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## Inspector's Report ABP 308466-20

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<b>Development</b>	21 metre monopole telecommunications structure, antennas, dishes and associated equipment.
<b>Location</b>	Eir exchange, Avonmore Road/Mulcair Road, Raheen, Limerick.
<b>Planning Authority</b>	Limerick City and County Council
<b>Planning Authority Reg. Ref.</b>	20/750
<b>Applicant</b>	Eircom Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant subject to conditions
<b>Type of Appeal</b>	3 <sup>rd</sup> Party v. Grant
<b>Appellant</b>	Michael F. Crowe
<b>Observer(s)</b>	1. Joan O'Sullivan 2. Kevin Russell & Others
<b>Date of Site Inspection</b>	03/12/20
<b>Inspector</b>	Pauline Fitzpatrick

## 1.0 Site Location and Description

The site is within an existing air exchange compound which is located at the junction of Avonmore Road/Mulcair Road in Raheen in north Limerick City. The compound is accessed from Avonmore Road with a low wall and railing delineating the site boundaries with a cluster of mature evergreen trees in the north-western corner. The site slopes down from east to west with an embankment inside the eastern boundary. The exchange building is 2 storeys and approx. 9 metres in height. There is a lattice mast stated to be 9 metres in height on the lower roof level with 6 no. shrouded antennae on the upper roof level.

Save for the said exchange compound the area is predominately residential. Avonmore/Owenmore Drive/Vartry to the west and north is a mature area comprising of two storey, semi-detached and terraced dwellings. The areas to the south and east are of more recent construction and comprise of estates of detached and semi-detached 2 storey dwellings (Fortfield/Thornbury/ Ashfield). An open space area bounds the site to the south with No. 74 Avonmore road bounding the exchange site to the west.

## 2.0 Proposed Development

Permission is sought for the erection of a 21 metre high monopole telecommunications support structure for antennas and dishes with ancillary equipment containers, all to be enclosed by a 2.4 metre high palisade fence. A lightning finial is proposed at the top of the mast giving an overall height of 22 metres.

The proposal is so as to allow for an improvement of both the applicant's and other providers' 4G service in areas presently served with step down coverage and capacity including Church Hill Meadows, Dooradoyle Road, Rosnaree, Sluggary, Kilternagh residential estate, the rear of Raheen Industrial estate and all local areas bounded generally by the 20 motorway to the south.

## 3.0 **Planning Authority Decision**

### 3.1. **Decision**

Grant subject to 7 conditions. Of note:

Condition 2: No sound trees or hedgerows on the site to be removed unless necessitated by a condition of the permission.

Condition 6: No material change of use of the structure to be made without a prior grant of permission.

Condition 7: Cabinets shall be acoustically insulated, details of which to be submitted for written agreement.

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

#### 3.2.1. Planning Reports

- the proposal is in compliance with local and national guidance.
- the provision of a free standing 22 metre high structure is not considered excessive having regard to national guidance.
- the ground cabinets shall be sound proofed to reduce any noise impact.

Grant of permission subject to conditions recommended.

#### 3.2.2. Other Technical Reports

None.

### 3.3. **Prescribed Bodies**

None.

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

Objections to the proposal received by the planning authority are on file for the Board's information. The issues raised pertain to:

- Location within a residential area

- Health implications
- Visual impact
- Availability of more suitable sites
- Contravention of guidelines
- Noise
- Deficiency in application details
- On helicopter flight path to hospital
- Need for the mast

## 4.0 Planning History

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

Reference is made in the Planner's report and the 3<sup>rd</sup> Party appeal to permission granted for dwellings on the exchange site in 2007.

## 5.0 Policy Context

### 5.1. Development Plan

The site was previously within the administrative area of Limerick County Council. Therefore the ***Limerick County Development Plan 2010-2016 (as extended)*** pertains.

*Objective IN O49 – Facilitation of telecommunication facilities*

It is an objective to support the development of telecommunication facilities and support the timely commissioning of transmission infrastructure. Proposals for the erection of masts, antennae or ancillary equipment for telecommunication purposes will take the following into account:

- a) the proper planning and sustainable development of the area;
- b) social, environmental and cultural impacts of the infrastructure proposed;

c) designed so that it will achieve least environmental impact consistent without incurring expensive cost;

*Objective IN O51: Co-location of telecommunication facilities*

It is the objective of the Council to encourage the clustering and co-location of telecommunication masts, antennae or ancillary equipment and more favourable consideration will be given to their location near existing similar type structures.

