



An
Bord
Pleanála

Inspector's Report

ABP-309257-21

Development

To extend the existing 12m high telecommunications lattice structure to an overall height of 20m together with the addition of telecommunications antenna, dishes and associated equipment all enclosed in security fencing

Location

Westbury , Corbally , Co Clare

Planning Authority

Clare County Council

Planning Authority Reg. Ref.

20770

Applicant(s)

Eircom Limited.

Type of Application

Permission

Planning Authority Decision

Refuse

Type of Appeal

First Party

Appellant(s)

Eircom Limited

Observer(s)

(1) William Funnel
(2) Tony Cusack
(3) Denis Harrington

(4) Brid Moran

Date of Site Inspection

15th April 2021

Inspector

Colin McBride

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.0084 hectares, is located on the outskirts of Limerick City (within Co. Clare) to the north of the city centre. The appeal site is located in the Westbury residential area located on the eastern side of the Corbally Road (R463). The appeal site is currently occupied by a telecommunication structure and the site is within an area dedicated to utilities with a single-storey ancillary structure adjacent site and fenced off (within the same complex). The site is accessed from a laneway on the southern side of the site and accessing off an internal service road. The boundaries of the site are defined by existing trees and hedgerows on all sides. The adjoining land uses on all side is residential, consisting of two-storey dwellings with Thornbrook to the north, Shrewsbury Lawn to the south, Oakton Road and The Moorings to the east.

2.0 Proposed Development

- 2.1. Permission is sought to extend the existing 12m high telecommunications lattice structure to an overall height of 20m together with the addition of telecommunications antenna, dishes and associated equipment with all enclosed in security fencing.

3.0 Planning Authority Decision

3.1. Decision

Permission was refused based on one reason....

1. It is an objective, under CDP8.44 of the Clare County development Plan 2017-2023 (as varied) to facilitate the provision of telecommunications services at appropriate locations within the county having regard to the DoEHLG 'Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities 1996 (as updated by PL07/12 of 2012)'

The said guidelines for Planning Authorities state:

Only as a last resort and if the alternatives suggested in a previous paragraph are either unavailable or unsuitable should free-standing masts be located in a

residential area or beside schools. If such a location should become necessary, sites already developed for utilities should be considered and mast and antennae should be designed and adapted for specific location. The support structure should be kept to the minimum height consistent with effective operation and should be monopole (or poles) rather than latticed tripod or square structure.

Having regard to the height and design of the existing structure, the height increase as proposed under this applications and the location in close proximity to a large number of residential properties, it is considered that the proposed development would be contrary to both CDP8.44 of the Clare County development and Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities 1996. The said structure would therefore seriously injure the residential and visual amenities of the area, would depreciate value of residential property in the vicinity, and be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning Report (14/12/20): The proposal was regarded as being contrary Clare County Development Plan policy (CDP 8.44) and the recommendations of national guidelines relating to siting and location. The proposal development would be injurious to both visual and residential amenity at this location. Refusal was recommended based on the reason outlined above.

3.3. Prescribed Bodies

IAA (03/11/21): No observations.

3.4. Third Party Observations

3.4.1 Five third party submission were received and include submissions on behalf of the residents of Thornbrook and Westbury. The issues raised can be summarised as follows...

- Proximity to residential development, existing structure is not justification, existing structure is highly visible and the increased height will exacerbate such, devaluation of property, insufficient technical justification, alternative sites should be used.

4.0 Planning History

4.1 No planning history.

5.0 Policy Context

5.1. Development Plan

The relevant plan is the Clare County Development Plan 2017-2023

The site is located on lands zoned Utilities in the Athlunkard settlement plan.

It is intended that land zoned 'utilities' and 'infrastructure safeguard' will be reserved for the existing and future provision of key infrastructural services and the upgrading of existing services and infrastructure relating to road, rail, air, electricity, telecommunications, gas, water and wastewater treatment services.

CPD8.43 It is an objective of Clare County Council

a) To work with the Department of Communications Climate Change and Natural resources to ensure the prompt implementation of the Rural Broadband Scheme in County Clare.

b) To facilitate the delivery of high capacity ICT infrastructure throughout the County.

