



An
Bord
Pleanála

Inspector's Report ABP 312615-21.

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Development	Installation of seven antennae and two transmission dishes on supporting poles including remote radio units (RRUs) ballast frames and associated equipment cabinet, cabling and site works at roof level together with ancillary equipment and associated site works.
Location	Citypoint, Prospect Hill, Bothar Na MBan and Bothar Irwin, Galway
Planning Authority	Galway City Council
P.A Reg. Ref.	21 363.
Applicant	Ontower Ltd.
Type of Application	Permission
Decision	Grant Permission
Type of Appeal	Third Party
Appellant	Signal Infrastructure Ltd..
Date of Site Inspection	5 th July, 2022.
Inspector	Jane Dennehy

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1.0 Site Location and Description

- 1.1. The building subject of the proposal for erection of the communications infrastructure development on the roof is a building known as Citypoint which is located on the west side of Prospect Hill and Eyre Square, and south west side of Bothar NaMBan and south east of Bothar Irwin. Bothar Irwin rises from the north west at St Brendan's Avenue towards the stie and Prospect Hill falls from the north east towards the site. There are apartment buildings with some retail units at ground floor level which include Lydon Court and Hibernian Court on the Bothar Irwin frontage and on its opposite side of which is the Corrib Shopping Centre. The County Council Offices are located on the north east side of Bothar na Mban on a corner site with Prospect Hill.
- 1.2. The Citypoint building which has a flat roof and a height of circa forty metres is in mixed use comprising retail use (TKMAXX) at ground floor and first floor levels and seventeen apartments on the second third and fourth floors for which there are balconies along the north east and south west elevations.
- 1.3. Communications installations are mounted on roofs of the higher buildings in the city centre, which include hotel buildings overlooking Eyre Square.
- 1.4. There is a concurrent application before the Board on appeal against the planning authority's decision to refuse permission under P. A. Reg. Ref 21/395 (ABP 312920) The proposal is for change of use to an apart hotel use, internal alterations include a reception area at ground floor level and minor alterations and site works.

2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for installation of seven antennas, two transmission dishes including remote radio (RRUs, ballast frames on supporting poles and an equipment cabinet, cabling and associated roof level works. The position selected on the roof top on which antennas and dishes mounted on ballast frames and support poles and equipment cabinet is setback from the south east parapet and north east parapet line on the roof with one dish ballast frame and poles positioned at the south west corner adjacent to the parapet. Proposals also include provision for cable trays and handrails.

- 2.2. The application includes written consent from the owner of the Citypoint building, property owner.
- 2.3. The applicant, Ontower Ireland, is stated to be a subsidiary of Cellnex.
- 2.4. A visual impact assessment (V(A) included with the application indicates that the streetscape has medium to high sensitivity with capacity to accept small scale, sensitively positioned telecommunication equipment and that the appropriate location. The VIA includes assessments from twelve vantage points within a zone of influence for which photomontages are provided and which are rated as being of high sensitivity within Eyre Square, Bothar Na Mban and Prospect Hill with it being concluded that the impacts would be slight to imperceptible.

3.0 Planning Authority Decision

3.1. Decision

By order dated, 12th January, 2022 the planning authority decided to refuse permission based on the following reason: -

“Having regard to the Department of Environment, Heritage and Local Government’s guidelines for telecommunications antennae and support structures (1996 and 2012) and to the location of the development on the roof of a property which is currently used as residential accommodation of a long term, more permanent nature, it is considered that the development would significantly detrimentally affect the amenity of those living on the site. The development is contrary to the Galway City Development Plan objectives for telecommunications and for residential amenity as well as to the proper planning and sustainable development of the area.”

3.2. Planning Authority Reports

- 3.2.1. The planning officer with reference to the statutory guidance, in his report considered:
 - That the development is unacceptable on grounds of close proximity to residential development which is or is likely to include permanent / long term

places of residence at which residential amenity would be adversely affected, and

- that the submitted VIA is deficient in having an analysis which is unreliable. The proposed development the proposal would have a cumulative detrimental effect on visual amenity.

