



An
Bord
Pleanála

Inspector's Report

ABP-308185-20

Development	Construction of a 21metre high free-standing communications structure
Location	Tullylorcan, Canningstown, Co Cavan
Planning Authority	Cavan County Council
Planning Authority Reg. Ref.	20259
Applicant(s)	Eircom Ltd.
Type of Application	Planning Permission.
Planning Authority Decision	Grant permission.
Type of Appeal	Third Party
Appellant(s)	Leo and Rosita McCabe.
Observer(s)	None.
Date of Site Inspection	1 st December 2020.
Inspector	Elaine Sullivan

1.0 Site Location and Description

- 1.1. The subject site is located in the village of Canningstown, which is a small settlement clustered around the crossroads of the R191 and the L3504 / 3505. It has a stated area of 0.0138ha and is located within a car park to the rear of the local shop
- 1.2. The car park is approximately 40m uphill from the crossroads. It faces onto the L3505 and is open to the road. Along its northern boundary, it is flanked industrial buildings associated with a sawmill to the rear, and to the east is a long stone building which is also part of the sawmill site. The eastern side of the car park is bounded by the local shop with adjoining residential use with a B&B in close proximity on the other side of the road.
- 1.3. In the north-eastern corner of the site is the single storey Eircom Exchange building which is surrounded by a low-level wall. The proposed development would be positioned directly beside this building.

2.0 Proposed Development

- 2.1. Planning permission is sought for the following works;
 - The construction of a 21m high free-standing communications structure with associated antennae, communication dishes, ground equipment and all associated site development works.

3.0 Planning Authority Decision

3.1. Decision

Planning permission was granted by the Planning Authority subject to 6 conditions, which were mainly standard in nature. Condition No. 5 requires that *'The site of the mast be enclosed by a 2.4m high perimeter fence to secure the site'*.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The decision of the Planning Authority was informed by the report of the Planning Officer on the 17th August 2020, which is summarised as follows;

- Given the location of the site, uphill from the crossroads, any development will have some local visual impact in the village context. It is agreed with the applicant's contention that the longer range views are intermittent and not terminating from any angle.
- The localised visual impact must be balanced against other material considerations. The site is an established utility site that benefits from a favourable location in terms of coverage for multiple operators. At 21m the height of the mast is lower than that previously permitted, (PA Ref. 08/509), which was 25m + 2.8m aerials. This mast was in place on the site for 5 years until the permission expired in July 2013. Based on the history of the site, it has been proved to be a suitable location for a mast.
- Issues raised in relation to access and right of way across the car park are civil issues and are covered by civil law, not planning law and is an issue between the parties. However, planning precedent on the site is noted. The applicant has demonstrated sufficient legal control of the land subject to the planning application.
- The site is surrounded by a low wall which does not offer sufficient security. It is recommended that a perimeter fence be conditioned into any grant of permission.

3.2.2. Other Technical Reports

- Municipal District Engineer – No objection in principle.

3.3. Prescribed Bodies

- No responses.

3.4. Third Party Observations

3.5. Two third party submissions were received and are summarised as follows;

- Objection on the grounds of visual impact and public safety.

- The site is in close proximity to a number of sensitive receptors; dwellings, a B&B, local shop, sawmill and public road. The ground is made ground and is unstable for a development of this type.
- The applicant has restricted access to the site and is only party to a right of way over the surrounding land.
- Free standing masts should only be located in villages as a last resort. The justification for the subject site is not clear.
- The excessive height of the structure will be unsightly.

4.0 Planning History

08/509 – Planning permission granted by the Planning Authority on the 17th June 2008 to construct a 25 metre support pole to carry 3 no. radio aerials (2.8m) for use by the Emergency Services (Garda, Ambulance and Fire Brigade) together with associated equipment, fencing, cabling and cable ladder for a new National Digital Radio Service. Condition No. 5 restricted the life of the permission as follows;

The development shall be removed and the use of the site for the purpose proposed shall cease after the expiration of 5 years from the date of this order unless before that date permission for it's retention for a further period of time has been granted by the Planning Authority or by An Bord Pleanala on appeal.

Reason: To enable the Planning Authority to review the position having regard to the conditions pertaining in the interests of proper planning and development of the area.

In proximity to the site and on the opposite side of the crossroads;

09/291 – Planning permission granted by the Planning Authority on the 5th October 2009 to install a 20kw wind turbine with 3 white GRP blades, 10m diameter, on an 18m high tubular 3 section free standing steel tower and ancillary site works.

5.0 Policy Context

5.1. Development Plan

Cavan County Development Plan 2014-2020

The subject site is located in the village of Canningstown, which is described in the Development Plan settlement strategy as a 'smaller community area' or Tier 7. The subject site is not within the development boundary of a town or village.

