



An  
Bord  
Pleanála

## Inspector's Report ABP-310324-21

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<b>Development</b>	Proposed development to erect a 21m high monopole telecommunications support structure together with antennas, dishes and associated equipment all enclosed in security fencing
<b>Location</b>	Eir Exchange , Baltray Road, Termonfeckin, County Louth
<b>Planning Authority</b>	Louth County Council
<b>Planning Authority Reg. Ref.</b>	21256
<b>Applicants</b>	Eircom Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellants</b>	Signal Infrastructure Limited Well Termonfeckin
<b>Date of Site Inspection</b>	18 <sup>th</sup> June 2021
<b>Inspector</b>	Dolores McCague

## 1.0 Site Location and Description

- 1.1.1. The site is located at Eir Exchange, Baltray Road, Termonfeckin, County Louth. The site is in the centre of the village, near the river bank, beside an amenity area. It forms part of a larger parcel of land, enclosed by a palisade fence, where the Eir Exchange is located. There is a pedestrian access to this compound and a pair of double gates to an agricultural field adjoining. The development on site comprises a single storey flat roofed building, typical of its type. A pole, stated to be part of the existing infrastructure, to the front / side of the building, is almost invisible under a cover of ivy.
- 1.1.2. The site is on the bank of the Ballywater River, where tall mature trees, one now dead, form a backdrop.
- 1.1.3. The road forms a bend at the site location and there is a setback of the fence line, which would allow a vehicle to park. Being close to the river, the site is at a similar level to the village centre. The land rises steeply to the south / southwest and development, including the church to the south west and the primary school to the south, are at higher elevations.
- 1.1.4. A well maintained amenity area adjoins the river to the north west.
- 1.1.5. The site is given as 0.005ha.

## 2.0 Proposed Development

- 2.1.1. The proposed development is the erection of a 21m high monopole telecommunications support structure together with antennas, dishes and associated equipment all enclosed in security fencing.
- 2.1.2. In support of the application, Towercom on behalf of Eir state that Eir does not currently transmit from Termonfeckin. The existing 12m high timber pole is too low to propagate signal to the target coverage area. The new structure will release Eir to significantly improve its next generation services from its own telecommunications exchange compound. Eir may realise significant technological and work practice

efficiencies by situating its mast infrastructure adjacent to its telecoms exchange, converging overground and underground telecoms infrastructure.

2.1.3. A number of structures are discounted –

Sheetland Road 1.1km away where Three currently transmits; it would not achieve Eir's technical requirements of situating its own fit-for-purpose mast adjacent to its own ancillary infrastructure.

Eir's 12 high pole – can only carry light equipment, only the most basic technologies can operate, unlikely to be suitable for Eir's future needs or for site sharing.

TurboXpress, Meteor transmits from equipment on rooftop; too low to provide widespread coverage over Termonfeckin.

2.1.4. Comreg has released a general public viewer, map extract provided, showing poor coverage. A map extract is also provided, showing Eir's poor coverage.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. The planning authority decided to grant permission subject to 5 conditions including condition no 4

The OPW Preliminary Fluvial Risk Assessment Maps, (PFRA), indicates that the site is vulnerable to Fluvial Flooding. Prior to the commencement of development, the applicant shall submit for the written agreement of the planning authority, an assessment completed by a professionally qualified independent competent person, to confirm that all elements of the proposed development:

Will not exacerbate flooding in the immediate vicinity or wider area.

Any residual risks to the area and /or development can be managed to an acceptable level.

### 3.2. Planning Authority Reports

3.2.1. Planning Reports

The site is in an area of known fluvial flooding, as indicated on OPW flood maps, however this is an established telecommunications compound of longstanding, the development is described as less vulnerable by the Planning System and Flood Risk Management Guidelines. The road to the south is outside the flood zone and access can be maintained during any flood event.

### 3.2.2. Other Technical Reports

Environmental Compliance - conditions

## 3.3. **Third Party Observations**

3.3.1. Third Party Observations on the file have been read and noted.

## 4.0 **Planning History**

This site

67133 automatic telephone exchange

75546 extension to telephone exchange

c 660m to north west:

ABP-300627-18 Permission for the construction of a 24m telecommunications lattice support structure carrying antennas and transmissions dish, with associated equipment units, security fencing & access track, granted.