*Chapter 10* sets out the development management standards.

*10.14.2.1 Site selection*

Every effort should be made to distance developments from residential areas, schools, hospitals or other buildings used for residential or work purposes on a daily basis. In this regard, the Council will be guided by the DEHLG document 'Telecommunications Antennae and Support Structures - Guidelines for Planning Authorities' and any revisions of that document that may be issued during the life of this development plan.

Any proposals for development in the areas referred to above will require the applicant to outline in detail the need to locate in a specific location and evidence of consideration of alternative sites. Every effort should be made by the developer to minimise their visual intrusion in the landscape. This will vary depending on their location. A photo or video montage taken from a variety of locations in consultation with the Planning Authority may be required at application stage.

*10.14.2.2 Sharing facilities and clustering*

In order to avoid unnecessary proliferation of masts opportunities for co-location or sharing facilities should be thoroughly investigated by the developer. In order to promote sharing of masts within the County and determine where sharing is operationally viable to provide adequate coverage through the County the following requirements shall apply:

- The applicant shall submit either a Discovery Series Map or similar map type (to be agreed with planning authority) to the scale of 1:50,000 indicating the coverage area of the proposed facility.

- The applicant shall submit details of correspondence with other telecommunications operators addressing the sharing of mast facilities in the area.
- All new applications for telecommunication masts and associated facilities will be required, where possible, to share existing masts where there is an existing mast within the locality which will offer a similar level of coverage and is capable of hosting additional antennae.
- Where it is not possible to share a support structure the applicant will be encouraged to share a site or to locate adjacent to an existing structure so that masts and antennae may be clustered.
- The applicants shall indicate in the application whether they are willing to share the proposed masts with other telecommunication operators.

#### *10.14.2.3 Design*

Due to the physical size of the mast structure and the materials used, great care will be needed to minimise the impact through discreet siting and good design....

Monopole structures are preferable to lattice tripod or square type structures.

#### *10.14.2.5 Health and Safety*

A statement of compliance with the current International Radiation Protection Association Guidelines and National Guidelines relating to the emission of non-ionising radiation shall be submitted as part of a planning application.

#### ***Southern Environs Local Area Plan 2011-2017 (as extended)***

The site is zoned Utility. The matrix does not delineate what is generally permitted, open for consideration and generally not permitted within such a zone.

#### *Objective IN 12: Telecommunications*

It is the objective of the Council to facilitate proposals for telecommunications masts, antennae and ancillary equipment where it can be established that there would be no negative impact on the surrounding area and that no other mode or location can be identified which would provide adequate telecommunication cover to the standard required by local land uses.

## 5.2. Natural Heritage Designations

None in the vicinity.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The 3<sup>rd</sup> Party appeal by Michael F. Crowe can be summarised as follows:

- The application details are deficient and thus the application has not been properly submitted.
- The site is within a residential area and is contrary to the provisions of the guidelines on Telecommunications Support Structures which states that masts within residential areas should be a last resort.
- Permission was previously sought for houses on the exchange site which is an acknowledgement that the area is residential.
- It is common practice that permission is sought for larger masts once a mast has been on a site for a period of time.
- The site is on the flight path of the UL hospital helicopter and could present a flight hazard.
- It presents a hazard so close to a busy road and footpath.
- The site is badly maintained. The proposed fenced off area adjacent to the footpath will lead to accumulation of rubbish.
- Concerns regarding impact on health.
- The conditions attached to the planning authority's decision are vague.
  - Detailed plans of the location and maintenance of trees and a tree planting scheme should be required.
  - There should be a set requirement for maximum noise.
- More suitable sites are available (details provided).