Section 4.8 - Telecommunications and Information Technology;

Objectives;

PIO118 - To encourage the co-location of antennae on existing support structures and to require documentary evidence, as to the non-availability of this option, in proposals for new structures. The shared use of existing structures will be required where the numbers of masts located in any single area is considered to be excessive. The Planning Authority will generally consider any location with three or more separate support structures as having no remaining capacity for any further structures.

PIO120 - Masts will only be permitted within towns and villages of the County when accompanied by satisfactory proposals for dealing with dis-amenities and incompatible locations.

PIO121 - Masts will only be permitted if supported by an acceptable 'Visual and Environmental Impact Assessment Report'.

PIO122 - Shared use of existing support structures will be preferred in areas where there are a cluster of masts.

PIO125 - To submit a reasoned justification as to the need for the particular development at the proposed location, in the context of the operator's overall plans to develop a network and the plans of other operators. To provide details of what other sites or locations were considered and include a map showing the location of all existing telecommunication structures, whether operated by the applicant or by a competing company, within 1km of the proposed site and reasons why these sites were not feasible.

DECLG Planning Guidelines ‘Telecommunications Antennae and Support Structures’ (July 1996)

4.3 – Visual Impact - The guidelines note that visual impact is one of the more important considerations which have to be taken into account and also that some masts will remain quite noticeable in spite of the best precautions.

It may be considered that the impacts are not seriously detrimental if when viewed from main roads or walking routes that masts are visible but are not terminating views. Similarly, the mast may not intrude overly if the view of the mast is intermittent or incidental. Local factors such as topography, scale of the object in the wider landscape and its positioning with respect to the skyline, shall be taken into consideration.

Only as a last resort should free-standing masts be located within or in the immediate surrounds of smaller towns or villages. If such a location is necessary, sites already developed for utilities should be considered and masts and antennae should be designed and adapted for the specific location. The support structure should be kept to the minimum height.

4.5 – Sharing Facilities and Clustering – Applicants will be encouraged to share facilities and to allow clustering of services.

DoECLG Circular Letter PL07/12

This Circular was issued to Planning Authorities in 2012 and updated some of the sections of the above Guidelines.

5.2. Natural Heritage Designations

No designations apply to the subject site.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal, as raised in the submission from the third party appellants, Leo & Rosita McCabe, can be summarised as follows;

- The development will significantly impact on the appellant's dwelling house, business premises and adjoining property located within and around the village of Canningstown.
- Visual Impact – The visual assessment submitted is inadequate. It is not site specific and is copied from a similar development in Cavan. The report references the wrong town as the development location and states that the proposal will consolidate the existing use, which is inaccurate.
- Sensitive receptors – The site is in the centre of the village with a number of dwellings, a shop, Bed and Breakfast, public house and a commercial business all located within 50m of the proposed mast. The basis for the development is that there is currently an exchange building on the site and no alternatives have been considered. The application does not address Objective PIO120 of the Development Plan.
- The subject site is accessed only via a right of way across the appellants land and pedestrian access only is currently facilitated. The appellants do not consent to Eircom using their land to access the site.

6.2. Applicant Response

A response was received on the 14th October 2020 and includes the following;

- A slimline monopole type structure was selected for the site to reduce visual impact. When designing the site, the Radio Engineers required a height to provide a signal over the surrounding area as the site has the potential to become a shared facility, a 21m structure was selected.
- A series of photomontages are provided to demonstrate the Visual Impact of the proposed development and include the complete image from Photo 4 in the original photomontage.
- The proposal would provide fast speed internet broadband connectivity to Eircoms network which would be valuable in attracting new businesses to the area, transforming how schools operate and allowing people to work from home.

- Regarding right of way over the site, Eircom will seek agreement with the landowners. Once the structure is in place, pedestrian access only will be required.

6.3. **Planning Authority Response**

A response from the Planning Authority was received on the 2nd October 2020 and contains the following comments;

- Planning precedent was established on the site under PA Ref. 08/509 which gave a temporary permission to Eircom Ltd. for a 25m support pole to carry 3 no. radio aerials with associated equipment for a new National Digital Radio Service. This overall height of the approved development was 27.8 metres, which is larger than the subject proposal.
- The third party correctly states that Paragraph 4 of the visual assessment was cropped in the document production, which was not corrected during the assessment. However, an amended image is not likely to have altered the Planning Authority's decision.
- The impact of the development on the sensitive receptors in the village was fully assessed. While some visual impact was acknowledged this was balanced against the applicant's locational criteria.
- The third party contends that the applicant does not have a right of way to carry out the development. Planning precedent on the site is noted and this application was not disputed or appealed at the time. The planning permission is effective for planning law purposes and does not confer a right to carry out development where any title or civil issues arise.

