



An  
Bord  
Pleanála

## Inspector's Report ABP312563-22

<b>Development</b>	Telecoms mast and equipment.
<b>Location</b>	Kilmacanogue North, County Wicklow
<b>Planning Authority</b>	Wicklow County Council
<b>Planning Authority Reg. Ref.</b>	211277
<b>Applicant(s)</b>	Emerald Towers Limited
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party v Refusal
<b>Appellant(s)</b>	Emerald Towers Limited
<b>Observer(s)</b>	<ol style="list-style-type: none"><li>1. Bethan Stephens</li><li>2. Darren Redmond</li><li>3. Pauline Crowley</li><li>4. Keith &amp; Maeve Robinson</li><li>5. Fia O'Caoimh</li><li>6. Eoin &amp; Lesleyann Wylie</li></ol>
<b>Date of Site Inspection</b>	16 <sup>th</sup> April 2022.
<b>Inspector</b>	Hugh Mannion.

## Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision .....	3
3.1. Decision .....	3
3.2. Planning Authority Reports .....	4
4.0 Planning History.....	4
5.0 Policy and Context.....	4
5.5. Wicklow County Development Plan 2016 - 2022 .....	5
5.8. Natural Heritage Designations .....	6
5.9. EIA Screening .....	6
6.0 The Appeal .....	7
6.1. Grounds of Appeal .....	7
6.2. Planning Authority Response .....	7
6.3. Observations .....	8
6.5. Further Responses.....	8
7.0 Assessment .....	8
8.0 Recommendation.....	12
9.0 Reasons and Considerations.....	12
10.0 Conditions .....	13

## **1.0 Site Location and Description**

- 1.1. The site has a stated area of 0.0056ha and is located in the open countryside to the east of Kilmanacogue village in Kilmacanogue, County Wicklow. The site is part of a pasture field and is approached over an agricultural lane which has a junction with the public road to the south. The field currently accommodates a large hipped-roof agricultural shed. The public road is narrow and without a medium line, footpaths or public lighting but it serves about 10 houses. The topography rises sharply to the east towards the Little Sugarloaf Mountain. To the west is Kilmacanogue village and the N11 and west of these are the Dublin/Wicklow mountains.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises the erection of a 21m high telecommunications monopole with antennas, dishes, associated telecommunications equipment, all enclosed with security fencing at Kilmacanogue North, Kilmacanogue, County Wicklow

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Refuse permission.

1. Having regard to the location of the proposed structure in a rural area, on an elevated site designated as an area of outstanding natural beauty, the absence of a visual impact statement as required by objective NH50 of the County Development Plan 2016-2022, and the failure of the applicant to demonstrate that there are not more appropriate locations – it is considered that the proposed development would be contrary to the objective T2 and Appendix 1 and NH50 of the County Development Plan in relation to rural development in areas of outstanding natural beauty. The proposed development would detract from view 39 and prospect 12 in the County

Development Plan and would therefore be contrary to the proper planning and sustainable development of the area.

2. The applicant has failed to submit a statement of compliance with the International Radiation Protection Association as required in Appendix 1 of the County Development Plan.

### 3.2. **Planning Authority Reports**

#### 3.2.1. Planning Reports

- 3.3. The planner's report recommended refusal as set out in the manager's order.

#### 3.3.1. Other Technical Reports

- 3.3.2. The **Bray Engineer** reported that a justification should be provided by the applicant in relation to two separate applications for two structures where a shared application with Emerald Town Limited would be preferable. Furthermore, if permission is granted a condition should be attached ensuring that the mast and equipment be removed by the developer when obsolete.

### 4.0 **Planning History**

- 4.1. ABP312607-22 is a current application for another telecoms tower located about 300m to the west and behind commercial buildings in Kilmacanogue village.
- 4.2. ABP312846-22 is a current application for a telecoms tower located about a 700m to the southeast of this application site accessed from the same rural road at Barchuillia Commons, Kilmacanogue, County Wicklow.

### 5.0 **Policy and Context**

- 5.1. **Telecommunications Antennae and Support Structures Guidelines for Planning Authorities (Dept of the Environment and Local Movement July 1996).** Sets out the national planning guidance for telecoms masts. *Inter alia* the guidance encourages the development of telecommunications infrastructure, requires

suppliers to share facilities where possible, have appropriate regard to residential and visual amenity.