## 6.2. Applicant Response

The applicant's response can be summarised as follows:

- The existing stayed mast is critical for providing basic localised coverage. However the infrastructure is flawed insofar as its height produces limited air coverage and provides no capacity to accommodate site sharing. Accordingly the site is under optimised and there is a shortfall in 4G coverage reach. There is a clear need for the structure. Coverage is sub-optimal, specifically in the residential areas bounded by the application structure to the west and to the east by the M20.
- Alternative sites suggested are not suitable. Localised coverage and capacity must be addressed from within the application site. Nearby masts are incapable of delivering quality voice and high-speed broadband coverage into the Raheen area.
- The existing rooftop antennae configuration shall be simplified by site sharing on the application structure.
- The mast may accommodate all operators in delivering coverage and capacity across Raheen. It has been specifically designed to facilitate site sharing. Other operators have committed or expressed their interest in locating on the new structure.
- Every effort has been made to minimise visual intrusion by choosing a monopole structure. The structure height is low by industry standards and is of a minimum height consistent with effective operation to include its function as a co-location site.
- The site is zoned utilities in both the Southern Environs LAP 2011-2017 (as extended) and in the Draft Southern Environs LAP 2021-2027. Telecommunications structures are generally permitted within such a zone.
- Telecommunications infrastructure has a long association with the building.
- The application was deemed to be valid by the planning authority.



- To state that smaller structures routinely make way for larger telecommunications structures is a generalisation, Such matters are for the local authority or the Board to adjudicate.
- Past residential applications on the site are not relevant.
- Statement relating to the helicopter flight hazard is speculative.
- Under Circular 07/12 planning authorities do not have competence in terms of health and safety issues.
- The proposal does not require the removal of any trees. Condition 2 precludes the removal of any sound trees or hedgerows.
- Cabinets do not emit an audible sound. Condition 7 addresses this matter.
- There are no reasons to suggest that the application would lead to an increase in waste accumulation.

### 6.3. Planning Authority Response

None

### 6.4. Observations

Observations have been received from

1. Joan O'Sullivan
2. Kevin Russell & Others

The submissions can be summarised as follows:

- The site, in close proximity to residential properties, contravenes the guidelines for telecommunications structures which recommends that only as a last resort should masts be located in such a residential area.
- The Guidelines recommend that operators should endeavour to locate in industrial estates or in industrially zoned land. There are such locations in the vicinity which are more suitable (details provided).
- No evidence has been provided that the discounted sites would be unable to provide adequate coverage if upgraded, with no evidence provided that the

possibility of upgrading more than one site to enable the enhanced coverage in the target areas has been explored. Consideration has not been given to the mast located in Raheen Industrial Park.

- No maps have been provided to demonstrate coverage as required in the County Development Plan.
- The height of the structure has not been justified as being the minimum height.
- The visual impact of the mast is not addressed. The structure is the equivalent of a mid-rise building 5-8 storeys high, which is unsuitable in the low rise environment. It cannot be screened and will be visually overbearing and obtrusive.
- The existing trees will not screen the mast to any meaningful degree.
- It is likely to interfere with the amount of daylight received in windows of neighbouring properties.
- It would have an adverse impact on residential amenity and value of property.
- The historical use of the exchange as an utilities site does not justify the use of the site for a structure of this height. There are no visible freestanding masts on site.
- It is contrary to both Limerick City and County Development Plan policies and objectives.
- No statement of compliance with the international Radiation Protection Associated Guidelines accompanies the application.
- There is no provision for the removal of old or obsolete masts which gives rise to proliferation and cluttering.
- The permission is not limited in duration in line with section 10.14.2.7 of the County Development Plan.
- Other antennae have been erected in the locale, however all have been located in either very unobtrusive or industrial locations.

- The pursuit of the proposed location is less a matter of urgency or specific necessity but rather arises from commercial expediency.
- Noise from the mast is an issue. The condition attached by the planning authority is ineffective.
- There are health implications associated with even low level emissions from masts. The planning process has the responsibility to protect the health and wellbeing of the citizen.
- No details are given as to how the security of the mast will be maintained.
- The Board has refused permission for similar developments in locations such as Adare, Cratloe, Muff, Donegal, Kilmaine, Kinsale and Bohermare.

