



An
Bord
Pleanála

Inspector's Report

ABP-309052-20

Development	Retention permission for existing telecommunications equipment and full planning for a 3m extension, and all associated site works.
Location	Ratoath Sports Campus, Jamestown, Ratoath, Co. Meath
Planning Authority	Meath County Council
Planning Authority Reg. Ref.	RA200656
Applicant(s)	Shared Access Ltd
Type of Application	Retention and Permission
Planning Authority Decision	Grant Retention and Permission
Type of Appeal	Third Party
Appellant(s)	Ratoath Athletics Club
Date of Site Inspection	2 nd February 2020
Inspector	Dolores McCague

1.0 Site Location and Description

- 1.1.1. The site is located at a sports complex at Jamestown, Ratoath, close to the town centre, where a road called The Drive runs to the north and The Avenue runs to the west. The site is set within sports facilities. There is a tennis club to the west and a running track to the east. Ratoath Rugby Club grounds is further south. Ratoath College and an associated parking area are located at the southern end of The Avenue.
- 1.1.2. A car park to the south west (within the tennis club) is shown in the application documents as the access route to the site.
- 1.1.3. The site is given as 0.003174ha.

2.0 Proposed Development

- 2.1.1. The application is for retention of the existing telecommunications equipment on an existing floodlight structure and permission for a 3m extension above the structure to provide further telecommunications antennas, also cabinets, fencing, ancillary communications equipment and all associated site works.
- 2.1.2. Legal Counsel letter which was submitted as further information –
 - Shared Access have carried out full due diligence in respect of the legal ownership of the site and confirm that the property is split into four different folios:
 - The freehold of the majority of the property (minus the running track) including the rugby pitch is registered under folio 68209F and is owned by St Oliver's Community Centre.
 - The freehold of the running track folio 67934F and is owned by Ratoath Athletic Club.
 - The leasehold of the clubhouse to the south of the property under folio 8878L is owned by Ratoath Tennis Club. St Oliver's Community Centre is the registered freeholder.

- The leasehold of the Tennis Club to the north of the property under folio 8933L is owned by Ratoath Tennis Club. St Oliver's Community Centre is the registered freeholder.
- The site is on the freehold land owned and controlled by St Oliver's Community Centre and does not encroach the land held by either the Club or Ratoath Tennis Club.
- Shared Access have the benefit of an existing Telecoms Rights Agreement dated 8th January 2018 in respect of this site. Shared Access developed the site following completion of the Telecoms Rights Agreement and there is already telecoms equipment installed on the site.
- The additional apparatus and fencing will be within the footprint of the site and the demise will not alter from its current position.
- The notional responsibility for the common areas has no bearing on the freeholders right to grant rights over its retained property.
- The club allege in their submission that it would not be possible to carry out the construction of the proposed works without encroaching on the Club's freehold.
- Due to the nature of the works due to take place, Shared Access do not agree. However, Shared Access are happy to move the construction compound to the south of the site so that it is placed further away from the Club's freehold running track. Shared Access will not encroach on the Club's freehold land during the build.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to 4 standard conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

There are two planning reports on the file. The first recommending a further information request includes:

- Policy
- Circular letter PL07/12
 - The 1996 Guidelines.
- Circular letter 03-18
- CDP 2013-2019 – policies - EC POL 25, EC POL 33, EC POL 34, EC POL 35 and EC POL 38. Development Management Standards Sec 11.12.
- Pre planning consultation took place.

3.3. Further information was requested on 3 points:

Updated planning justification for the proposed development, including the planning status of the existing flood lighting support structure at its current height of 21.34m and all existing equipment attached to the existing mast, an itemised list/cross referenced with drawings; and potential material contravention of the land use objective.

Landscape and visual assessment.

Response to the issues raised by third parties.

3.3.1. The second planning report recommending permission includes:

Satisfactory response to item 1. The development is open for consideration under the zoning.