## 5.0 **Policy Context**

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

5.1.1. These Guidelines set out the criteria for the assessment of telecommunications structures. The relevant points to this case are summarised below.

- 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 (Section 4.3).

- Facilities and Clustering (Section 4.5). Sharing of installations (antennae support structures) will normally reduce the visual impact on the landscape. The potential for concluding sharing agreements is greatest in the case of new structures when foreseeable technical requirements can be included at the design stage. All applicants will be encouraged to share and will have to satisfy the authority that they have made a reasonable effort to share. Where the sharing of masts or towers occurs each operator may want separate buildings/cabinets. The matter of sharing is probably best dealt with in pre-planning discussions.

## 5.2. Circular Letter PL07/12

- 5.2.1. This Circular Letter revises elements of the 1996 Guidelines. In particular, Section 2.2 advises Planning Authorities to cease attaching time limiting conditions to telecommunications masts, except in exceptional circumstances. Section 2.4 advises that the lodgement of a bond or cash deposit is no longer appropriate and instead advises that a condition be included stating that when the structure is no longer required it should be demolished, removed and the site re-instated at the operators' expense.

## 5.3. Louth County Development Plan 2015-2021

Termonfeckin is a third tier town where zoning applies. The subject site is not zoned but it is surrounded by land zoned village centre. The site is within the zone of archaeological interest AR6 area of potential. Termonfeckin Castle is a National Monument in state ownership. Termonfeckin is on scenic route no. 18 - Castlebellingham – Annagassan -Clogherhead – Termonfeckin. The site is in a flood risk area.

HER 62 To prohibit development that would interfere with or adversely affect the scenic routes as identified in Table 5.15.

Telecommunications

In relation to telecommunications, Section 9.10 states that “the provision of telecommunications services is essential to promoting commercial and industrial development, enhancing social inclusion and interaction and improving personal and household security. Therefore, investment in the telecommunications sector is critical to further both the economic and social development of the County. Broadband internet services provide high access speeds and is consequently an advantage for businesses, attracting new businesses, students and home users. Government policy recognises the need to provide high levels of broadband connectivity to strengthen economic and social prosperity.”

Section 9.11.7 states that Louth County Council recognises the importance of high quality telecommunication infrastructure as a prerequisite for a successful economy and accepts the critical importance of a high quality telecommunications service at national, regional and local level. It also states that due to the physicality of the structures in addition to the materials utilised, these telecommunication structures can significantly impact on the landscape, both urban and rural. Therefore in dealing with applications for such development it is essential that care and consideration is afforded to discreet siting and good design.

#### Policies

EnCo 33: To secure the provision of high quality broadband and telecommunication infrastructure within the County in the interests of promoting economic growth and competitiveness.

EnCo 34: To support a programme of broadband connectivity throughout the County and facilitate the expansion of broadband in more remote areas.

EnCo 36 To ensure the orderly development of telecommunications throughout the County in accordance with the requirements of the “Telecommunications Antennae and Support Structures Guidelines for Planning Authorities 1996, except where they conflict with Circular Letter PL 07/12 which shall take precedence, and any subsequent revisions or expanded guidelines in this area.

EnCo 37 To promote best practice siting and design in relation to the construction of telecommunication structures and in particular secure a high quality of design of masts, towers and antennae and other such infrastructure in the interests of visual

amenity and the protection of sensitive landscapes subject to engineering parameters.

EnCo 38 To operate a presumption against the location of antennae support structures where such structures would have a serious negative impact on the visual amenity of sensitive sites and locations.

EnCo 39 To require co-location of antennae support structures and sites where feasible. Operators shall be required to submit documentary evidence as to the non feasibility of this option in proposals for new structures.

EnCo 42: The planning authority shall include a condition on any planning permission that in instances where the telecommunications structure is no longer required, that it shall be demolished, removed and the site re-instated at the operator's expense.

EnCo 43: To support the co-ordinated and focused development and extension of broadband infrastructure throughout the County and co-operate with the Department of Communications, Energy and Natural Resources DCENR and public and private agencies where appropriate, in improving high quality broadband.

