



An
Bord
Pleanála

Inspector's Report ABP-311019-21

Development	Construction of 18M high telecommunications monopole and associated equipment.
Location	Eir Exchange, Junction of James's Walk and Forbes Lane, Dublin 8, D08 K598
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	2777/21
Applicant(s)	Eircom Ltd
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Eircom Ltd
Observer(s)	1) Maryland Residents Association 2) Four Terraces Tenants Association
Date of Site Inspection	3 rd December 2021
Inspector	Mary Crowley

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1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 120sqm ha is located at the existing Eir Telecoms Exchange building located at the junction of James's Walk and Forbes Lane and opposite the St James Hospital complex. It is presently occupied by a two storey building which is enclosed on all sides by palisade fencing on top of a low-level block wall. The roof top of the building is occupied by telecommunications infrastructure. The proposed siting of the new 18m high support structure is along the northern edge of the site where it adjoins Forbes's Lane and directly opposite existing residential units.
- 1.2. A set of photographs of the site and its environs taken during the course of my site inspection is attached. These serve to describe the site and location in further detail.

2.0 Proposed Development

- 2.1. Permission is sought to erect an 18m high monopole telecommunications support structure together with antennas, dishes and associated equipment all enclosed in security fencing. The application was accompanied by a cover letter setting out the justification for the new structure, discounted structures, merits of the existing site location, site sharing, Comreg outdoor coverage map and compliance with Development Plan policy and objectives.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Dublin City Council issued a notification of decision to refuse permission for the following reason:

Having regard to the provisions of the Ministerial Guidelines Telecommunications Antennae and Support Structures; Guidelines for Planning Authorities (1996) as supplemented by Circular letter PL07/12 - Telecommunications Antennae and Support Structures Guidelines, the Dublin City Development Plan 2016 - 2022 and taking into consideration the residential Zoning (Z1) of the site, the height of the proposed telecommunications

infrastructure and supporting equipment and its siting close to existing residential properties along Forbes Lane, the proposed development would be highly visible and would have an adverse impact on the visual and residential amenities of this area. The proposed development would seriously injure the residential and visual amenities of property in the vicinity, would set an undesirable precedent for similar developments on residential sites in the city and would, therefore, be contrary to the proper planning and sustainable development of the area

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

- The **Case Planner** having considered the proposed development recommended that permission be refused. The notification of decision to refuse permission issued by Dublin City Council reflects this recommendation.

3.2.2. Other Technical Reports

- **Drainage Division** – No objection

3.3. **Prescribed Bodies**

3.3.1. None

3.4. **Third Party Observations**

3.4.1. There are 2 no observations recorded on the planning file from the (1) Maryland Residents Association and (2) Four Terraces Tenants Association.

3.4.2. The issues raised relate to the heritage and historical location of the site given its role during the 1916 rising, height of the mast, existing telecoms structure at the site, health and safety issues on the adjoining residential and educational uses and the impact on the regeneration planned for the linear park at St James's Walk.

4.0 Planning History

4.1. No planning history has been made available with the appeal file and there is no evidence of any previous appeal at this location. Reference is made to the following 2 no appeals in the appeal submission:

- **ABP-307220-20** – Fingal County Council refused permission for the construction of telecommunications infrastructure comprising of; an 18 metre high monopole with telecommunications equipment attached, and ancillary ground based equipment, cabinets and fencing at Salmon's Public House, Mountview Rd, Coolmine, Dublin 15. Following a first party appeal the Board granted permission subject to 7 no conditions.
- **ABP-310340-21** – Cavan County Council refused permission for the 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 at the Eir Exchange, Junction of Saint Mary's Road & Bailieboro Road, Kingscourt, Co Cavan. Following a first party appeal the Board granted permission subject to 7 no conditions.

5.0 Policy Context

5.1. Development Plan

5.1.1. The operative plan for the area is the **Dublin City Development Plan 2016-2022**. The site is Zoned Sustainable Residential Neighbourhoods – Zone Z1 where the objective is “*to protect, provide and improve residential amenities*”.

5.1.2. **Section 9.5.11 – Telecommunications** of the Development Plan states that ‘*telecommunications infrastructure is a key requirement within the city of Dublin. The availability of services such as high-speed broadband is essential to the national economy but also to local communities in everyday life. Dublin City Council is mindful that the provision of telecommunications infrastructure, most notably antennae, can impact on residential amenity and visual amenity*’.

5.1.3. Relevant Policies and Objectives are as follows:

- **Policy SI29** – *To encourage and facilitate telecommunications infrastructure in appropriate locations throughout the city as a means of improving economic competitiveness and contributing to sustainable movement by reducing the need to travel through enabling e-working, e-commerce and distance learning.*
- **Policy SI30** – *To support and facilitate the delivery of a high-capacity ICT infrastructure, broadband networks, and digital broadcasting in the city, having regard to the government’s guidelines: Telecommunications Antenna and Support Structures–Guidelines for Planning Authorities, 1996 (DEHLG), and Circular Letter PL0 07/12 (including any updated/superseding documents) and where it can be demonstrated that development will not have significant adverse effects on the environment.*
- **Objective SIO30** – *To avoid a proliferation of communications masts and antennae and facilitate the potential for future mast sharing and colocation.*

5.1.4. **Section 16.33** of the Development Plan sets out guidance relating to Telecommunications Apparatus in terms of siting, design, visual amenity and health and safety and in relation to the sharing of installations.