CDP8.44 It is an objective of the development plan:

To facilitate the provision of telecommunications services at appropriate locations within the County having regard to the DoEHLG 'Telecommunications Antennae and

Support Structures, Guidelines for Planning Authorities 1996 (as updated by PL07/12 of 2012).

5.2 National Policy National Policy

Telecommunications Antennae and Support Structures Guidelines for Planning Authorities

Section 4.2 Design and Siting

“The design of the antennae support structure and to a great extent of the antennae and other “dishes” will be dictated by radio and engineering parameters. There may be only limited scope in requesting changes in design. However, the applicant should be asked to explore the possibilities of using other available designs where these might be an improvement. Similarly, location will be substantially influenced by radio engineering factors. In endeavouring to achieve a balance some of the considerations which follow are relevant”.

“Only as a last resort and if the alternatives suggested in the previous paragraph are either unavailable or unsuitable should free-standing masts be located in a residential area or beside schools. If such a location should become necessary, sites already developed for utilities should be considered and mast 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 and should be monopole (or poles) rather than a latticed tripod or square structure”.

Section 4.3 Visual Impact

“Whatever the general visual context, great care will have to be taken when dealing with fragile or sensitive landscapes, with other areas designated or scheduled under planning and other legislation, for example, Special Amenity Areas, Special Protection Areas, the proposed Natural Heritage Areas and Special Areas of Conservation and National Parks. Proximity to listed buildings, archaeological sites and other monuments should be avoided.

In rural areas towers and masts can be placed in forestry plantations provided of course that the antennae are clear of obstructions. This will involve clearing of the site but in the overall will reduce visual intrusion. Softening of the visual impact can be achieved through judicious choice of colour scheme and through the planting of shrubs, trees etc as a screen or backdrop.

Some masts will remain quite noticeable in spite of the best precautions. The following considerations may need to be taken into account:

- Along major roads or tourist routes, or viewed from traditional walking routes, masts may be visible but yet are not terminating views. In such cases it might be decided that the impact is not seriously detrimental
- Similarly along such routes, views of the mast may be intermittent and incidental, in that for most of the time viewers may not be facing the mast. In these circumstances, while the mast may be visible or noticeable, it may not intrude overly on the general view of prospect
- There will be local factors which have to be taken into account in determining the extent to which an object is noticeable or intrusive – intermediate objects (buildings or trees), topography, the scale of the object in the wider landscape, the multiplicity of other objects in the wider panorama, the position of the object with respect to the skyline, weather and lighting conditions, etc.

5.3 Natural Heritage Designations

5.3.1 None in the vicinity.

5.4 EIA Screening

5.4.1 Having regard to nature and scale of the development, which is an increased height support structure replacing an existing lower elevation structure, 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

6.1.1 A first party appeal has been lodged by Eircom Limited. The grounds of appeal are as follows...

- The appeal site is the optimal site to allow for improvement of mobile telecommunication services in the local area. The design is consistent with the existing structure and the height is the minimum height increase consistent with effective operation. Views of the antennae are constrained by existing soft landscaping. The height of the structure propose is low by comparative standards.
- There is a requirement for the structure to improve coverage in the Westbury area with an existing structure servicing such too low and failing to provide adequate coverage. The proposed structure will also improve coverage in existing low capacity areas in the vicinity.
- The existing structure was constrained by exempted development limitations. The increase in height will allow for co-location with the existing structure used by Vodafone. The Comreg maps show that existing mobile coverage in the area is deficient and the proposal will improve such.
- The appellant has outlined alternative structures in the area that were considered and note that such are not suitable or capable of being used to provide the level of coverage required due to constraints including capacity and low elevation.

- The improvement of telecommunication infrastructure is consistent with Development Plan policy.
- The proposal is consistent with National Policy with it noted that the applicant will have limited flexibility regarding location in the context of visual impact and the fact that the structure is being kept to the minimum height to allow for effective operation. The proposal is in compliance with national policy.

6.2. Planning Authority Response

6.2.1 Response by Clare County Council

- The Council have no additional observations to make.

