



An
Bord
Pleanála

Inspector's Report ABP 308372-20

Development	Telecommunications support structure and associated infrastructure
Location	ESB's Newbridge 110 kV Substation site, Roseberry, Newbridge, Co Kildare.
Planning Authority	Kildare County Council.
Planning Authority Reg. Ref.	19/1030
Applicant(s)	ESB Telecoms Ltd.
Type of Application	Permission.
Planning Authority Decision	Grant Permission.
Type of Appeal	Third Party v Decision
Appellant(s)	Thomas Farrell
Observer(s)	Tom O'Shea
Date of Site Inspection	12th February 2021
Inspector	Fergal Ó Bric

1.0 Site Location and Description

- 1.1 The appeal site is located within the grounds of an ESB 110kV substation, within the townland of Roseberry, located approximately 2.5 kilometres north-west of Newbridge town centre and 1.3 kilometres north-west of Newbridge Greyhound Stadium. The appeal site is located within a rural area outside of the development boundary of Newbridge. Levels on the site are relatively flat and consistent with those of the adjoining lands and public roadway and the site is surrounded by mature trees and hedgerow. Within the local landscape, electrical infrastructure in the form of pylons, cables and powerlines are prevalent.
- 1.2 Access to the site is via an existing splayed entrance with a recessed gateway serving the ESB substation from the R416, a route linking Newbridge with Milltown. There is a five-metre-wide concrete track leading from the road entrance to the substation compound. The track continues towards the site of the proposed telecommunications infrastructure. There are a number of one-off dwellings located north-west of the site. Immediately west of the site is a commercial yard, where lorries and heavy machinery are parked -up.
- 1.3 A mature hedgerow provides screening along the southern and western site boundaries. The eastern and northern boundaries are open to the lands, around the perimeter of the ESB substation.

2.0 Proposed Development

- 2.1 The development proposals would comprise the following:

The construction of a thirty-six-metre-high free-standing lattice type telecommunications structure, carrying antennae and dishes, enclosed within a 2.4-metre-high palisade compound.

Further information was submitted to the Planning Authority in relation to: The inclusion of the access track within the redline application site boundary; Contiguous elevations and site sections/elevations illustrating the proposed structure in its context; The submission of an Appropriate Assessment Screening Report and a Hydrological Assessment Report.

3.0 Planning Authority Decision

3.1 Decision

The Planning Authority granted planning permission for the development subject to six conditions. The relevant conditions are synopsised as follows:

Condition number 2: In the event of obsolescence of operations the telecommunications support structure, associated equipment shelters, and fencing shall be removed, and the site re-instated to its original condition

Condition number 4: The Planning Authority shall be informed of any change of ownership, transfer to a new operator or subsequent agreements to share the development.

Condition number 5(a) & (b): That adequate off carriageway parking facilities for all traffic associated with the development are provided and that demolition/construction works are carried out in a manner such that activities do not result in significant interference with amenities, or the local environment, and that no material is deposited on the public road, and that construction/demolition activities would not give rise to noise audible from the nearest habitable dwelling, and be conducted within standard specified construction hours.

Condition number 5(c): Construction working hours.

Condition number 6: The developer to use best practice measures to ensure that noise and dust emissions do not result in significant interference with amenities.

3.2 Planning Authority Reports

3.2.1 Planning Report

The final Planner's report dated September 2020, sets out the following:

- The site is located within an area of low landscape sensitivity with the capacity to generally accommodate a wide range of uses without significant adverse effects on the appearance or character of the area.
- The Appropriate Assessment Screening report concluded that the development would not adversely impact upon the conservation objectives of

the Pollardstown Fen or Mouds Bog Special Areas of Conservation and, therefore, that a Stage 2 Appropriate Assessment is not required.

- The principle of the development was considered acceptable, given the existence of the 110kV substation and associated electricity infrastructure immediately adjacent to the appeal site.

3.2.2 Internal Referrals

Municipal District Engineer; No objections, subject to conditions.

Environment Section: No objections.

Transportation Department; No objections, subject to conditions.

Environmental Health Officer: No objections, subject to conditions.

Heritage Officer; No objections.

3.3 Prescribed Bodies

None.

3.4 Third Party Observations

Five third party submissions were received. The issues raised within the submissions are similar to those raised within the appeal submission and observation.