Having regard to the established surrounding conforming land uses in the immediate vicinity, the separation distances from surrounding established residential development, the general character of the area, the LVIA, the CDP, Guidelines, referral RAS51818, changes to planning legislation for exemptions for the Telecommunications Structures/ Antennae 2018 regulations, and the principle use of the structure as a flood light to which the telecommunications element is subsidiary and ancillary, the development is considered acceptable.

The LVIA is acceptable.

The response to third party submissions:

Includes a submission from the applicant's legal representatives. It is considered that the applicant has demonstrated sufficient legal interest to carry out the proposed development.

No development contribution applies.

Transportation Department referred to in the planning report but no referral was made.

3.3.2. Other Technical Reports

Broadband Officer – an improved telecommunications support structure is a necessary development in the town and would improve mobile phone services for residents. Current infrastructure – The applicant has produced details of eir's current coverage in Ratoath which shows that 3G is available but 4G coverage is very limited. As the population of Ratoath increases with the new developments currently under construction by Sherwood Homes and the opening of land following the completion of the LIHAF Ring Road there will be an increasing demand on the currently limited Telecoms infrastructure. In the appendix are the current coverage maps for eir, Three and Vodafone. It is noticeable the improved service that Three is able to provide due to it's antenna at this site. Vodafone have recently commenced installing their equipment on the site. This would demonstrate the requirement at this site and therefore in the absence of a new tower or site, the officer agrees there is a requirement for the 3m extension to the existing pole.

3.4. **Third Party Observations**

Third party observations on the file have been read and noted.

4.0 **Planning History**

RA/S51818 – stated to be approval for the existing equipment installed at Ratoath Sports Campus. No file details submitted but the FI submitted on the subject file includes declaration of exemption dated 19/7/2018.

ABP 306578 PA Reg Ref RA/191104 construction of new entrance gateway on the north boundary fence, opposite Mill Tree Way, and associated siteworks; an appeal

against the planning authority's decision to grant permission, the Board permitted the entrance. Condition no:

- 2 The proposed new entrance shall be used only for emergency purposes and to facilitate intermittent access for maintenance vehicles. A sign indicating this requirement shall be erected on the gate. The entrance shall not be used to facilitate access for members of the public, players, athletes or spectators.

Reason: In the interests of amenity and of traffic and pedestrian safety.

Referred to in the appeal:

23 .RL. 2708 in relation to a question as to whether the attachment of a radio link dish to a public stand at Clonmel Rugby Club, Clonmel, County Tipperary is or is not development or is or is not exempted development:

Amongst An Bord Pleanála's conclusions is that –

(b) Vodafone (Ireland) Limited is a "statutory undertaker authorised to provide a telecommunications service as referred to in Class 31 of Part 1 of Schedule 2 of the said Regulations,

5.0 Context

5.1. Development Plan

5.1.1. Meath County Development Plan 2013-2019 is the operative plan. The Development Plan review which commenced in 2017 was paused in accordance with the provisions of the Planning and Development (Amendment) Act 2018 pending the National Planning Framework (N.P.F.) and the requirement to develop and adopt a Regional Spatial & Economic Strategy (R.S.E.S.). Following the adoption of the RSES by the Eastern & Midland Regional Assembly on Friday 3rd May, 2019, Meath County Council recommenced the review of the Draft Meath County Development Plan.

5.1.2. Section 2.3.3 includes that Local Area Plans remain in place for a number of areas including relative to the current application - Future reviews of these LAPS including Ratoath will be required to be compliant with the Development Plan as varied. It

notes that these are to be read as part of the County Development Plan pursuant to Section 11(c) of the Planning and Development Act 2000 as varied and also provides that former town plans will be the subject of a separate variation process to align their contents with the Economic Strategy.

5.1.3. Permissible and Non Permissible Uses

This section provides guidance on the acceptability in principle of various uses for each of the zoning objectives. Uses other than the primary use for which an area is zoned may be permitted provided they are not in conflict with the primary use zoning objective.