6.3. Observations

6.3.1 Observation by William Funnell, 7 Thornbrook, Westbury, Co. Clare.

- This observation outlined objections to proposal is supported by 54 households in addition to the observer (listed in the observation).
- The observation states that the existing mast is in close proximity to dwellings and is an eyesore from dwellings with a view of such. It is stated that the fact that the existing mast is not justification for the provision of a new mast, which would have an adverse impact due to increased height. The observation states that the photos submitted do not illustrate the extent of the visual impact in the area.
- The proposal would be visually obtrusive and depreciate the value of properties in the vicinity.
- The provision of a structure of increased height at this location to improve coverage in other areas is unfair and provision should be made in the areas in question with adequate sites available for such.

6.3.2 Observation by Tony Cusack, 4 Shrewsbury Lawn, Westbury, Corbally, Co. Clare.

- This observer lives directly adjacent the appeal site.

- The existing mast has an adverse visual impact in the area and from adjoining dwellings and the fact that it is an established structure does not mitigate the increased and adverse visual impact the proposed increase in height will have.
- Alternative locations should be considered and should be available. The level of detail regarding alternatives in the applicant's documents is insufficient to demonstrate adequate alternatives were considered.
- There are a number of dwellings in close proximity to the structure with concerns that an increased height would be potential hazard in the event of it becoming damaged structurally.

6.3.3 Observation by Denis Harrington, 8 Thornbrook, Westbury, Corbally, Co. Clare.

- This observer lives directly adjacent the appeal site.
- The existing mast has an adverse visual impact in the area and from adjoining dwellings and the fact that it is an established structure does not mitigate the increased and adverse visual impact the proposed increase in height will have.
- The observer states that from consultation with residents in the Westbury area it is noted that broadband connectivity is of a good standard and questions the justification for the proposed development. Alternative sites in the areas to be served should be considered with its stated that there are better alternatives such as using the roof of existing commercial structures.

6.3.4 Observation by Brid Moran, 1 Oakton Road, Westbury, Corbally, Co. Clare.

- The existing mast has an adverse visual impact in the area and from adjoining dwellings and the fact that it is an established structure does not mitigate the increased and adverse visual impact the proposed increase in height will have.

- Alternative locations should be considered and should be available. The level of detail regarding alternatives in the applicant's documents is insufficient to demonstrate adequate alternatives were considered.
- The observer states that from consultation with residents in the Westbury area it is noted that broadband connectivity is of a good standard and questions the justification for the proposed development. Alternative sites in the areas to be served should be considered with its stated that there are better alternatives such as using the roof of existing commercial structures.

7.0 Assessment

7.1 Having inspected the site and associated documents, the main issues can be assessed under the following headings.

Appropriateness of the location, technical justification

Visual Impact

Appropriate Assessment

7.2 Appropriateness of the location, technical justification:

7.2.1 The proposal was refused for one reason which relates to the location of the structure within a residential area and its increase in height. The proposal was considered to be both contrary Development Plan policy (CDP8.44) and the recommendations of the Telecommunications Antennae and Support Structures Guidelines for Planning Authorities. There is an existing 12m high lattice structure on site for the purposes of telecommunication infrastructure and this is to be increased to a 20m high lattice structure. The site is zoned for utilities with the proposal consistent with land use zoning policy and established use on site.

7.2.2 The application includes technical justification for the proposed development indicating that there are service/coverage deficiencies in the area the proposal is set to address. The information on file also provides detail of existing support structures examined as an alternative to the provision of new support structure in the area. It is

indicated that these structure do not facilitate the provision of the necessary coverage for the area in question due to issues such as capacity and elevation. The information on file notes that the area to be served is a residential area and such poses issues in terms of finding locations to site such infrastructure. I would consider based on the information submitted that there is a technical justification for the proposal and that the provision of such would be consistent with CDP 8.43 of the County Development plan in regards to improved telecommunications provision. I am also satisfied the applicant has submitted sufficient information to demonstrate the need for an additional telecommunication support infrastructure and has complied with Development Plan policy and the provisions of Telecommunications Antennae and Support Structures Guidelines for Planning Authorities.

7.2.3 The reason for refusal highlights the location of the proposed development in close proximity to residential development. National policy under Section 4.2 states that “the design of the antennae support structure and to a great extent of the antennae and other “dishes” will be dictated by radio and engineering parameters. There may be only limited scope in requesting changes in design. However, the applicant should be asked to explore the possibilities of using other available designs where these might be an improvement. Similarly, location will be substantially influenced by radio engineering factors. In endeavouring to achieve a balance some of the considerations which follow are relevant”.