6.4. **Observations**

- None received.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, inspected the site and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Site Selection
- Visual Impact
- Other Matters
- Appropriate Assessment

7.2. Site Selection

The Planning Authority contends that the principle of the development at this location was established under PA Ref. 08/509, which gave a temporary permission for a period of 5 years for 25m support pole with associated equipment. However, details submitted with the appeal state that this development was never constructed and, on the occasion of the site inspection there was no evidence of a previous development of this nature on the site. Given local and national planning policy to restrict masts from smaller towns and villages, I am of the opinion that the principle of the development has not been established and is questionable given its location in a rural village.

The proposed development is justified by the reasoning that a site for a mobile base station is required in Canningstown village to provide an adequate service for high speed broadband as the village and surrounding areas currently experience reduced quality of service. With a view to consolidating services, the existing Eircom Exchange building was selected as the development location. No existing telecommunication structures are within a 2km range and the closest one was ruled out as a viable location as it is over 4km from the subject site. It is put forward that due to the nature of the land it would not be possible to secure an alternative site that satisfies the requirements of the Development Plan.

Having reviewed the application and the information available on the Comreg website, it is clear that there are deficiencies in the coverage around Canningstown

for all service providers. In particular, Eir coverage is classified as 'Fair' or 'Fringe' for 2G with significant gaps for 3G and 4G. However, I note that some of the alternative providers can provide better coverage for 3G and 4G in the absence of a mast or infrastructure in the village.

The applicant states that the nearest telecommunications structures within the 2km range, which would rule out the possibility of co-location. However, apart from one existing installation that was 4.4kkm away, no information has been provided as to what alternative sites had been considered. In my opinion the information submitted does not provide sufficient information to justify the site location as required by Objective PIO118 of the Development Plan.

7.3. Visual impact

Given the location of the site within a rural village with an attractive setting, I consider the visual impact of the structure to be a significant issue. In order to address the requirements of the Development Plan a Visual Impact Assessment was submitted with the application. I would agree with the appellant that the visual impact assessment is not comprehensive as the image from Location 4 does not show the full mast. This was addressed in the Applicant's response of the 14th October 2020, which included additional images. However, having visited the site and reviewed the application, I have enough information to make a full assessment of the proposal.

It is clear that the mast will have a significant visual impact on the character of the village. The scale of the mast will dominate views on the approach to the village and in close proximity. This would result in a serious and negative impact on the village and its residential amenity. Views from the wider area will be intermittent and will have less of an impact on the wider landscape.

The applicant has not addressed the requirement of Objective PIO120 and has not provided any proposals for dealing with the disamenity of the mast within the village. However, in my opinion the overall impact of the proposal in terms of its scale and visual dominance would be detrimental to the village and could not be mitigated against.

7.4. Other Matters

Additional issues that were raised in the appeal include the proximity of sensitive receptors to the proposed mast and the rights of access to the subject site.

The subject site is in close proximity to residential dwellings, which would be classified as sensitive receptors. I note Section 2.6 of the Circular Letter PL07/12, amending the 1996 Guidelines, states that planning authorities do not determine planning applications on health grounds as this is regulated by other codes, therefore health concerns are not a planning issue and are not adjudicated on through the appeals process.

The appellant states that the site is accessed via a right of way across their site and that permission will not be forthcoming to construct the development should permission be granted. Permission to access the site was not given for the previous development, (Ref. 08/509), and as such the development was not carried out. This issue is a civil matter to be resolved between both parties, having regard to the provisions of S.34(13) of the 2000 Planning and Development Act.

7.5. Appropriate Assessment

Having regard to the nature and scale of the proposed development, the surrounding area and separation distance 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.

8.0 Recommendation

I recommend that planning permission be refused for the following reasons.

9.0 Reasons and Considerations

Having regard to the nature and scale of the proposed development for a 21m telecommunications mast and associated infrastructure within a village, it is

considered that the proposal would result in a significant and negative visual impact on the village and the wider area and would also have a negative impact on the residential amenity of the village.

The proposed development would contravene national guidance as set out in Section 4.3 of the DECLG Planning Guidelines 'Telecommunications Antennae and Support Structures' and also the objectives contained in the Cavan County Development Plan, and in particular with Objectives PIO20 and PIO125, which seek to restrict such development from towns and villages,. As such, the proposal would be contrary to the proper planning and sustainable development of the area.

Elaine Sullivan
Planning Inspector

17th December 2020