers and studies are detailed in support of the concerns.

In this regard I have regard to paragraph 2.6 of Circular Letter: PL 07/12 which specifically addresses health and safety aspects and which states that planning authorities do not have competence for health and safety matters in respect of telecommunications infrastructure and should be primarily concerned with their appropriate location and design.

The licensing regime for mobile telecommunications operators administered by the Commission for Communications Regulation controls the emission of radiation from telecommunications antennae in light of the available scientific evidence regarding its impact on health. It would not be appropriate for the planning system to attempt

to replicate the specific controls established by another legislative code. The concerns regarding health and safety raised in the appeal would not, therefore, justify a refusal of planning permission for the development.

7.5. Road Safety

The location of the structure does not impinge on or overlap the public road which is within the 50 kph speed limit. Its proximity to the pedestrian crossing does not impede the safe use of same by pedestrians or impact the visibility of vehicles on approach. The structure is in place and in doing so the applicant would have obtained a Roads Opening License and complied with any requirements therein including adherence to the Green Book guidance and standards. I note that Limerick City Council did not make a submission on the appeal or express reservations in this regard.

I note the appellant's contention that the planning authority failed to take into consideration the proposed plans for a new Limerick Northern Distributor Road between Coonagh and Knockalisheen which will connect up with the Cratloe Road and that improvements to Cratloe Road including provision of cycle paths will be constrained as a consequence of the mast. The mast is located on public property alongside the footpath. Taking into consideration both the recommended duration for the licence as detailed below and the measures available to the local authority in the discharge of its functions the removal of the mast can be secured were it to hinder any future road improvements and/or provision of cycle paths

7.6. Other Issues

Inaccuracies in detail provided.

I note that the mast as erected on site is in accordance with the plans and details accompanying the application. I estimate that it is c.200 metres to the north of LIT which is some 100 metres less than suggested by both the applicant and the appellants. Whilst there is a discrepancy in the site location as delineated on the photomontage provided this is a visual aid only. I submit these discrepancies are not fatal to the licence application and do not adversely prejudice the assessment of the proposal at this appeal stage.

Anti-Social Behaviour

The cabinet erected on the site is painted green with no evidence of graffiti noted. Whilst I note concerns that it would act as a magnet for loitering and anti-social behaviour such issues are a policing matter.

Devaluation of property

I note the concerns raised in the grounds of appeal in respect of the devaluation of property. However, having regard to the assessment above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity.

Biodiversity

In response to the appellant's concerns as to the adverse effects to biodiversity from radio frequency electromagnetic fields an ecological appraisal has been prepared which accompanies the applicant's response.

The site is located within Limerick City at a remove from designated sites. The site does not correspond to any of the important habitats listed within the Limerick City Biodiversity Action Plan.

On balance I consider that the applicant has provided sufficient detail to support its contention that the proposal would not adversely affect biodiversity.

Licence Duration

Condition no. 1 of the licence issued by Limerick City and County Council limits its duration to a period of 1 year unless authorised for continued use by a further Section 254 licence. I note that Circular PL 07/12 states that the attachment of conditions to permissions for telecommunication masts and antennae which limit their life to a set temporary period should cease. However, given that this appeal relates to a Section 254 licence application for development on public land, it is considered reasonable that the licence be granted for a specified duration as provided for under Section 254 (4) of the Planning and Development Act, 2000 (as amended). This will enable the Planning Authority to re-assess the suitability of proposed development at the end of the appropriate period in light of any changed circumstances pertaining at that time. I note that the Board specified a period of 3

years in comparable appeal cases (eg ABP-305114-19 & ABP-306033-19). This matter can be addressed by way of condition.

Appropriate assessment

Having regard to the nature and scale of the proposed development, its location within Limerick City and separation distance from any Natura 2000 site, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect, either individually or in combination with other plans or projects, on a European site.

8.0 Recommendation

In view of the foregoing I recommend that the Board disallows the appeal for the following reasons and considerations subject to conditions

9.0 Reasons and Considerations

Having regard to the provisions of Section 254 of the Planning and Development Act 2000, as amended, to national, regional and local policy objectives, as represented in the Limerick City Development Plan 2010 (as extended) , to support the development of a sustainable telecommunications network throughout the city, to the Department of Environment, Heritage and Local Government Section 28 Statutory Guidelines, "Telecommunications Antennae and Support Structures: Guidelines for Planning Authorities, 1996, as updated by circular letter PL 07/12 in 2012, and to the nature and scale of the development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. (a) The licence shall be valid for a period of three years only from the date of this Order. The telecommunications structure and related ancillary structures shall then be removed unless, prior to the end of the period, a further licence under Section 254 of the Planning and Development Act 2000, as amended, has been granted for their retention for a further period.

(b) The site shall be reinstated on removal of the telecommunications structure and ancillary structures. Details relating to the removal and reinstatement shall be submitted to and agreed in writing with the planning authority at least one month before the date of expiry of this licence.

Reason: To enable the impact and acceptability of the development to be reassessed, having regard to changes in technology and design during the specified period.

2. No advertisement or advertisement structure shall be erected or displayed on the proposed structure or within the curtilage of the site.

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

3. The structures hereby permitted shall not interfere with existing services, existing drainage systems and shall not obstruct pedestrian access.

Reason: In the interests of orderly development and pedestrian safety.

Pauline Fitzpatrick
Senior Planning Inspector

September 2020