



An
Bord
Pleanála

Inspector's Report

ABP-310340-21

Development

Erection of an 18m high monopole telecommunications support structure together with antennas, dishes and associated equipment all enclosed in security fencing and remove the existing 10.5m high timber communications pole with antenna.

Location

Eir Exchange, Junction of Saint Mary's Road & Bailieboro Road, Kingscourt, Co Cavan.

Planning Authority

Cavan County Council

Planning Authority Reg. Ref.

21140

Applicant(s)

Eircom Ltd

Type of Application

Permission

Planning Authority Decision

Refuse

Type of Appeal

First Party

Appellant(s)

Eircom Ltd

Observer(s)

Ena McGinley

Date of Site Inspection

19th June 2021

Inspector

Colin McBride

1.0 Site Location and Description

- 1.1. The appeal site is located at the corner of St. Marys Road (L7612-0) and the Bailieborough Road (R165) approximately 140m west of Kingscourt Main Street. The site is occupied by the existing Eir exchange building with the site defined by a low perimeter wall and occupied by a single-storey structure. There is an existing 10.5m high wooden pole/support structure with a 3m high antennae on the site. Adjoining development include a car parking area associated with commercial development to the east. To the south of the site is land with no clearly definable use and is overgrown with vegetation. The nearest dwellings are on the opposite side of the public roads to the west and to the north.

2.0 Proposed Development

- 2.1. Permission is sought to erect an 18m high monopole telecommunications support structure together with antennae, dishes and associated equipment all enclosed in security fencing and remove the existing 10.5m high timber communications pole with antenna.

3.0 Planning Authority Decision

3.1. Decision

Permission refused based on two reasons...

1. It is considered that the scale and design of the proposed telecommunications structure would have an adverse impact on the visual and residential amenities of the area, would set an undesirable precedent for future development of this nature, would be contrary to Objective PLO120 of the Cavan County Development Plan 2014-2020 which states 'masts will only be permitted within towns and villages of the County when accompanied by satisfactory proposals for dealing with dis-amenities and incompatible locations' would be contrary to the proper planning and sustainable development of the area.

2. It is considered that the proposed development would be contrary to the stated objectives PLO118, PLO122 & PLO125 of the Cavan County Development Plan 2014-2020 in relation to reasoned justification for the proposed development in terms of co-sharing and clustering and would, therefore, be contrary to the propose planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning report (29/04/21): The proposal was considered to have a negative visual impact and subsequent detrimental impact on residential amenities. It was also considered that insufficient justification was provided for the development and the proposal was not in compliance with development plan objectives for telecommunications structures.

3.3. Prescribed Bodies

3.3.1 None.

3.4. Third Party Observations

3.4.1 12 no. submission were received from residents in the surrounding area. The issues raised can be summarised as follows...

Proximity to housing, schools, churches/sensitive receptors, out of character in the area, health impact, visual impact, insufficient justification, requirement for co-location or alternative sites, devaluation of property, distraction of motorists.

4.0 Planning History

15/412: Permission granted to retain existing development at the site, 10.5m high wooden pole with 3m antennae.

10/58: Permission (temporary) granted to retain existing 10.5m high wooden pole with 3m antennae.

04/2246: Permission (temporary) granted to retain existing 10.5m high wooden pole with 3m antennae.

99/217: Temporary permission granted for a support pole and antennae.

5.0 Policy Context

5.1. Development Plan

The relevant plan is the Cavan County Development Plan 2014-2020, the appeal site is zoned 'Existing Residential' with a stated objective 'to provide the development of balanced communities and ensure that any new development in existing residential areas would have a minimal impact on existing residential amenity. New housing and infill developments should be in keeping with the character of the area and existing buildings and shall not impact on the amenities of current or future residents. The design of new dwellings shall be of high quality with good layout design and adequate private and, where appropriate public open space and an appropriate mix of house sizes, types and tenures'.

Telecommunication structures are neither listed as 'permitted in principle' or 'not permitted' within this zone.

PIO118: To encourage the co-location of antennae on existing support structures and to require documentary evidence, as to the non availability of this option, in proposals for new structures. The shared use of existing structures will be required where the numbers of masts located in any single area is considered to be excessive. The Planning Authority will generally consider any location with three or more separate support structures as having no remaining capacity for any further structures.

PIO119: In Special Policy Landscape and Amenity Areas the presumption will be that all applications must meet the co-location requirement or be supported by a 'Visual Impact Assessment Report' that will demonstrate that the development can be satisfactorily absorbed into the landscape.

PIO120: Masts will only be permitted within towns and villages of the County when accompanied by satisfactory proposals for dealing with dis-amenities and incompatible locations.

PIO121: Masts will only be permitted if supported by an acceptable 'Visual and Environmental Impact Assessment Report'.

PIO122: Shared use of existing support structures will be preferred in areas where there are a cluster of masts.

PIO123: Applications for the development of new telecommunications structures shall identify existing public rights of way and established walking routes, maintain them free from development and preserve them as public rights of way or walking routes.