4.0 **Planning History.**

- 4.1. Permission was granted for demolition of a hotel building on the site and for construction of a mixed use (commercial, hotel and residential) six storey building under P. A. Reg. Ref 05/944 There is an extensive subsequent planning history relating to the existing building on the site an, site and internal layouts, and the range of uses and changes of uses, mainly, commercial, retail and residential and gymnasium and parking, access and services areas, façade treatment and signages.
- 4.2. Under P. A. Reg. Ref 8/43 permission was refused for eight additional residential units, alterations to the shopping mall and modifications to three approved apartments along with a reduction in and minor alterations to the basement layout.
- 4.3. Under P. A. Reg. Ref. 10/343, Permission was granted for retention of revisions to the apartments as a result of which the number of units was increased from sixteen (as per the original grant of permission) to seventeen units.
- 4.4. Further to the original grant of permission there have been several subsequent grants of permission for modifications and changes to layout and uses under P. A. Reg. Refs: 06/1032. 07/515. 07/516,08/714, 10/342, 17/62 and 18/131.
- 4.5. A detailed account of the planning history is included in the planning officer report.

5.0 **Policy Context**

5.1. **Development Plan**

- 5.1.1. The operative development plan is the Galway City Development Plan, 2017-2023. The site location is within an area subject to the zoning objective; CC To provide for city centre activities, and particularly those which preserve the city centre as the dominant commercial area for the city. The location adjoins the area within the Eyre Square Architectural Conservation Area. (ACA)

- 5.1.2. According to Policy Objective 2.2.it is policy to encourage sustainable neighbourhoods with high quality residential development with a mix of house types and tenures and with strong identity and sense of place.
- 5.1.3. The surrounding area is primarily subject to the “R” (residential) zoning objective which provides for residential development and for associated support development, which will ensure the protection of existing residential amenity and will contribute to as well as to protect and enhance existing residential areas and explore opportunities for environment improvements in the city centre’s residential areas. It is specifically stated that Private rented accommodation of good quality should be encouraged. Which meets demands of both longer- and short-term accommodation needs for those on social housing support.
- 5.1.4. According to section 10.3 it is the policy of to encourage a living city centre by requirement for residential concerns in new developments with promotion of a high-quality environment in design and layout.

5.2. **Strategic Guidance:-Telecommunications Antennae and Support Structures: Guidelines for Planning Authorities, 1996.**

These statutory guidelines were updated in 2012 in a Circular. (PL07/12) according to which:

“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 masts 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”.

5.2.1. **National Guidance and Legislative Framework (Short-Term Letting)**

- Action 18 of the Strategy for the Rental Sector, (December 2016) provided for establishment of a Working Group to advise the Oireachtas Committee and Minister for Housing Planning and Local Government on Short term lettings. A legislative framework providing for regularisation of short-term letting was announced by the Minister in October, 2018. The “rent pressure zones”

(RPZs) were announced as being subject to additional requirements for planning permission for short-term letting and included Galway city.

- Short-term letting in these designated RPZs were precluded from exempt development in the Planning and Development Act, 2000 (Exempted Development) (No 2) Regulations, 2019. (SI No 235 of 2019.) were brought into effect on 1st July, 2019. Circular Letter No. PL 4 /2019: (Department of Housing, Planning and Local Government.) provides for an advisory note of the legislative reforms on regulation of short-term letting.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. An appeal was lodged by Indigo on behalf of the Appellant, Cignal Infrastructure on 2nd February, 2022. It includes copies of a planning appeal statement, copies of the planning application documentation which includes a visual impact appraisal, a technical justification report and drawings. The case made in the appeal can be outlined as follows.

6.1.2. Site selection – justification.

According to the accompanying technical justification report improvements in cover in the established network are required for the area and its environs. Operators, with the development in place can improve voice and broadband service cover, both indoor and outdoor. The structure allows for multiple network operators to deploy 2G, 3G and high speed 4G broadband services and future 5G services. There would be several operators and greater competition between network operators with better options for service users.