4.0 Planning History

I am not aware of any planning history pertaining to the appeal site.

On wider ESB lands:

Planning Authority reference number 68/7431-In 1968, planning permission was granted for the erection of a 110kV electricity substation.

5.0 Policy Context

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

These Guidelines set the criteria for the assessment of telecommunications structures. Of relevance to the subject case is:

- An Authority should indicate where telecommunications installations would not be favoured or where special conditions would apply. Such locations might include high amenity lands or sites beside schools (Section 3.2).
- Only as a last resort should free-standing masts be located within or in the immediate surrounds of smaller towns or villages. If such location should become necessary, sites already developed for utilities should be considered and masts and antennae should be designed and adapted for the specific location. The support structure should be kept to the minimum height consistent with effective operation (Section 4.3).
- The sharing of installations and clustering of antennae is encouraged as co-location will reduce the visual impact on the landscape (Section 4.5).

5.2 Circular Letter: PL07/12

The Circular Letter updated and revised elements of the 1996 Guidelines under Section 2.2 to 2.7. It advises Planning Authorities to:

- cease attaching time limiting conditions to telecommunications masts, except in exceptional circumstances,
- avoid inclusion in development plans of minimum separation distances between masts and schools and houses,
- omit conditions on planning permission requiring security in the form of a bond/cash deposit,
- reiterates advice not to include monitoring arrangements on health and safety or to determine planning applications on health grounds,
- future development contribution schemes to include waivers for broadband infrastructure provision.

5.3 Development Plan

5.3.1 Kildare County Development Plan 2017-2023

Section 8.13 of the Plan pertains to: Telecommunications Infrastructure, where the following specific policies are set out:

TL 1 Support national policy for the provision of new and innovative telecommunications infrastructure and to recognise that the development of such infrastructure is a key component of future economic prosperity and social development.

TL 2 Promote and facilitate the provision of an appropriate telecommunications infrastructure, including broadband connectivity and other technologies within the county.

TL 4 Co-operate with telecommunication service providers in the development of the service, having regard to proper planning and sustainable development.

TL 5 Have regard to the provisions of the Telecommunications Antennae and Support Structures Guidelines for Planning Authorities (1996) and circular letter PL07/12 and to such other publications and material as may be relevant during the period of the Plan.

TL 6 Achieve a balance between facilitating the provision of telecommunications infrastructure in the interests of social and economic progress and sustaining residential amenity and environmental quality.

TL 7 Ensure that the location of telecommunications structures minimizes and/or mitigates any adverse impacts on communities, public rights of way and the built or natural environment.

TL 8 Minimise the number of masts and their visual impact on the environment, by continuing to facilitate appropriate development in a clustered manner, where

feasible, respecting the scale, character, and sensitivities of the local landscape, whilst recognising the need for economic activity within the county. It will be a requirement for applicants to satisfy the planning authority that a reasonable effort has been made to share installations. In situations where it is not possible to share a support structure, applicants should be encouraged to share a site or to locate adjacently so that masts and antennae may be clustered.

TL 9 Minimise the provision of overground masts and antennae within the following areas:

- Areas of high amenity/sensitive landscape areas (refer to Chapter 14).
- Areas within or adjoining the curtilage of protected structures.
- On or within the setting of archaeological sites.

The Council recognises that there is a balance between facilitating the provision of mobile telecommunications infrastructure and the need to protect residential and visual amenity and the natural and built environment. When considering proposals for telecommunications infrastructure, the Council will have regard to the Telecommunications Antennae and Support Structure: Guidelines for Planning Authorities, DEHLG, 1996.

Section 14 of the Plan pertains to Landscape, Recreation and Amenity. The site is located within the Central Undulating Lands which are characterized as having a low sensitivity. A compatibility of land uses is not specifically set out within Table 14.3 for this particular landscape type. There are a number of specific policies pertinent to the current proposal as follows:

Policy LA3: To require a landscape/visual impact assessment to accompany significant proposals that are likely to significantly affect:

- Landscape sensitivity factors.
- A class 4 or 5 sensitivity boundary (i.e., within 500 metres of the boundary).
- A route or view identified in maps 14.2 and 14.3 (e within 500 metres of the boundary).