5.1.5. **Section 16.33.1 Siting, Design and Visual Amenity**

- Telecommunications antennae and supporting structures should preferably be located on industrial estates or on lands zoned for industrial/employment uses. Possible locations in commercial areas, such as rooftop locations on tall buildings, may also be acceptable, subject to visual amenity considerations.
- In terms of the design of free-standing masts, masts and antennae should be designed for the specific location. In assessing proposals for telecommunication antennae and support structures, factors such as the object in the wider townscape and the position of the object with respect to the skyline will be closely examined. These factors will be carefully considered when assessing proposals in a designated conservation area, open space amenity area, historic park, or in the vicinity of protected buildings, special views or prospects, monuments or sites of archaeological importance. The location of antennae or support structures within any of these areas or in proximity to protected structures, archaeological sites and other monuments should be avoided.

5.1.6. **Section 16.33.2 Possible Sharing of Installations** - Where existing support structures are not unduly obtrusive, the City Council will encourage co-location or sharing of antennae on existing support structures, masts and tall buildings. Applicants must satisfy the City Council that they have made every reasonable effort to share with other operators.

5.1.7. **Appendix 21: Definition of Public Service Installation** - "A public service includes telecommunications".

5.1.8. **Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities, 1996** - These Guidelines set out the criteria for the assessment of telecommunications structures. Of relevance:

- 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.

5.1.9. **Circular Letter PL07/12**

- 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.

5.2. Natural Heritage Designations

5.2.1. The site is not located within a designated Natura 2000 site.

5.3. EIA Screening

5.3.1. 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. The first party appeal has been prepared and submitted by Towercom and may be summarised as follows:

- The proposed site is a suitable location for the development as it is already developed as a utilities site which is in line with Section 5.2 of the 1996 Guidelines. As the site is well-established as a commercial / industrial style location, it is accepting of taller structures like the monopole. The surrounding environment is also accepting of telecommunications equipment as there is antennas and dishes already present on the roof of the air exchange.
- There are several vertical structures present on and just off the street; there are parked cars passing cars and high vehicles in continuous motion up and down the Forbes Lane. The environment into which the appclaiton structure is proposed is suitable for the development.
- The proposed location to the top right of the exchange also minimises visual impact on the dwellings on Forbes Lane. The applicants will also accept a landscaping condition to further minimize the impact on the Forbes Lane boundary of the site.
- The surrounding landscape is generally accepting of taller / industrial type structures with many streetlights and ESB poles found along Forbes Lane and St James Walk. The site to the east of the exchange is a road maintenance depot

which features high walls and fencing and tall floodlights. The site is not within an Architectural Conservation Zone or near any protected views and prospects. As a result of this, the proposed structure is unlikely to adversely impact on any nearby protected structures / views or area. the site is not situated along a major road or tourist route and any views of the structure would not be terminal.

- At 18m in height the proposed structure would be considered lower than industry standards. The design of the structure complies with national and local policy by being at the minimum height consistent with effective operation. The structure will be situated in an existing exchange building already host to telecommunications equipment. These antennas and dishes are at a height of 17.3m. As a result of this the addition of the monopole would not result in a dramatic change to the landscape.
- Government policy and strategy from the top down promotes improved access to digital and broadband communications in a bid to revitalise rural Ireland, promote competitiveness, facilitate ICT structures, such as the application structure, are multi-decade essential infrastructure and must cater to existing customer needs and future needs.
- Reference is made to ABP-307220-20 and ABP-310340-21 as examples of positive planning precedence set by a grant of permission and the similarities between the cases.
- An Bord Pleanála requested to overturn the decision to refuse permission.

6.2. Planning Authority Response

6.2.1. None

6.3. Observations

6.3.1. There are 2 no observations recorded on the appeal file from (1) Maryland Residents Association and (2) Four Terraces Tenants Association. The issues raised relate to the residual visual impact of such an overbearing and massive metal structure, impact on the regeneration planned for the linear park at St James's Walk, impact on the heritage and historical location of the site given its role during the 1916 rising, potential

attacks on telecommunication masts (newspaper article refers) and health and safety issues on the adjoining residential and educational uses.

6.4. Further Responses

6.4.1. None

7.0 Assessment

7.1. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings:

- Principle
- Visual Amenity
- Residential Amenity
- Appropriate Assessment
- Other Issues

7.2. Principle

7.2.1. Permission is sought for the erection of a 18m monopole to support telecommunications support structure together with antennas, dishes and associated equipment all enclosed in security fencing for use by Eir in order to significantly improve its 4G service provision in Dolphins Barn and surroundings from within its existing telecommunications exchange at the junction of James Walk and Forbes Lane. The monopole structure and associated ground equipment cabinets will be sited along the inside of the northern boundary of the Eir exchange complex on the existing grass verge and hardstanding vehicular parking area. It is evident that the Eir building has been used for telecoms purposes for many years (site photos refer).