Uses not listed under the permissible or open for consideration categories are deemed not to be permissible in principle and such uses will be considered on their individual merits. The expansion of established and approved uses not conforming to use zone objectives will be considered on their merits.

The guidance provided in this section is not intended to replace the normal planning process. An indication that a proposal would be 'permissible' within a particular land use zoning objective should in no way be taken to imply granting of permission, or indeed that a planning application may necessarily be successful. Individual applications are a matter for Meath County Council to decide upon, taking into consideration the wider policies and objectives which pertain to statutory land use planning including Development Management Standards and Guidelines, Ministerial guidance and the merits of individual proposals.

5.1.4. Telecommunications Antennae (8.2.3)

Meath County Council recognises the essential need for high quality communications and information technology networks in assuring the competitiveness of the county's economy and its role in supporting regional and national development generally. The document "Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities" published by the Department of the Environment in July 1996 gives considerable guidance on this matter. It will be the policy of the Planning Authority to consider proposals for such infrastructure in the light of the guidance in this document. In 2007, a Code of Practice on Sharing of Radio Sites was issued by the Commission for Communications Regulation, ComReg, to facilitate the sharing of radio sites between

3G Operators. Sharing is already encouraged by existing planning guidelines and regulations in the aforementioned Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities (DoE 1996) and the Planning and Development Regulations 2001, as amended (Schedule 2, Class 31).

5.2. Ratoath Local Area Plan 2009-2015

- 5.2.1. This incorporates Amendment Number 1 – Made on 2nd of March 2015, which as per Section 1.1 seeks to apply the land use zoning objectives and ensure consistency with the zoning objectives and Order of Priority for the release of lands and the Core Strategy of the Meath CDP 2013-2019.

As shown on the Land Use Zoning Map the site is zoned F1 Open Space: To provide for and improve open spaces for active and passive recreational activities.

It is adjacent to the residential area to the north which is zoned A1: To protect and enhance the amenity of development residential communities.

To the south the area is zoned G1: To provide for necessary community, social and educational facilities.

Policy SOC POL 10 seeks: To support and encourage local sports and community groups in the provision, expansion and development of outdoor and indoor community facilities and where appropriate encourage the input of a third party.

Objective SOC OBJ 8 seeks: To promote the use of existing recreational facilities in Ratoath.

5.3. Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities (DoE 1996)

- 5.3.1. Topography and population density will dictate to a large extent the location of the base station. While each base station has its own locational requirements it must also fit into the national network.

5.4. Natural Heritage Designations

The site is located c.14km from the Rye Water/Carlton SAC (site code:001398).

5.5. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity, the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The appeal from Ratoath Athletics Club against the decision includes:

- The site map submitted was materially incorrect. It did not show the legal boundaries of the site. The site is less than two metres from the boundary of their property and there is no room to carry out the proposed development.
- The construction plan is not feasible and could only be carried out by trespassing on and damaging their property. The applicant proposes to widen the foundation of an existing floodlight stanchion. The existing foundation is less than two metres from the boundary of their property. According to the CMP a 50 tonne digger and a cherrypicker would be used to carry out this work which would not be possible without trespassing on the property of Ratoath Athletics Club and causing significant damage to it. Ratoath Athletics Club would not give permission for entry onto their property.
- The construction plan is not feasible and could only be carried out by trespassing on and damaging the property of Ratoath Athletics Club.
- There is an extensive network of drains running under the athletics track and rugby grounds, heavy machinery risks damage to these drains, which would have a knock on effect of flooding the athletics track and rugby grounds.

- There is only pedestrian access to the site. Vehicular access would require the demolition of an accessibility ramp that was recently constructed by community funding from Meath Co Co.
- Contrary to MCC guidelines.
- There are many more suitable locations, which have not been considered.
- The applicant has a history of unauthorised development and they believe will not respect their conditions.
- In an appendix they refer to the background:

CRO 395368 Ratoath Athletics Club develops the sport of athletics. It has over 450 members and the highest proportion of adolescent female participants of any major sports club in the area. It is the most successful juvenile athletics club in Leinster, run by trained volunteers.