Section 17.11.3 of the Plan sets out Development Management Standards in relation to Telecommunication and Supporting Infrastructure.

5.4 Natural Heritage Designations

Pollardstown Fen Special Area of Conservation (SAC) is located approximately 0.3 kilometres west of the appeal site and Mouds Bog Special Area of Conservation (SC) is located approximately one kilometre north-east of the appeal site.

6.0 The Appeal

6.1 Grounds of Appeal

The grounds of the third-party appeal, made by a neighbouring resident, Mr Thomas Farrell, may be summarised as follows:

Design, Siting and Layout:

- The development would be located in close proximity to a number of dwellings.
- The ESB have other lands closer to Newbridge and lands near Kilcullen to locate the proposed development.
- The development should be re-located further away from his dwelling house.

Other Issues:

- The proposal represents a great risk to his health.
- There is no mention of health of nearby dwellings within the planning decision.

6.2 Observations

The grounds of the third-party observation, made by a neighbouring resident, Mr Thomas O'Shea, may be summarised as follows:

Heritage and Amenity:

- The development would be located between two Special Areas of Conservation, Pollardstown Fen and Mouds Bog.
- The area is rich in wildlife including birds such as the Marsh Harrier and the Corncrake.

Design and Siting:

- The development would be located in close proximity to a number of dwellings.

Other Issues:

- Access to the hard copy of the file was denied by Kildare County Council and the observer was told to view the file online, although he has no access to online facilities.
- The Planning Authority failed to include stringent planning conditions on the development, the Board should refuse planning permission for the development.
- The applicants have been convicted by the Courts Service in relation to a failure of duty of care.
- The Board previously refused planning permission in the area in 2007, under Planning Authority reference number 07/808 for the erection of telecommunications infrastructure.

6.3 Planning Authority Response

6.2.1 The Planning Authority made the following comments in relation to the planning appeal:

- The Boards attention is drawn to the Telecommunications Antennae and Support Structure: Guidelines for Planning Authorities, DEHLG, 1996 and the subsequent Ministerial Circular PL07/12, published in February 2018. These advise that planning authorities should not determine planning applications on

health grounds and that Planning Authorities should be primarily concerned with the appropriate location and design of telecommunications structures and do not have competence for health and safety matters in respect of telecommunications infrastructure. These are regulated by other codes and such matters should not be additionally regulated by the planning process.

6.3 First party response to the third-party appeal submissions

Technical Siting considerations:

- The site was selected and based on the merits of neighbouring residents, visual amenity, ESB networks and ESB Telecoms requirements.
- The site needs to be able to be accessed independently by future customers, such as mobile telephony operators who may co-locate on the site.
- The site chosen meets the criteria set out within the Telecommunications Antennae and Support Structure: Guidelines for Planning Authorities, DEHLG, 1996 and the subsequent Ministerial Circular PL07/12, published in February 2018.
- The site location was deemed suitable by the Planning Authority, would accord with the provisions of the Development Plan and with the proper planning and sustainable development of the area.

Other Issues:

- The appellant at both application stage and appeal stage raised the issue of potential human health impacts arising from the proposed development. Circular Letter PL07/12, states that planning authorities should be primarily concerned with the appropriate location and design of telecommunications structures and do not have competence for health and safety matters in respect of telecommunications infrastructure.
- The Commission for Communications Regulator (ComReg) monitors sites on a random selection basis to ensure that operators comply with their licence conditions in relation to non-ionising radiation emission levels.

- ESB telecoms conduct their own annual maintenance assessments in relation to health and safety matters including non-ionising radiation protection emission monitoring.

7.0 Assessment

7.1 The appeal raises a number of matters which do not pertain to the proper planning and sustainable development of the area. I will address matters in relation to principle of development, site selection, impact upon local natural heritage including designated sites and a number of other issues raised within the appeal submission and observation. Appropriate Assessment requirements are also considered. I am satisfied that no other substantial planning issues arise. The main issues can be dealt with under the following headings:

- Principle of Development.
- Site Selection.
- Landscape and Visual impact.
- Other issues.
- Appropriate Assessment.

7.2 Principle of Development

7.2.1 The appeal site is located within a rural area, within a land holding that comprises an ESB 110kV electricity substation. I consider that the proposed telecommunications structure, would be acceptable in principle given that broadband and communications are now considered an important aspect of utility services in terms of supporting education, business, and residential uses in an area within 1.5 kilometres of the Newbridge town development boundary.