**5.2. Regional Spatial and Economic Strategy for the Eastern and Midland Region.**

**5.3. Communications Networks and Digital Infrastructure RPO 8.25: Local authorities shall:**

- Support and facilitate delivery of the National Broadband Plan.
- Facilitate enhanced international fibre communications links, including full interconnection between the fibre networks in Northern Ireland and the Republic of Ireland.
- Promote and facilitate the sustainable development of a high-quality ICT network throughout the Region in order to achieve balanced social and economic development, whilst protecting the amenities of urban and rural areas.
- Support the national objective to promote Ireland as a sustainable international destination for ICT infrastructures such as data centres and associated economic activities at appropriate locations.
- Promote Dublin as a demonstrator of 5G information and communication technology.

**5.4. RPO 8.26: The EMRA supports the preparation of planning guidelines to facilitate the efficient roll out and delivery of national broadband.**

**5.5. Wicklow County Development Plan 2016 - 2022**

**5.6. Telecommunications Objectives**

T1 To facilitate the roll out of the National Broadband Plan and the development/expansion of communication, information and broadcasting networks, including mobile phone networks, broadband and other digital services, subject to environmental and visual amenity constraints.

T2 The development of new masts and antennae shall be in accordance with the development standards set out in Appendix 1 of this plan.

T3 To ensure that telecommunications structures are provided at appropriate locations that minimise and / or mitigate any adverse impacts on communities, and the built or natural environment.

**5.7. Landscape Impact Assessment**

5.8. NH50 Any application for permission in the AONB which may have the potential to significantly adversely impact the landscape area shall be accompanied by a Landscape / Visual Impact Assessment, which shall include, inter alia, an evaluation of visibility and prominence of the proposed development in its immediate environs and in the wider landscape, a series of photos or photomontages of the site / development from clearly identified vantage points, an evaluation of impacts on any listed views / prospects and an assessment of vegetation / land cover type in the area (with particular regard to commercial forestry plantations which may be felled thus altering character / visibility). The Assessment shall demonstrate that landscape impacts have been anticipated and avoided to a level consistent with the sensitivity of the landscape and the nature of the designation.

5.9. **NH52** To protect listed views and prospects from development that would either obstruct the view / prospect from the identified vantage point or form an obtrusive or incongruous feature in that view / prospect. Due regard will be paid in assessing development applications to the span and scope of the view / prospect and the location of the development within that view / prospect.

**5.10. Natural Heritage Designations**

Not relevant.

**5.11. EIA Screening**

5.12. Having regard to the modest scale of the proposed development and the absence of any foreseeable emissions therefrom I conclude that the requirement for submission of an EIAR and carrying out of EIA may be set aside at a preliminary stage.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- The site was chosen because, although it is a sensitive landscape, it will meet the technical requirements of the application and is less sensitive than other areas of similar technical suitability. The slopes of the Little Sugarloaf are less sensitive than the slopes of the Great Sugarloaf to the west of Kilmacanogue village.
- The proposal will not impact on prospect 12 mentioned in the refusal reason as it is north of the road (Bohilla Lane) along which the prospect is designated.
- There is a conflict between the landscape designation as an area of outstanding natural beauty and Development Plan objectives to support the improvement of telecoms services. The ComReg map attached to the appeal illustrates that there is poor coverage in Kilmacanogue and there is no structure available that would allow G4 and G5 coverage.
- The criteria set out in the Telecommunications Antennae and Support Structures Guidelines for Planning Authorities and referenced in the County Development Plan are siting and design, visual impact, access, site sharing and clustering. The proposed development meets these criteria.
- The failure to provide a visual impact assessment is regrettable but additional photos are submitted with the appeal that demonstrate the acceptability of visual impact of the proposed development.
- There have been several applications for masts in the area refused by the planning authority

### **6.2. Planning Authority Response**

- No submission.