CRO 387834 St Oliver's (Ratoath) Community Centre is a private, not for profit company that owns certain community assets in Ratoath. It is the commercial landlord of a restaurant, physiotherapy clinic, the private operator of a creche, the operator of an entertainment venue and the provider of meeting and event spaces to private and community groups. It's activities are organised on a commercial basis and it has a number of paid staff.

It has demised almost all of its lands in the Jamestown Sports Campus in exchange for annual contributions of €3,000 per tenant. It also operates turf pitches on a commercial basis.

The land at Jamestown was donated to Ratoath Athletics Club (which owns MH67934F) and St Oliver's Community Centre Club (SOCC) (which owns MH68209F). The conditions of transfer are included in a Deed of Transfer. A condition is that neither party is to use the land for purposes other than sport and community purposes.

Ratoath Athletics Club (AC) has invested €149,950 in the campus:

Providing security fencing around two sides (the other two being fenced by Mill Tree Park and Ratoath College).

Levelling sanding and draining the athletics track and rugby pitch.

Provision of floodlights and ESB.

Hardcore car park which has since been removed by St Oliver's Community Centre.

St Oliver's Community Centre contributed €93,509.

In 2014 Ratoath AC leased land for an 80m sprint track and jumps area receiving a Sports Capital grant of €59,500 and spent another €155,000 developing the sprint track and high jump area.

Ratoath Tennis Club has constructed six tennis courts and clubhouse on the Jamestown Sports Campus at its own expense.

SOCC has developed a car park for the campus and astro pitches which are available for hire on a commercial basis.

Included in the submission are layout plan indicating Ratoath AC land and the indicative access route to the subject site; and photographs.

6.2. Applicant Response

Pegasus Group has responded on behalf of the applicant, which includes:

- The site map submitted was materially incorrect - legal counsel response.
- The construction plan could only be carried out by trespassing on and damaging their property - legal counsel response.
- There is only pedestrian access to the site - legal counsel response.
- Mast siting and contrary to MCC guidelines – zoned open space, public services are permissible in such areas. Communications infrastructure is effectively a public service utility. The Ratoath Local Plan acknowledges that telecommunications falls under the broad definition of infrastructure to be provided within the town and is included within the infrastructure chapter of the plan. It should also be taken into account that working practices have permanently altered as a result of the Covid Pandemic where more people are now choosing to work from home rather than attend office space. This places a greater demand on the communications network serving urban areas such as the area around the appeal site. The development proposed will

enhance the ability of the local network to provide coverage over residential areas. The provision of better telecommunications infrastructure in order to facilitate working from home is specifically listed under Economic Development Objective 9 of the Ratoath Local Plan.

- Alternative sites at more suitable locations – The applicant has gone to significant lengths in support of the original application and further information to demonstrate that there are no alternative sites available. Re the suggestion that an extensive green-field area east of Jamestown Sports Campus would be appropriate, the use of a greenfield site rather than use of an existing structure would be contrary to National Policy Guidance, that provides for a sequential hierarchy for telecoms development new greenfield sites being last option; also there is a significant distance from large parts of the coverage cell area where the applicant is seeking to uplift coverage. Need is set out at paragraphs 6.2-6.12 of the planning statement.
- Conditions – the applicant is a responsible developer and intends to comply with all reasonably worded conditions. The planning history of the site is detailed in the planning statement and further information. The current application seeks to regularise all development at the site.

6.2.1. Legal Counsel on behalf of Shared Access - response –

- Re. the site map was materially and egregiously incorrect and does not show the legal boundaries:
 - The freehold of the majority of the property (minus the running track) including the rugby pitch is registered under folio 68209F and is owned by St Oliver's Community Centre, shown in image.
 - The freehold of the running track folio 67934F and is owned by Ratoath Athletic Club, shown in image.
 - The leasehold of the Tennis Club to the north west of the property under folio 8933L owned by Ratoath Tennis Club. St Oliver's Community Centre is the registered freeholder, shown in image.