7.2.2 The Governments' aim in developing and improving telephony and broadband infrastructural services is set out in the 1996 Telecommunications Guidelines, and the revisions/updates to these Guidelines within Planning Circular PL 07/12. More recently, the National Broadband Plan (NBP), was published in 2020 and reflects the Government's ambition to ensure that the opportunities presented by this digital

transformation (provided by the NBP) are available to every community in Ireland. The delivery of the NBP will play a major role in empowering rural communities through greater digital connectivity, which will support enterprise development, employment growth and diversification of the rural economy.

7.2.3 The Telecommunication Guidelines outline the need for the facilitation of a high-quality telecommunications service and set out the issues for consideration within planning assessments including location, access, co-location / shared facilities, design, visual impact, health and safety. The Kildare County Development Plan policy on telecommunications structures, is set out in Section 8.13, and is reflective of the Guidelines. Specific policies TL2 and TL5 are supportive of the facilitation and improvement of broadband services, subject to a number of caveats, including that no significant adverse impact on the surrounding area and receiving environment would arise.

7.2.4 I consider that the proposal to improve telecommunications and broadband services is consistent with the policies set out within Section 8.13 of the Development Plan and the guidance as set out within the Telecommunications Antennae and Support Structures Guidelines for Planning Authorities (1996).

7.3 **Site Selection**

7.3.1 Specific policies TL7 and TL8 within the Development Plan seek to promote best practice in siting and a high quality of design of telecommunications infrastructure. The Telecommunication Guidelines and Planning Circular PL07/12 seek to encourage 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. It also states that the shared use of existing structures will be required where the numbers of masts located in any single area is considered to have an excessive concentration. Similarly, the Guidelines state that only as a last resort should free-standing masts be located within or in the immediate surrounds of smaller towns or villages.

7.3.2 The applicants state that the proposed 36-metre-high telecommunications structure would facilitate co-location of other telecommunications providers. This requirement necessitates the development of the 36-metre height proposed, which would allow

additional antennae to be attached to the structure by other providers to facilitate improvement of mobile and data services in the area.

7.3.3 From a review of the ComREG mobile telephony mapping data, it is apparent that there are no other sites available within a kilometre radius of the appeal site where the current proposals could be facilitated or co-located. There are several telecommunications structures located within the town of Newbridge itself, but none in the vicinity of the appeal site. The outdoor mobile coverage mapping (as per the ComReg website) in the Roseberry area is poor for mobile and data services for 4G customers which would result in dropped/blocked calls and data sessions in the area. The predicted mobile coverage mapping sets out the benefit to mobile call and data sessions that would accrue to businesses and residents in the locality in terms of significantly improving coverage services. There is no substantive evidence within the application or appeal regarding any alternative available/suitable sites within the wider Newbridge area. I am satisfied that the applicants have demonstrated that the development is necessary to provide improved mobile coverage in the Newbridge and surrounding area in order to cater for the significant increase in demand for high-speed data in recent years. Having reviewed the information submitted and mobile/telephony data available on the ComReg website, I consider that the applicants have demonstrated an adequate technical justification for the proposed development

7.3.4 The remaining key issue is therefore, whether the appeal site is suitable for the proposed development? From the documentation submitted, it is apparent that the development of telecommunications infrastructure on this site would contribute to providing a reliable mobile telephony and broadband Service for commercial and residential customers in the Newbridge area, which has been demonstrated, is not reliable at present, particularly for 3G and 4G customers. This is supported by the data included within the outdoor mobile coverage mapping on the ComReg website. Therefore, I am satisfied that the current proposals would facilitate the improvement of mobile telephony and broadband services in this area, would assist in supporting the implementation of national guidance and local policy for the facilitation and improvement of telecommunication coverage and systems in this locality.