## 7.0 Assessment

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

- Zoning Provisions
- Need for Development and Alternatives
- Visual Impact and Amenities of Adjoining Property
- Health and Safety
- Other Issues
- Appropriate Assessment

### 7.1. Zoning Provisions

The site has a long established use as an exchange and it is not unreasonable to surmise from the pattern of development that it predates some of the residential schemes in the vicinity, specifically those to the south. As is evident from the rooftop equipment, including the lattice mast and shrouded antennas, the site is also an established base for telecommunications infrastructure. The long established use is acknowledged in the Southern Environs Local Area Plan wherein the site is zoned 'utility'. However the plan is silent on the objectives for such zoned land nor does the zoning matrix indicate the types of development which would be normally permitted, open for consideration and not permitted. Notwithstanding it is

reasonable to conclude that the proposed telecommunications infrastructure can be classified as 'utility' and thus be considered to accord with the zoning provisions for the site.

I note that the lacuna in the current LAP is rectified in the draft LAP with the objective for the zone being to provide for the infrastructure needs of transport and other utility providers including telecommunications. The site is to retain the utilities zoning.

## **7.2. Need for Development and Alternatives**

A justification for the new structure is provided in the covering letter accompanying the application and is repeated in the appeal response. The existing infrastructure at roof level both in terms of the stayed mast and the shrouded antennae due to their limited height, are sub-optimum and do not provide for adequate coverage. The lattice mast is too light and narrow with limited weight bearing capacity and tolerance to prevailing winds. The proposed mast is required to improve 4G coverage presently served by step down coverage and capacity to all local areas bounded generally by the M20 to the south. The mast will be available for use by other providers.

In terms of co-location the application provides details of the alternative locations considered including Limerick University Hospital, Dooradoyle and Raheen Gardens and reasons given for their unsuitability. I consider that the applicant, in providing this detail, has met its requirements in terms of consideration of alternatives.

Therefore, it is my opinion that sufficient detail as to the technical justification for the proposed site and absence of viable alternatives has been provided.

In this regard I note that the guidelines on Telecommunications Support Structures allow for free standing masts within residential areas as a last resort where alternatives on commercial/industrial lands are either unavailable or unsuitable with due consideration to be given to sites already developed for utilities. The proposal can be seen to accord with same in view of its location within the existing exchange site which is zoned for utilities. In addition the height at 21 metres is not high relative to industry norms with a monopole design rather than a latticed tripod or square structure proposed.

### 7.3. Visual Impact and Amenities of Adjoining Property

As noted previously the existing site is surrounded by housing and, as such, the existing view from properties in the vicinity is of the exchange and the existing rooftop mast and antennae. The proposed mast and associated compound are to be located in the south-eastern most corner and will avail of the highest point of the site. With a mast height of 21 metres and overall height of 22 metres when the lightning finial is accounted for, it will be noticeably higher than what exists on site.

Certainly the proposal will have a visual impact especially when viewed from the south and east with the existing trees having limited screening benefits from these locations although they will provide a 'soft' backdrop to the base of the mast and associated cabinets. Due to the topography of the area and existing pattern of development views will be largely restricted to the vicinity of the site with visibility reducing with distance. I submit that the extent of the visual intrusion relative to that of the existing exchange is not considered to be of such magnitude or that the existing visual amenities would be impacted to such a material degree as to adversely affect the amenities or character of the area as to warrant a refusal of permission.

The 1996 Guidelines to which regard is had do not detail minimum separation distances to be maintained to residential property. The County Development Plan reflects this approach and also does not stipulate a minimum setback. As noted above the mast will be visible from adjoining property but I do not consider that the visual impact that would arise would detract from their residential amenities as to warrant a refusal of permission. In view of the setback to be maintained to the nearest dwellings and the slim nature and extent of the mast, no adverse impacts in terms of overshadowing or loss of light would arise as contended. In my opinion the number, type and arrangement of antennae can alter the bulk and massing of a mast. In view of the site context I recommend a condition be attached should permission be granted requiring the antenna type and mounting configuration to be in accordance with the details submitted with the application and that, notwithstanding the provisions of the Planning and Development Regulations 2001, as amended, any alteration and/or addition be subject to a prior grant of permission.

The supporting statement accompanying the application is silent on whether the existing mast is to become redundant on the construction of the new infrastructure although it would appear from the drawings accompanying the application that the existing roof top infrastructure is proposed to be retained. In response to the grounds of appeal the applicant states that existing rooftop antennae configuration shall be simplified by site sharing on the application structure although what is intended remains unclear.