- Ratoath Athletic Club also holds a further parcel of leasehold land to the south of the property under folio 8878L. St Oliver's Community Centre is the registered freeholder, shown in image.
- The Club states that Shared Access proposes to widen the foundation in order to increase the height of the monopole. Shared Access dispute this and confirm that they are not widening the foundation but simply shoring it up by adding loose gravel to the existing foundation within their existing footprint. The additional cabinet will be installed on the existing concrete plinths. They have no requirement for an additional or increased concrete foundation as the existing foundation has been structurally assessed as adequate.
- The proposed structure extension (3m height) will be delivered by a rigid lorry with HAIB along with associated steelwork. A crane, operated by certified personnel, will be used to install the monopole extension.
- Shared Access can confirm that the new site access supports access for this machinery. Shared Access has no intention or necessity to access the land owned by the appellant and confirms that it will not encroach on the appellant's freehold land during construction.
- Re. the construction plan could only be carried out by trespassing on and damaging their property.
 - Shared Access will not be placing any vehicles between the foundation of the existing telecoms site and appellant's freehold. The crane will be located on a wider area of land within the freehold of St Oliver's Community Centre (68209F). The cluster pole and additional equipment will be hoisted onto the Telecoms Site. Shared Access will not encroach on the appellant's freehold during the build.
 - Per the construction plan, before any works commence all areas will be scanned for subterranean services to ensure that no damage will be caused.
 - Shared Access have not requested the consent of Ratoath Athletic Club to use its land and consent is not needed.

- Re. there is only pedestrian access to the site, vehicular access would require the demolition of an accessibility ramp that was recently constructed by community funding from Meath Co Co.
 - An access ramp has been recently funded by Meath Co Co. and Shared Access unfortunately had no prior knowledge.
 - Shared Access have discussed this issue with the freeholder St Oliver's Community Centre with whom they have an existing telecommunications agreement for the existing site which includes rights of access via the route shown on the submitted drawings. They have a right of access over and along any route or routes as may be agreed. They have agreed to change their access route to avoid the need to demolish the disability access ramp and reduce disruption to members of the public using the property. The new access route will run from the entrance gate on the northern boundary from The Drive. Shared Access have a right of access over and along any route or routes as may be agreed from time to time with St Oliver's Community Centre per their Telecom's Rights Agreement of January 2018.
 - A photograph of the route, the subject of ABP 306578 RA191140, is attached.

6.3. Planning Authority Response

6.3.1. The Planning Authority response to the appeal was late.

7.0 Assessment

7.1. The issues which arise in relation to this appeal are: appropriate assessment, access / land ownership and more suitable locations, and the following assessment is dealt with under those headings.

7.2. Appropriate Assessment

7.2.1. Having regard to the nature and scale of the proposed development, I am satisfied that 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.

7.3. Access / Land Ownership

- 7.3.1. The grounds of appeal states that site map submitted was materially incorrect. It did not show the legal boundaries of the site landownership, the construction plan is not feasible and could only be carried out by trespassing on and damaging the property of Ratoath Athletics Club, the site is less than two metres from the boundary of their property, and there is no room to carry out the proposed development.

The applicant proposes to widen the foundation of an existing floodlight stanchion. The existing foundation is less than two metres from the boundary of their property. According to the CMP a 50 tonne digger and a cherrypicker would be used to carry out this work which would not be possible without trespassing on the property of Ratoath Athletics Club and causing significant damage to it. Ratoath Athletics Club would not give permission for entry onto their property.

In addition they point out that the proposed access would require demolition of a recently constructed disabled access ramp.

- 7.3.2. The applicant response is that they are not widening the foundation but simply shoring it up by adding loose gravel to the existing foundation within their existing footprint. The additional cabinet will be installed on the existing concrete plinths. They have no requirement for an additional or increased concrete foundation.