7.2.2. The appeal site and adjoining lands are Zoned Z1 – Sustainable Residential Neighbourhoods where the zoning objective is *to protect, provide and improve residential amenities*. As per Section 14.8.1 of the Development Plan *Public Service Installation* is a *Permissible Use* under this zoning. The definition of ‘a public service’

is set out in Appendix 21 of the Development Plan and includes telecommunications (Appendix 21). A 'Permissible Use' is one which is generally acceptable in principle in the relevant zone, but which is subject to normal planning consideration, including policies and objectives outlined in the plan (as per 14.4 of the Development Plan).

7.2.3. The application was accompanied by a Cover Letter that set out the justification for the proposal. It is submitted that the existing telecoms infrastructure attached to the plant room at roof level to the exchange building is overcrowded and incapable of accommodating further telecoms equipment and cannot satisfy Eir's 4G coverage and capacity requirements. Additional space is therefore required. The Comreg Outdoor Coverage Map indicates the extent of limit 4G coverage, particularly in St James's Hospital and its grounds and Teeling's Distillery. It indicates the lack of 4G coverage immediately to the north-west on the grounds of St James's Hospital and the site of the future National Children's Hospital. An assessment of existing mast infrastructure and high buildings for co-locating opportunities concluded that none of the infrastructure located at St James's Hospital, Herberton Road, ESB Substation and Lidl cannot facilitate the Eir technical objectives for the area. It is stated that the purpose built infrastructure would allow other operators to co-locate thereby allowing full technological deployment to the benefit of local users.

7.2.4. While residential areas should be considered as a last resort I am satisfied having examined the location of existing telecommunications structures on the site and the coverage maps submitted with the application, that there is sufficient justification for the provision of a telecommunications structure at the existing Eir Exchange Building. Accordingly, I would consider that the principle of the proposed development is acceptable.

7.3. **Visual Amenity**

7.3.1. Dublin City Council refused permission for a single reason. As the proposed development would be highly visible and would have an adverse impact on the visual and residential amenities of this area by reason of the site, the height of the proposed telecommunications infrastructure and supporting equipment and its siting close to existing residential properties along Forbes Lane.

7.3.2. I refer to the description of the proposed scheme as outlined above. The proposal is a typical design for this type of structure and is slender in nature. No design issues arise. Having regard to the information submitted it is evident that there would be a visual impact from the proposed structure within the immediate surrounding area. However, the structure are likely to be intermittent due to its location and given that there are currently a number of existing structures on the site including existing operators equipment (site photos refer). I am satisfied that the proposal would not have a significant, prominent or negative visual impact at this location and that the height and slender nature of the proposed structure together with its location within the Eir Exchange site would ensure that there would be limited visual impact on the wider area.

7.4. **Residential Amenity**

7.4.1. It is not uncommon for such structures or antennae to be in close proximity to residential development (particularly in urban areas) and that there is no requirement for a set separation distance. Overall, I am satisfied that the proposed development would have no adverse impact on residential amenities (subject to compliance with requirements on non-ionising radiation) in the event that it is constructed.

7.5. **Appropriate Assessment**

7.5.1. 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.

7.6. **Other Issues**

7.6.1. **Development Contributions** - Dublin City Council adopted a Development Contribution 2020-2023 scheme under Section 48 of the Planning and Development Act 2000. I refer to Section 11 where it states that *masts and antennae, dish and other apparatus/equipment for communication purposes that form part of the National Broadband Scheme (NBS) as defined by the Department of Communication, Energy and Natural Resources (DCENR)* will not be required to pay development contributions

under the Scheme. There is nothing on the appeal file indicating that this development forms part of the National Broadband Scheme. It is recommended that should the Board be minded to grant permission that a suitably worded condition be attached to any grant of planning permission requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.

8.0 Recommendation

8.1. I have read the submissions on file and visited the site. Having due regard to the provisions of the Development Plan, together with all other issues arising, I recommended that permission be granted for the following reasons and considerations.

9.0 Reasons and Considerations

9.1. Having regard to the provisions of the Dublin City Development Plan 2016-2022 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.

10.0 Conditions

1.	<p>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.</p> <p>Reason: In the interest of clarity</p>
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2.	<p>(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.</p> <p>(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.</p> <p>Reason: In the interest of orderly development.</p>
3.	<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>
4.	<p>Surface water drainage arrangements for the proposed development shall comply with the requirements of the planning authority.</p> <p>Reason: In the interest of public health.</p>
5.	<p>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.</p> <p>Reason: In the interest of the visual amenities of the area.</p>
6.	<p>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.</p>

	<p>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.</p>
7.	<p>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, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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</p>

Mary Crowley

Senior Planning Inspector

13th December 2021