- 7.3.5 The Planning Authority, in granting planning permission, accepted the planning justification set out by the applicants, that there is not a more suitable alternative location for the development in the vicinity of the appeal site.
- 7.3.6 What is proposed in this instance does not appear to be specifically designed or adapted for the locality, however it would be located on the site of existing electricity infrastructure, and the ESB 's fibre network is stated to pass through the site and the proposed lattice structure and operator equipment cabinets would be made available to other mobile telephony operators for co-location.
- 7.3.7 Planning Circular PL07/12 recommended that Development Plans should avoid the inclusion of minimum separation distances between telecommunication installations, schools, and residences, as provided for under the 1996 Guidelines. With regard to the nearest residential property, I note that the proposed structure would be located approximately 130 metres distant (south-east) of the nearest dwelling house which would not have a direct viewpoint of the telecommunications structure. Having regard to the separation distance, the lack of a direct aspect towards the proposed structure and the mature landscaping around the perimeter of the ESB lands, I do not consider that the proposed development could be considered to be an overly dominant or overbearing feature.
- 7.3.8 In conclusion, I consider that the proposal to locate the new structure adjoining an existing ESB electricity substation, and the proposals to make it available for co-location by multiple operators is consistent with the provisions of the Development Plan and the national guidance. I consider the proposed development to be generally acceptable on this site subject to consideration of its impact upon natural heritage, landscape, and visual impact.

7.4 Appropriate Assessment

- 7.4.1 The development would comprise the erection of telecommunications infrastructure in the form of a 36-metre-tall lattice steel structure, antennae and dishes all enclosed with a palisade compound. The development would be erected on a concrete base within a compound with dimensions of 10 metres by 9.75 metres, giving a site area of 97.5 square metres. Within the compound are equipment foundations which would facilitate three future operators' cabinets, each have an area of 1.2 sq. m. and a height of 1.85 metres, a 4-metre-wide access gate and concrete foundations for the tower, which would comprise 49 sq. m. A site elevation view indicates that the

concrete base for the lattice tower would have a foundation depth of approximately 1.5 metres below the existing ground level.

7.4.2 The soils in this area belong to the Elton series as per the details available from An Foras Talúntas . These soils are generally dark brown and loamy to a depth of approximately 25 centimetres, and these cover a grey/brown podzolic. The soils are free draining. The soils are underlain by sand and gravel deposits, deposited from the last Ice Age (the Pleistocene). The sand and gravel deposits commence at 0.5 to 0.8 metres below ground level and can reach depths of 21 metres and reaching up to 71 metres in depth at some locations. The sand and gravels are underlain by an aquifer which has been classified as being of regional importance. One of the primary discharge zones from the Aquifer is Pollardstown Fen, though there are other discharges from the aquifer to the baseflow of the Rivers Liffey & Tully, the Japanese Gardens near Kildare town and various springs known as the Curragh Gravels. Groundwater vulnerability in this area is classified as being High. Groundwater flow on site is from north-east to south-west, in the direction towards Pollardstown Fen. A Trial pit excavation to a depth of 2.3 metres was conducted within the bounds of the appeal site and groundwater was not encountered to that depth of soil. It is stated that the proposed concrete pad would be constructed within unsaturated soils and therefore would not impact upon hydrogeological flow patterns in the area. It is also stated that there would be no abstractions from or discharges to the aquifer during the construction or operational phases of the development. Surface water runoff will drain freely into the gravel and greenfield areas and infiltrate freely into the ground, as happens at present. The hydrological assessment concludes that the development will not adversely impact upon groundwater or surface water flow regimes or quality of public water supplies or local receptors, specifically Pollardstown Fen.

7.4.3 The proposed development lies within the catchments of two Natural 2000 sites, namely Pollardstown Fen SAC and Mounds Bog SAC. Pollardstown Fen (site code 000396) is located within 300 metres (west) of the appeal site at its nearest point. The Conservation Objective for the site is “To maintain or restore the favourable conservation condition of the Annex 1 habitat(s) and/or the Annex 11 species for which the SAC has been selected”. The Fen is groundwater dependant, and this terrestrial ecosystem is fed by up to 40 springs. The wetland conditions within the Fen are maintained by groundwater levels being close to or above the surface. The

proposed development is considered to be within the Zone of Contribution to Pollardstown Fen SAC. There were no surface water drains visible within the site or within the vicinity of the appeal site.