The crane will be located on a wider area of land within the freehold of St Oliver's Community Centre (68209F). The cluster pole and additional equipment will be hoisted onto the Telecoms Site. Shared Access will not encroach on the appellant's freehold during the build.

Per the construction plan, before any works commence all areas will be scanned for subterranean services to ensure that no damage will be caused.

Re. the recently constructed disabled access ramp, they have an existing telecommunications agreement for the existing site which includes rights of access via the route shown on the submitted drawings.

They have agreed an alternative route with St Oliver's Community Centre which was the subject of ABP 306578 RA191140.

7.3.3. I am satisfied that the site is accessible and the development can be carried out within lands available to the applicant, without encroachment on the appellant's property.

7.4. More Suitable Locations

7.4.1. The grounds of appeal states that there are more suitable locations available and that the site is contrary to Meath County Council guidelines

7.4.2. The applicant response is that they have gone to significant lengths in support of the original application and further information to demonstrate that there are no alternative sites available. Re the suggestion that an extensive green-field area east of Jamestown Sports Campus would be appropriate, they state that the use of a greenfield site rather than use of an existing structure would be contrary to National Policy Guidance, which provides for a sequential hierarchy for telecoms development new greenfield sites being last option; also, there is a significant distance from large parts of the coverage cell area where the applicant is seeking to uplift coverage. Need is set out at paragraphs 6.2-6.12 of the planning statement.

7.4.3. The Broadband Officer reported on the application stating that an improved telecommunications support structure is a necessary development in the town and would improve mobile phone services for residents. Current infrastructure – The applicant has produced details of eir's current coverage in Ratoath which shows that 3G is available but 4G coverage is very limited. As the population of Ratoath increases with the new developments currently under construction by Sherwood Homes and the opening of land following the completion of the LIHAF Ring Road there will be an increasing demand on the currently limited Telecoms infrastructure. In the appendix are the current coverage maps for eir, Three and Vodafone. It is noticeable the improved service that Three is able to provide due to it's antenna at this site. Vodafone have recently commenced installing their equipment on the site. This would demonstrate the requirement at this site and therefore in the absence of a new tower or site, the officer agrees there is a requirement for the 3m extension to the existing pole.

7.4.4. The site is zoned F1 Open Space: To provide for and improve open spaces for active and passive recreational activities.

- 7.4.5. Uses other than the primary use for which an area is zoned may be permitted provided they are not in conflict with the primary use zoning objective.
- 7.4.6. The Council fully accepts the critical importance of a high quality telecommunications service at national, regional and local level and will seek to promote and facilitate the provision and continued development of such a service within County Meath. In this regard, the Council will seek to cooperate with the providers and operators of such services within County Meath, in the national and county interests.
- 7.4.7. I am satisfied that there is a need for the antennae and that the extension of the lamp standard as a support structure is acceptable and in accordance with the development plan policies.

8.0 Recommendation

- 8.1.1. In accordance with the foregoing I recommend that permission should be granted, for the following reasons and considerations and in accordance with the following conditions.

9.0 Reasons and Considerations

Having regard to the provisions of the Meath County Development Plan 2013 - 2019 (varied and extended) and the Ratoath Local Area Plan 2009 - 2015 (as extended) the land use zoning objective as open space: to provide for and improve open spaces for active and passive recreational activities and the usage for open space purposes, it is considered that, subject to compliance with the conditions set out below, the proposed development, which is necessary for the provision of high quality communications and information technology networks in the area, would not seriously injure the amenities of the area, 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 as amended by the
----	---

	<p>further plans and particulars submitted on the 5th day of October 2020 and 13th day of November 2020 and by the further plans and particulars received by An Bord Pleanála on the 19th day of January, 2021, 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The transmitter power output, antenna type and mounting configuration shall be in accordance with the details submitted with this 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 planning permission.</p> <p>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.</p>

Planning Inspector

3 February 2021

Appendix 1 Photographs

Appendix 2 Meath Development Plan 2013-2019 extract.