### Level 3 Settlements - Termonfeckin

Chapter 13 of Appendix 2 of the Plan sets out policies and guidance in relation to Termonfeckin, and the following Policies are noted:

TERM 1: To support Termonfeckin in its role as a local rural service centre for its population and that of its rural hinterland where the principles of environmental, economic and social sustainability including protection of the village's heritage, the natural and built environment are enshrined.

TERM 8: To preserve the views of the St Fechin's and the Church of the Immaculate Conception.

TERM 9 To establish a minimum 20 metre wide riparian corridor free from development along each edge of the Ballywater River, consistent with habitat protection, maintenance access requirements, flood alleviation and recreational requirements. Any proposed path should, where feasible, be located a minimum of 6 metres from the top of the river edge.

#### **5.4. Planning System and Flood Risk Management Guidelines.**

##### **5.4.1. Relevant provisions of these Guidelines include:**

Impacts on Infrastructure (2.11) - The damage flooding can cause to businesses and infrastructure, such as transport or utilities like electricity and water supply, can have significant detrimental impacts on local and regional economies. Flooding of primary roads or railways can deny access to large areas beyond those directly affected by the flooding for the duration of the flood event, as well as causing damage to the road or railway itself. Flooding of water distribution infrastructure such as pumping stations or of electricity sub-stations can result in loss of water or power supply over large areas. This can magnify the impact of flooding well beyond the immediate community. The long-term closure of businesses, for example, can lead to job losses and other economic impacts.

2.17 Transport and strategic utilities infrastructure can be particularly vulnerable to flooding because interruption of their function can have widespread effects well beyond the area that is flooded. This reinforces the need for decisions to locate development in areas at risk of flooding to be fully justified with regard to wider proper planning and sustainable development considerations.

Development should preferentially be located in areas with little or no flood hazard thereby avoiding or minimising the risk. Development in the context of these Guidelines includes all construction, such as transport and utility infrastructure as well as residential and other buildings. Development should only be permitted in areas at risk of flooding when there are no alternative, reasonable sites available in areas at lower risk that also meet the objectives of proper planning and sustainable development.

#### **5.5. Natural Heritage Designations**

##### **5.5.1. The closest Natura 2000 site is the Boyne Coast and Estuary SAC (Site Code 001957), which is located c. 1.5km to the east, downstream.**



5.5.2. The Boyne Estuary SPA (Site Code 004080), is located c.3km further south east, and the River Boyne and River Blackwater SAC (Site Code 002299) is located further to the south west.

## 5.6. EIA Screening

5.6.1. Having regard to the nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity 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. There are two third party appeals against the decision to grant permission, from Well Termonfeckin and Cignal Infrastructure Limited.

6.1.2. The grounds of appeal from Well Termonfeckin includes:

- The appeal is from Well Termonfeckin/ Termonfeckin Development Board in association with Termonfeckin & District Community Group, the Board of Management of Scoil Naomh Fechin and listed signatories.
- Appellants disagree with the assessment that the proposal will not be unduly prominent given the presence of mature trees; the trees are not on the site, or in the ownership of the applicant, and the applicant cannot guarantee that they will remain in situ. They are deciduous and afford less coverage in late autumn, winter and early spring. To the south, east and southwest the site is completely exposed to the residential units to the west and the national school and to residents of Baltray Road and Strand Road. The appellants provide 3D render of the proposed mast, from Termon River Estate, entrance road and from Scoil Naomh Feicin, the primary school. Proximity to the spire of St

Feicin's Church and Termonfeckin Castle is referred to in relation to the photomontages.

- The mast will extend to 22.5m with beacons and antennae. Further increasing the proposed 21m height.
- The centrality of the location was not adequately considered.
- There is a flood risk associated with the site.
- The proposed height is a result of the low lying nature of the site.
- Proximity to the school and residences.
- Applicant has not produced independent surveys to substantiate discounting of alternative sites. More suitable alternative sites are available such as an existing structure located at Nunneryland, 1km away, at a higher elevation.
- The planner's report is incorrect in stating that the mast is 27m from the public road. It is 15-20m from the publicly accessible gateway on the public path. This would be hazardous during storms.
- The vehicular access is inadequate. Larger vans and multiple vehicles cannot park without interfering with the public footpath. Often forcing school children and other pedestrians onto the road. Photograph provided.
- Proximity to archaeological sites.
- Precedent – centre of Moville Co Donegal 2050970 (Donegal 2020) refusal reason cited. The mast would by virtue of height and form, be an overbearing and incongruous structure within the established pattern of development within the immediate vicinity of the site which consists of mostly residential properties..
- Termonfeckin is an integral village to the new SeaLouth tourism initiative 'a tourism initiative and visitor experience showcasing Louth's picturesque coastline, local seafood producers, and participating restaurants along the trail where you can enjoy fine fresh seafood.' The site is located on the R167 a scenic route from Drogheda to Termonfeckin. A featured restaurant is 200m south of the site.