- 7.4.4 The other SAC is Mouds Bog (site code 002331) which is located approximately 1.1 kilometres at its closest point to the appeal site. The Conservation Objective for this raised bog is “To restore the favourable conservation condition of Active raised bogs in Mouds Bog SAC”. The bog is within the Curragh Gravels East groundwater body, a different groundwater body catchment to that underlying the appeal site and Pollardstown Fen. The Hydrological assessment submitted concludes that the proposed development works would not impact the hydrological regime at Mouds Bog and this information is corroborated by the data available on the GSI website. The long-term aim for degraded raised bogs still capable of natural regeneration is that its peat forming capability is re-established and a separate conservation objective has not been set out for the habitat in Mounds Bog.
- 7.4.5 Having regard to the information included within the National Parks and Wildlife Service (NPWS) and the Geological Survey of Ireland (GSI) websites and that submitted as part of the hydrological assessment submitted as part of the further information response and the comments received from the Heritage Officer from within the Planning Authority, it is considered that there would be no potential for adverse impacts upon either of the two Natura 2000 sites and, therefore, any potential impacts upon such sites can be excluded given that the appeal site is not directly connected with any Natural 2000 site.
- 7.4.6 The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 (as amended). Having carried out screening for Appropriate assessment, it has been concluded that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on Pollardstown Fen or Mounds Bog, or any other European site, in view of the site’s Conservation Objectives, and appropriate Assessment and the submission of a Natura Impact Statement is not therefore required. This determination is based on the distance from the European sites, the lack of a meaningful pathway from the appeal site to the European sites. I am satisfied that the screening determination is not reliant on any measures intended to avoid or reduce potentially harmful effects of the project on a European site.

7.5 Other Issues.

- 7.5.1 With regard to the visual amenities of the area, the proposed telecommunications support structure and compound would be located immediately adjoining an electricity substation and the proposed telecommunications compound would be located to its rear(south-west). No additional landscaping or mitigation works are proposed within the appeal site.
- 7.5.2 Having regard to the proximity of the proposed telecommunications support structure to the electricity substation and its associated pylons, the existence of localised mature screening, the telecommunications support structure and associated infrastructure would not be highly visible from the adjoining road to the north of the site, given their set back approximately 170 metres from the public roadway, I, therefore, consider that the proposed development will not have an adverse visual impact within the locality.
- 7.5.3 In terms of impact upon the landscape, the site is flat, with levels consistent with those of the substation and the public road. The site is located within the Central Undulating Lands within the Landscape Character Assessment. These lands are deemed to be of low sensitivity. A compatibility of land uses is not specifically set out within Table 14.3 for this particular landscape type. Its character is similar of the north-western lowlands and the northern lowlands which are stated to be compatible with "Major Powerlines", including those conveyed on lattice towers. It is therefore, considered that this landscape area has capacity and a compatibility to absorb the proposed telecommunications infrastructure.
- 7.5.4 Specific policy LA3 requires the preparation of a landscape/visual impact assessment for significant developments that are likely to significantly effect Landscape Character Areas (LCA's). Those which could significantly effect are quantified as developments with a 500-metre radius of the boundary of an LCA. Given that the nearest point of Pollardstwon Fen LCA is located approximately 300 metres west of the appeal site, this issue must be considered. The question is whether the proposed development could be described as being significant. Given the existence of the 110kV electricity substation and the associated electrical infrastructure immediately adjacent to the appeal site and within the same land holding, where there are several tall (up to 14 metres in height) pylon structures carrying high voltage powerlines, the proposed development is not considered significant in this context, and therefore, the

preparation of a landscape visual impact assessment is not deemed necessary in this instance. The applicants have submitted contextual elevations which illustrate the proposed telecommunications infrastructure in context with the electricity substation and its associated pylons.