### **6.3. Observations**

6.4. Observations were received from Bethan Stephens, Darren Redmond, Pauline Crowley, Keith & Maeve Robinson, Fia O’Caoimh, Eoin and Lesleyann Wylie

- The proposed development is in an area of outstanding natural beauty where it will unacceptably impact on views of the surrounding landscape.
- The proposed development will negatively impact on human beings and the ecology of the area by the emission of electromagnetic radiation.
- There are a number of applications for masts in the area and the applicant has not demonstrated a need for these. The national broadband service is being developed in the area.
- The application is close to walking trails including the Kilmacanogue to Southern Cross Greenway and the Bray/Great Sugarloaf walk passing along Kilfenora Road.

### **6.5. Further Responses**

- None

## **7.0 Assessment**

### **7.1. First Refusal Reason.**

7.2. The site is outside the eastern settlement boundary for Kilmacanogue village which is illustrated on the Kilmacanogue Settlement Plan attached to the current Wicklow County Development Plan. The site is within an area of outstanding natural beauty - Northern Hills illustrated on figure 4.11 of Volume 3 Appendix 5 of the County Development Plan. Objective NH50 of the County Development Plan requires that any application for permission in the AONB which may have the potential to significantly adversely impact the landscape area shall be accompanied by a Landscape / Visual Impact Assessment. This assessment should include photos or photomontages of the site and an evaluation of impacts on any listed views/prospects and demonstrate that the landscape impacts have been anticipated



and avoided consistent with the sensitivity of the landscape. The planning authority refused, in part, for the absence of such an assessment from the application.

- 7.3. The application site is off a local road (possibly known locally as Kilfenora Lane) which becomes Old Bohilla Lane and then, after a roundabout, joins the N11 on its southbound carriageway. There is unmetalled access into the field which accommodates the application site and a large agricultural shed. Along with the designation as an area of outstanding natural beauty the planning authority references view 39 from the N11 and prospect 12 which faces north towards the site from Bohilla Lane which runs south from the N11 roundabout along the western slopes of the Little Sugarloaf Mountain generally parallel to the N11.
- 7.4. Designated View 39 is well south of the road bridge which carries the R755 over the N11 and the pedestrian bridge which also links the businesses on the eastern side of the N11 to the largely residential uses on the western side of the N11. The photomontages submitted with the appeal have not included this view but having conducted a site inspection and having regard to the road bridges, tree screening, existing motorway lighting, electricity poles and commercial premises between view 39 and the application site I conclude that the visual impact on this designated view will be imperceptible.
- 7.5. Designated prospect 12 is referenced by the planning authority in its reason for refusal. This is described in schedule 10.15 as along the L5529 Bohilla Lane with a Prospect of Little Sugarloaf and the coast. The Coast is the other side of the Little Sugarloaf and will remain unaffected by the proposed mast. The applicant's photomontages submitted with the appeal do not address this prospect. I carried out a site inspection including of Bohilla Lane. The Lane is single carriageway with extensive areas of high hedging (sometimes atop with sod banks). Because of the extensive screening and the curve of the road as it skirts the lower slope of the Little Sugarloaf Mountain, I conclude that the visual impact of the proposed mast on the designated prospect would be very limited and not reach a threshold of materially contravening the development plan objective to protect the designated prospect.
- 7.6. Having regard to the submissions on file and in particular the applicant's submission in relation to the poor coverage in Kilmacanoge I am satisfied that there is a reasonable necessity for the proposed telecoms mast. Furthermore, having regard to

the relatively low elevation of the application site and its proximity to other manmade features in the landscape (business premises, motorway lighting, a pedestrian bridge, a vehicular bridge and natural screening) I consider that the proposed mast will integrate as one of a number of elements in the streetscape/landscape around Kilmacanoge village and the N11 corridor. I consider that the proposed mast will not detract from the landscape, protected views or prospects in the area and will not be contrary to the provisions of the County Development Plan.

**7.7. Second Refusal Reason.**

7.8. The planning authority also refused permission because the applicant failed to submit a statement of compliance with the International Radiation Protection Association. The appropriate regulator for the emissions from telecommunications infrastructure is ComReg and Circular Letter 07/12 makes the point that planning authorities should be primarily concerned with the appropriate location and design of telecommunications structures and do not have competence for health and safety matters in respect of telecommunications infrastructure. These are regulated by other codes and such matters should not be additionally regulated by the planning process.