PIO124: Access roads shall only be permitted where they are absolutely necessary. The applicant shall be required to demonstrate that minimal visual impact shall occur, that they do not scar the landscape and that they follow natural contours so as to minimise their visual intrusion. Access roads shall be bordered with a mix of native trees and shrubs after construction. It shall be a condition of permission that the land is reinstated at the end of the construction period. Applicants must submit proposal to mitigate the visual impact of access roads.

PIO125: To submit a reasoned justification as to the need for the particular development at the proposed location, in the context of the operator's overall plans to develop a network and the plans of other operators. To provide details of what other sites or locations were considered and include a map showing the location of all existing telecommunication structures, whether operated by the applicant or by a competing company, within 1km of the proposed site and reasons why these sites were not feasible.

PIO126: When antennae and their support structures are no longer being used and no new user has been identified to ensure that they are removed and that the site is re-instated at the operator's expense and to the Council's satisfaction. Permissions granted will contain a bonding arrangement to this effect. It shall also be an obligation of the original operator to inform the Council if they intend to dispose of the site to another suitable operator.

5.2. 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 Towercom Ltd on behalf of Eircom Ltd. The grounds of appeal are as follows...

- The proposal should be granted having regard to Section 37(2)(b)(ii) of the Planning and Development Act having regard to regional spatial and economic strategy for the area, and Section 28 Guidelines. The appellant disagrees that the proposal would have an adverse visual impact.
- There is technical justification for the proposal with an existing weak spot in coverage in the area and the existing support structure on site inadequate to deal with such. The COMREG Maps illustrate existing coverage deficiencies. The existing location is the best option for improving coverage with other structure considered and discounted due to various constraints listed.

- The appellant notes Development Plan policy is supportive of improved telecommunications infrastructure and the proposal would not contravene development plan policy. Co-location is not possible on existing support structures (PIO118). The applicant/appellant has provided sufficient technical justification for the proposal (PIO125).
- The visual impact of the proposal is acceptable with existing support structure being replaced with a slim monopole structure with no net increase in telecommunication structures at this location. The type of structure proposal is in accordance with section 4.3 of the DoEHLG Telecommunications Antennae and Support Structures Guidelines.

6.2. Planning Authority Response

6.2.1 No response.

6.3 Observations

6.3.1 An observation has been received from Ena McGinley, Fairymount Rocks Road, Kingscourt, Co. Cavan.

- The proposal would be detrimental to the visual impact of the area and town centre due to proximity to the Main Street.
- The proposal does not comply with the DoEHLG Telecommunications Antennae and Support Structures Guidelines in terms of visual impact, exploration of alternative designs/use of existing structures and siting within an urban area.
- The proposal does not comply with the Cavan County Development Plan with the site zoned for residential use and not industry/enterprise or employment.
- The proposal is contrary to the Planning Act in terms of protection of architectural and cultural heritage.
- The observer owns a site that is zoned residential and would be suitable for new residential development and the proposal would impact on such future proposal due to its proximity.

- No EIA was provided for the proposal.
- The proposal would impact tourism and is contrary development plan policy in this regard.
- The maintenance of the structure would result in traffic safety issues.
- The applicants/first party appellants have provided insufficient justification for the proposal and failed to adequately explore alternative options.

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

Development Plan policy/Section 37(2)(b)

7.2 Appropriateness of location, technical justification:

7.2.1 The proposal was refused for two reasons which relate to the location of the structure within an urban area in close proximity to dwellings. The proposal was considered to be contrary Development Plan policy PIO120. There is an existing 13.5m high structure on site for the purposes of telecommunication infrastructure (10.5m high wooden pole and 3m high antennae) and this is to be replaced by an 18m high monopole structure with antenna. The site is zoned 'Existing Residential'. Telecommunication structures are neither listed as 'permitted in principle' or 'not permitted' within this zone. The appeal site is already in use for telecommunication infrastructure with principle of use established on site so I do not consider there are any zoning issues.

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. 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 Development Plan policy 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. In addition I would note that the site is an established location for telecommunication infrastructure and not a new location with a long established planning history for such development at this location.

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 13.5m high structure is visible in the area and from existing dwellings. 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 would 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. I would also note that the design of support structure is a monopole structure as recommended by the national guidelines. 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.

7.4. Development Plan policy/Section 37(2)(b):

7.4.1 The proposal was refused on the basis that it is contrary a number of Development Plan policies. I am satisfied that the proposal complies with Development Plan policy in relation to telecommunications structures. The appellant in their submission implies that Section 37(2)(b)(ii) applies. Section 37(2)(b) relates to instances in which the Board may grant permission in the case the Planning Authority refuses permission on the basis that it contravenes materially the development plan. I would note that Section 37(2)(b) does not apply in this case and both refusal reasons do not state that the proposal materially contravenes Development Plan policy.

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 Cavan County Development Plan 2014-2020 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

28th June 2021