- 7.5.5 Section 8.1.3 of the Development Plan seeks to achieve: a balance between facilitating the provision of mobile telecommunications infrastructure and the need to protect residential, visual amenity and the natural and built environment. This section of the Development Plan also refers back to the provisions of the 1996 Telecommunication Guidelines and the need to work with and support key stakeholders to secure the implementation of the NBP and to ensure that fast and effective broadband facilities are available in all parts of the County. Therefore, a balance needs to be struck between the protection to be afforded to the landscape within secondary amenity areas and the telecommunications infrastructure policies and objectives set out within Section 8.1.3.
- 7.5.6 The applicants also submitted site elevations/sections illustrating the proposed development in the context of the neighbouring ESB substation. I would concur that these form a reasonably representative sample of the views of the structure from within the local context. I consider that its visibility and visual intrusiveness will not be significant within the local landscape given the backdrop of the ESB substation with its pylons and powerlines and the mature vegetation around the perimeter of the ESB lands.
- 7.5.7 Where the structure will be visible due to its 30-metre height, it will generally be seen against a backdrop of the electricity substation, located north-east of the appeal site. Screening from the south and west is provided by mature vegetation within the ESB land holding. Having regard to these characteristics of the appeal site and the wider area and noting that the 30-metre height is required to effectively function over as large an area as possible, I do not consider that the magnitude of the impact of the proposed development on the visual amenities of the area would be so significant as to warrant refusal.
- 7.5.8 Section 8.1.3. of the Plan sets out that telecommunications proposals will be facilitated where no significant adverse impact on the surrounding area and local receiving environment arises. On balance, while I acknowledge that the proposals will impact upon the local landscape, I am satisfied that the impact would not be a

significantly or materially adverse one, so as to warrant a refusal of planning permission.

7.5.9 In conclusion. I do not recommend that permission be refused on grounds relating to landscape or visual impact.

7.5.10 Impact upon human health

The observers at both application stage and appeal stage raised the issue of potential human health impacts arising from the proposed development. Circular Letter PL07/12 issued by the Minister under Section 28 of the Planning and Development Act 2000, as amended, states that planning authorities should be primarily concerned with the appropriate location and design of telecommunications structures and do not have competence for health and safety matters in respect of telecommunications infrastructure. It goes on to state that these are regulated by other codes and such matters should not be additionally regulated by the planning process. Research has provided no conclusive evidence of any related adverse health impacts arising from these installations. The issue of health and safety, therefore, is not considered further.

7.5.11 Each application must be assessed on its individual merits. A refusal of planning permission in 2007 in the same area would not necessarily mean that a planning application for a similar type of development could not be permitted fourteen years later, as national and local policy would have changed on a number of occasions in the intervening period.

7.5.12 In terms of availability of documentation at an office of a Planning Authority. I note that the observer was one of the five individuals who made submissions to the Planning Authority during the appropriate period. I consider that the observer was aware of the development and was not disadvantaged in terms of being able to make his views on the development known to the Planning Authority and I am satisfied were considered as part of the Planning Officers assessment within page three of the Planning Report.

8.0 Recommendation

8.1 I recommend that planning permission be granted for the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to:

- a. the Guidelines relating to telecommunications antennae and support structures which were issued by the Department of the Environment and Local Government to planning authorities in July 1996, as updated by Circular Letter PL/07/12 issued by the Department of the Environment, Community and Local Government on the 19th day of October 2012,
- b. The policy of the planning authority, as set out in the Kildare County Development Plan 2017-2023, to support the provision of telecommunications infrastructure,
- c. The established electricity infrastructure adjoining the site.
- d. The general topography and landscape features in the vicinity of the site,
- e. The existing pattern of development in the vicinity,

it is considered that, subject to compliance with the conditions set out below, the development proposed would not seriously injure the amenities of the area or those of adjacent residents and would be in accordance with the proper planning and sustainable development of the area.

10.0 CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and particulars submitted to the Planning Authority on the 16th day of September 2019 and on the 19th day of August 2020, 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, ancillary structures and fencing 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 Surface water drainage arrangements for the proposed development shall comply with the requirements of the planning authority.

Reason: In the interest of public health.

- 4 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 traffic management during the construction phase, details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste, as well as protective measures to be employed with respect to the boundary hedgerows.

Reason: In the interests of public safety and visual and residential amenity.

- 5 Within six months of the cessation of use the telecommunications structure and ancillary structures shall be removed and the site shall be reinstated. Details relating to the removal and reinstatement 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.

- 6 Landscaping of the site shall be carried out in accordance with a landscaping scheme which shall include reinstatement/reinforcement of the hedgerow along

the site boundaries, which shall be submitted to, and agreed in writing with planning authority prior to commencement of development.

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

- 7 A low intensity fixed red obstacle light shall be fitted as close to the top of the mast as practicable and shall be visible from all angles in azimuth. Details of this light, its location and period of operation shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of public safety.

Fergal Ó Bric

Planning Inspectorate

9th June 2021