7.9. Additionally, the Development Management Guidelines for Planning Authorities (paragraph 7.8) makes the point that it is inappropriate in carrying out their development management functions for planning authorities to deal with matters which are the subject of other codes. I conclude that this is not an appropriate reason for refusal.

**7.10. Human Health and Ecology.**

7.11. The observations made to the Board make the point that the proposed development will negatively impact on human health and ecology.

7.12. Telecommunications Antennae and Support Structures Guidelines for Planning Authorities is the current guidance in relation to the emissions from telecommunications infrastructure in Ireland. They recognise that there is concern amongst the public in relation to the potential health impacts of these structures but makes the point that International Commission on Non-Ionising Radiation Protection reported that radiation from telecommunication infrastructure is substantially below the guideline set by the International Radiation Protection Association. Additionally,

telecoms operators must satisfy Comreg, the statutory authority in these matters, that their equipment and processes meet the approved international standard to protect public health.

7.13. The Telecoms Guidelines make the point that the WHO has carried out studies of the effects of radiation emitted by telecoms masts on human and animal biology and concluded that no effects were attributable to this source (see appendix II of the national guidelines).

7.14. Having regard to the foregoing, the location of the proposed mast relatively remote from concentrations of houses and schools in Kilmacanogue village on the western side of the N11, to the absence of areas designated for their particular ecological value in close proximity to the application site I conclude the proposed development should not be refused for reasons related to human health or ecological impacts.

7.15. **Walking Trails.**

7.16. The observations make the point that the proposed development will interfere with local walking trails and the planning authority's reports reference a proposed Kilmacanogue/Bray greenway. There were no obvious paths/walkways through the application site at the time of my site visit. The current County Development Plan's Green Infrastructure Strategy set out in Volume 3 Appendix 8 does not include a reference to a proposed Kilmacanogue/Bray greenway nor does the draft County Development Plan 2022-2028 although there is an indicative route for a Blessington Lakes greenway included on Map 18.11 in that draft plan. However, there is a proposed Kilmacanogue to Southern Cross Greenway consultation process advertised by the planning authority which allows for three options. The application site is within one of the possible 3 routes, but I consider that the proposed mast would not negate the possibility of adoption of that route as a greenway and therefore that it would not be reasonable to refuse permission for the proposed development for interference with walking/green ways.

7.17. **Need for the Mast**

7.18. The observations made to the Board in relation to this application make the point that there is no requirement for this mast. The applicant makes the contrary point that mobile coverage is already poor in the area and that the topography of the area creates challenges when providing good mobile coverage. Having regard to the

material submitted with the appeal I conclude that the applicant has established a reasonable case for the application based on the improvement of coverage in the area.

#### **7.19. Appropriate Assessment**

7.20. Having regard to modest size and nature of the proposed development and the absence of emissions therefrom and the separation distance from any 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.

### **8.0 Recommendation**

8.1. I recommend permission be granted.

### **9.0 Reasons and Considerations**

9.1. Having regard to national policy to improve connectivity and telecommunications infrastructure in rural communities, to the objectives set out in the current Wicklow County Development Plan to facilitate the improvement of telecommunications provision in the County, to the location of the proposed mast within a landscape already modified by commercial/retail development and public infrastructure features and subject to the conditions set out below it is considered that the proposed development would contribute to the improvement of telecommunications in the area, be in accordance with the objectives set out in the current Wicklow County Development Plan, would not negatively impact on human health or on ecology in the area and would, otherwise, accord 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><b>Reason:</b> In the interest of clarity.</p>
2.	<p>Surface water drainage arrangements for the proposed development shall comply with the requirements of the planning authority.</p> <p><b>Reason:</b> In the interest of public health.</p>
3.	<p>A landscaping scheme for the proposed development submitted to and agreed in writing with the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In order to provide appropriate screening for the proposed development in the interest of visual amenity.</p>
4.	<p>Details of the proposed colour scheme for the telecommunications structure, ancillary structures and fencing shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.</p> <p><b>Reason:</b> In the interest of the visual amenities of the area.</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.</p> <p><b>Reason:</b> In the interest of the visual amenities of the area.</p>

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Hugh Mannion  
Senior Planning Inspector  
18<sup>th</sup> April 2022