- The proposal could have a negative impact on future development of the adjoining lands.
- Noise pollution due to onshore winds.
- This is an early Christian village 19 monuments in the record of monuments and places, two national monuments and 6 buildings listed in the NIAH are within 300m of the site. A holy well ritual site St Feichin's Well is 50m to the northeast; settlement cluster is 70m to the northeast; castle / towerhouse and ecclesiastical site 120m-140m to the west. Potential for underground archaeology and for visual impact on upstanding remains.

6.1.3. The appeal from Cignal Infrastructure Limited includes:

- Cignal Infrastructure Limited owns and operates an existing in situ 24m multiuser telecommunications support structure in Termonfeckin td, c 600m north west of the proposed development; granted permission under ABP Ref no 300627-18. It is designed as a multiuser antenna support structure capable of meeting all operator requirements in the Termonfeckin area and currently has excess capacity to accommodate additional telecommunications equipment as the need arises.
- It is apparent that the application documentation justification of the new structure did not consider the existing in-situ telecommunications structure. The applicant has not met the requirements and standards relating to sharing facilities and co-location of antennae, contained in the Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities, 1996, updated by Circular Letter PL07/12 as referenced in Section 9.11.7 of the Louth County Development Plan 2015-2021

## 6.2. Applicant Response

6.2.1. The applicant has responded to the grounds of appeal, including:

- The guidelines state that sites already developed for utilities should be considered and installations should be designed and adapted for the specific location. In this case the existing infrastructure is unable to accommodate multi-operator equipment and it is proposed to cluster.

- The proposed installation would facilitate co-location and potentially accommodate multiple-operators.
- Regarding proximity to residential areas and local school the inspector's report on PL26.247800 is referred to.
- The height is the minimum required to ensure sufficient radio coverage. It is important to note that the proposed installation must see over the local clutter, such as tall trees and buildings, in order to provide coverage.
- There is a history of telecommunications use within the Eir Exchange and a precedent for infrastructure and utilities in the locality. Where the structure will be visible due to its increased height it will generally be seen protruding over the trees and vegetation, and through natural screening, existing buildings and general visual clutter.
- It will ultimately avoid a proliferation of communications masts and antennae in the area and facilitate the potential for future structure sharing and co-location.
- It is the intention to provide the flood risk assessment per condition no. 4.

### 6.3. **Planning Authority Response**

The Planning Authority has responded to the grounds of appeal, stating that they have no further comment to make.

## 7.0 **Assessment**

- 7.1.1. The issues which arise in relation to this appeal are: appropriate assessment, principle of proposed development and flood risk, and the following assessment is dealt with under these headings

### 7.2. **Appropriate Assessment.**

- 7.2.1. Having regard to the nature and scale of the development proposed, the limited extent and duration of the associated construction works, and the distance to the nearest designated sites, namely the Boyne Coast and Estuary SAC (Site Code

001957), c. 2.2km to the east, and the Boyne Estuary SPA (Site Code 004080), c.3km to the south east, 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. Principle of Proposed Development**