“Only as a last resort and if the alternatives suggested in the previous paragraph are either unavailable or unsuitable should free-standing masts be located in a residential area or beside schools. If such a location should become necessary, sites already developed for utilities should be considered and mast 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 and should be monopole (or poles) rather than a latticed tripod or square structure”.

7.2.4 As noted earlier I would consider that a technical justification has been demonstrated for the additional support structure. In relation to its location and its proximity to residential development, I would note that the structure is to improve

coverage in a residential area, which would pose issues in terms of locating such infrastructure due to the lack of sites for such without being a prominent feature. The proposal seeks to locate the mast on an existing and well established site currently housing telecommunication infrastructure. A more efficient use of this established site and co-location of operators is wholly appropriate and consistent with national policy and eliminates the need for an additional freestanding structure within a residential area. I would consider that such is an appropriate location for the structure and would comply with national policy regarding siting as set down under Section 4.2. I would note that the issue of visual impact is dealt with in the following section of this report.

7.2.5 I would note that subject to the proposed infrastructure being installed, operated and maintained so that there is compliance with the international standards relating to emission of non-ionising radiation, the safety standards under COMReg and relevant guidance, standards and legislation no issues with regard to risk to public health from a planning perspective should arise.

7.3. Visual Impact:

7.3.1 One of the main aspects of the decision to refuse relates to visual impact at this location due to its location in an area adjacent residential development. The existing structure on site, which is a 12m high lattice tower is visible in the area and from existing dwellings. The locations where it is most visible in the area is from the dwellings in Thronbrook to the north. The site has a high degree of screening with existing vegetation on all sides, which does help in reducing the visual impact of the existing structure on site. I am of the view that the increase in height will not have a significantly different visual impact over and above the existing structure on site. I do consider that the fact the site is established site for telecommunications structure is a justification for the proposed development and although the new structure will be taller and have an increased level of visibility, it would not represent a significantly altered visual impact over and above the established structure on site. Having regard to national policy as outlined above, I am of the view that the overall visual impact of the proposal would be satisfactory in the context of the visual amenities of the area.

8.0 **Appropriate Assessment**

8.1 Having regard to the nature and scale of the proposed development and its proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 **Recommendation**

9.1. I recommend a grant of permission subject to the following conditions.

10.0 **Reasons and Considerations**

Having regard to the provisions of the Clare County Development Plan 2017-2023 and the DOEHLG Section 28 Statutory Guidelines; “*Telecommunications Antennae and Support Structures: Guidelines for Planning Authorities*, 1996, as updated by circular letter PL 07/12 in 2012, it is considered that subject to compliance with the conditions set out below, the proposed development would not be visually intrusive or seriously injurious to the amenities of the area or the residential amenities of properties in the vicinity, would not be prejudicial to public health and, would be in accordance with the proper planning and sustainable development of the area.

11.0 **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. (a) In the event of the proposed structure becoming obsolete and being decommissioned, the developers shall, at their own expense, remove the mast, antenna and ancillary structures and equipment.

(b) The site shall be reinstated on removal of the telecommunications structure and ancillary structures. Details relating to the removal and reinstatement shall be submitted to and agreed in writing with the planning authority at least one month before the removal of the telecommunications structure and ancillary structures and the work shall be completed within three months of the planning authority's approval in writing of these details.

Reason: In the interest of orderly development.

3. 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.

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

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

Reason: In the interest of public health.

5. Details of the proposed colour scheme for the telecommunications structure, ancillary structures 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. No advertisement or advertisement structure shall be erected or displayed on the proposed structure or its appendages or within the curtilage of the site without a prior grant of planning permission.

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

7. The developer shall provide and make available at reasonable terms the proposed support structure for the provision of mobile telecommunications antenna of third party licenced telecommunications operators.

Reason: In the interest of avoidance of multiplicity of telecommunications structures in the area, in the interest of visual amenity and proper planning and sustainable development.

8. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Colin McBride
Planning Inspector

19th April 2021