I submit that on the basis of the limitations of the lattice mast as detailed above and the fact that the applicant's justification for the new provision is premised on same, it is entirely reasonable to require its removal. This would assist in reducing the visual clutter on the site.

#### **7.4. Health and Safety**

The applicant has not submitted a letter of compliance with the International Radiation Protection Association (IRPA) Guidelines as required by the current County Development Plan however I do not consider its omission to be fatal to the adequacy of the application. The Commission for Communications Regulations (ComReg) is the statutory body responsible for the regulation of radiation emissions. Compliance with emission limits is regulated nationally by the Commission and subject to a separate license. As such, health issues are not a matter for An Bord Pleanála in determining and deliberating on the application proposed. Regular measurements of emission levels are required to comply with International Radiation Protection Association and Guidelines. As such this is a matter for ComReg and not An Bord Pleanála.

I also refer the Board to Circular PL07/12 which specifically states that Planning Authorities should be primarily concerned with the appropriate location and design of telecommunication structures and do not have the competence for health and safety matters in respect of telecommunications infrastructure. It notes that these are regulated by other codes and such matters should not be additionally regulated by the planning process.

The installation and maintenance of the mast and its security is a matter for the applicant and its location in proximity to a road and footpath does not raise any specific concerns in this regard.

## 7.5. Other Issues

The location of the mast and associated cabinets are separated from the nearest dwelling to the east by the exchange building, by Avonmore and Mulcair Roads to the dwellings to the north and west and an open space and estate road to the dwellings to the south. Coupled with a noise environment synonymous with such a suburban location, including traffic on the surrounding road networks, it is not envisaged that noise from the mast or cabinets would give rise to concerns in terms of nuisance.

A number of observers noted the absence of a defined duration for the permission as per the provisions of the County Development Plan. The Circular Letter PL07/12 which postdates the current development plan requires the cessation of granting of temporary permissions for such telecommunications support infrastructure.

I note that the application was deemed to be valid by the planning authority. I consider that the issues identified by the appellant, including how the application form is completed and where the site notices were erected relative to the locations delineated on the site layout map, do not preclude a full and proper assessment of the application.

Any future proposals in terms of telecommunications support infrastructure shall be assessed on its merits and in the context of the proper planning and sustainable development of the area.

The site was noted to be well maintained as presented to the public realm. Issues of litter within the site is a matter for the applicant.

## 7.6. Appropriate Assessment

Having regard to the nature and extent of the development within an existing exchange in a suburban location within Limerick City, it is considered that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 8.0 Recommendation

Having regard to the foregoing I recommend that permission for the above described development be granted for the following reasons and considerations subject to conditions.

## 9.0 Reasons and Considerations

Having regard to:

(a) national policy regarding the provision of mobile communications services,

(b) the Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities issued by the Department of the Environment and Local Government 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,

(c) the policy of the planning authority, as set out in the Southern Environs Local Area Plan and Limerick County Development Plan, to support the provision of telecommunications infrastructure,

(d) the location within a site currently zoned and used for utilities and the existing pattern of development in the area.

(d) the nature and scale of the proposed telecommunications support structure, and it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area, or the residential amenities of the area and would not be contrary to the overall provisions of the current development plans for the area. The proposed development would, therefore, 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 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. The existing trees on the site shall be retained. Details of the measures to be put in place for their protection during the construction period shall be submitted to the planning authority for written agreement prior to commencement of development.

**Reason:** In the interest of residential and visual amenity.

3. The 9 metre stayed lattice mast on the roof of the exchange building on the site shall be removed within three months of the construction and commissioning of the proposed monopole mast.

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

4. The transmitter power output, antenna type and mounting configuration shall be in accordance with the details submitted with the application and, notwithstanding the provisions of the Planning and Development Regulations 2001 and any statutory provision amending or replacing them, shall not be altered without a prior grant of permission.

**Reason:** To clarify the nature and extent of the permitted development to which this permission relates and to facilitate a full assessment of any future alterations.

5. Surface water drainage arrangements for the proposed development shall comply with the requirements of the planning authority.

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

6. 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.

7. Site development and building works shall be carried out only between the hours of 0800 to 1900 Monday to Friday 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.

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

8. 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, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

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**Pauline Fitzpatrick**

**Senior Planning Inspector**

**December, 2020**