- 7.3.1. The site is identified in the Termonfeckin land use and flood events map as liable to flooding and although surrounded by zoned land it is itself not zoned, which appears to be a mapping error. The surrounding area is zoned village centre.
- 7.3.2. Policy regarding telecommunications structures and broadband provision is contained under Sections 9.10 and 9.11 of the County Development Plan. The rationale for the proposed development, as outlined by the applicant, is to improve the coverage and capacity of mobile telephony and broadband services in the Termonfeckin area, which is a location noted by the applicant as being deficient as such.
- 7.3.3. I consider that the proposal to improve telecommunications and broadband services is broadly consistent with the Policies set out under Sections 9.10 and 9.11 of the County Development Plan to improve such services.
- 7.3.4. Policy EnCo 39 of the Development Plan requires co-location of antennae support structures and sites where feasible. It states that Operators shall be required to submit documentary evidence as to the non-feasibility of this option in proposals for new structures. 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. 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.
- 7.3.5. Policy TERM 8 of the Development Plan seeks to preserve the views of the St Fechin's and the Church of the Immaculate Conception. The principal views towards both churches are from the R166 in an eastward direction, while the appeal site is to the west of the R166. Having regard to this relative orientation, and the separation distance of the proposed telecommunications support structure from both churches, I

am satisfied that it will not impact upon the preserved views and will not contravene Policy TERM 8.

- 7.3.6. TERM 9 refers to the maintenance of a 20m riparian corridor along the Ballywater River. The proposed development would be within the 20m riparian corridor.
- 7.3.7. The applicant set out the technical justification for the proposal in the letter to the planning authority, which accompanied the application. Which includes a Comreg outdoor coverage map indicating Eir's 3G coverage.
- 7.3.8. In support of the application the applicant it is stated that a number of structures were discounted: Sheetland Road 1.1km away where Three currently transmits because it would not achieve Eir's technical requirements of situating its own fit-for-purpose mast adjacent to its own ancillary infrastructure.
- 7.3.9. Sheetland Road runs west of the village to the south of the river. In my opinion the desire to have its own structure is not sufficient reason to discount the structure referred to. In addition the structure permitted under ref 300627 in Termonfeckin townland along a road north of the river was not considered. This structure is the subject of the appeal by Cignal Infrastructure Limited, who state that it is designed as a multiuser antenna support structure capable of meeting all operator requirements in the Termonfeckin area and currently has excess capacity to accommodate additional telecommunications equipment as the need arises. From the foregoing there appears to be two potential alternative sites available to the applicant.
- 7.3.10. I accept the arguments made in the grounds of appeal that the application documentation does not provide justification for the new structure and did not fully consider existing telecommunications structures.
- 7.3.11. The site is located in a sensitive location within the village of Termonfeckin. The Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities, 1996 state that only as a last resort should free-standing masts be located within or in the immediate surrounds of smaller towns or villages. The site is not a last resort. Policy EnCo 39 of the Louth County Development Plan 2015-2021 requires co-location where feasible.
- 7.3.12. The applicant has not met the requirements and standards relating to sharing facilities and co-location of antennae, contained in the Telecommunications

Antennae and Support Structures – Guidelines for Planning Authorities, 1996, updated by Circular Letter PL07/12 and as referenced in Section 9.11.7 of the Louth County Development Plan 2015-2021.

- 7.3.13. The proposed development is not acceptable in principle and this is a reason to refuse permission.

#### **7.4. Flood Risk**

- 7.4.1. The site is in an area which is at risk from flooding. This development is a type of strategic utility and could not be evaluated as clearly being less vulnerable. It is noted in the Planning System and Flood Risk Management Guidelines that such infrastructure can be particularly vulnerable to flooding because interruption of function can have widespread effects well beyond the area that is flooded.
- 7.4.2. Condition no 4 which requires that prior to the commencement of development, the applicant shall submit for the written agreement of the planning authority, an assessment completed by a professionally qualified independent competent person, regarding residual risk.
- 7.4.3. While the presence of the existing exchange is a consideration in relation to the assessment of the proposed development vi a vis flood risk, I am not satisfied that there is sufficient information on this file regarding the impact of flooding on the proposed development such that further development on this vulnerable site, for necessary infrastructure, can be justified.

#### **8.0 Recommendation**

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

#### **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,

(b) the height, scale and location of the proposed development in the centre of the village, and

(c) the failure to fully assess alternative locations or demonstrate that this is a last resort location,

it is considered that the proposed development would be visually obtrusive and would seriously injure the amenities of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Planning Inspector

July 2021

Appendices:

Appendix 1 Photographs

Appendix 2 Louth County Development Plan 2015-2021, extracts.

Appendix 3 Planning System and Flood Risk Management Guidelines, extracts.