Consistency with statutory guidelines

6.1.3. The proposed development is not in conflict with statutory guidance – the use of tall buildings instead of erecting new structures which is avoided in the current proposal is encouraged with rooftops of commercial buildings surrounded by residential areas generally being accepted. The views, of the equipment in the area including views

from residential development having regard to the context, is not intrusive or dominant but some degree of impact on visual amenities is inevitable. Equipment needs to be located in populated areas and there are occasions when such development in a residential area is permissible due to locational requirements

- 6.1.4. The site was selected having regard the visual impact assessment on scale, setting and nature and against the sensitivity of the area. The assessment of the twelve viewpoints is sufficient to illustrate visual impact. A photo montage is also available with the assessment.

Landscape impact sensitivity

- 6.1.5. Public utilities are listed as possibly contributing to the zoning objectives and is therefore considered acceptable in principle. The building and location have a medium to high sensitivity to change in present of small-scale installations on rooftops.

Residential Amenities

- 6.1.6. Telecommunications equipment can be installed on commercial and other higher buildings as exempt development due to their minor nature. The current proposal benefits residents in the area and would not have adverse impact on the amenities of the area.
- 6.1.7. The development will be visible from close proximity and such installations are considered minor and are exempt on commercial and retail buildings. The building's roof can be successfully utilised to accept the small-scale installation within significant impact on amenity in the area while improving wireless mobile services for residents of the locality due to increased capacity and upgrades.
- 6.1.8. The streetscape has low sensitivity and high capacity to accept a small-scale installation. The ballast mounted equipment integrates to the apartment complex of buildings without visual intrusiveness on the amenity of the area of the building.
- 6.1.9. Five roof mounted installations are listed as examples for equipment at roof level at mixed use, student accommodation and residential development and a public house is visible and were considered acceptable and for which permission was granted in the years 2008 - 2015 in the Dublin area. (8-10 Rathmines Road Upper, 294-298 Harold's Cross Road and at a public house at Montrose, Bellarmine Plaza (Stepaside) Ballygall Rd East, Macken House and at North Strand Street.

- 6.1.10. Concerns as to future precedent should be discarded as the current proposal is appropriate for the city centre where upgrades and improvements to service are required.
- 6.1.11. The proposed development is consistent with national policy (Project Ireland 2040, (The Planning Framework in which there is basis for communications and infrastructure investment and acknowledgement of the steep increase in use of wireless networks and electronic communications. There is constant pressure for improvements to services.

6.2. **Planning Authority Response**

There is no submission from the planning authority on file.

7.0 **Assessment**

- 7.1. The issues central to the determination of a decision can be considered under the following subheadings:

Justification for the proposed development

Impact on Residential Amenities.

Impact on Visual Amenities.

Environmental Impact Assessment

Appropriate Assessment Screening

7.2. **Justification for the proposed development**

- 7.2.1. With regard to justification for the proposal, in addition to the indicated need for upgraded and extended service to meet increased demand by customers within the area within the network the case made as to the Citypoint building's obstruction of coverage provided by existing installations on The Corrib Shopping Centre building is a consideration.
- 7.2.2. It is indicated that the installation is to facilitate Three but there is a lack of clarity as to the scope for or possible agreements about co sharing at the installation or as to scope for co sharing, at other existing installations within the vicinity within the

submissions available on file. As such it is not fully apparent that the current proposal is fully justified and warranted although needs for improvements and upgrades in capacity and quality of coverage is not disputed.

7.3. Impact on Residential Amenities

- 7.3.1. With regard to residential amenity, it is noted that the location is immediately above the residential element, comprising seventeen apartments on the upper floors of the City point building. The residential element was integral to the planning assessment and grant of permission for the mixed-use development at the Citypoint Building (P. A. Reg. Ref 05/944 refers.) It is noted that there is a concurrent application for change of use to short-term letting accommodation and a suggestion that the accommodation may have been in short-term letting use. (P. A. Reg. Ref 21/395 / ABP 312920 refers.) The location is within a Rent Pressure Zone in respect of which there is prioritisation for the availability of supply of long-term rental accommodation. Furthermore, as clearly explained in the planning officer report, the CDP's City Centre zoning objective and other specific objectives providing for a living city, high quality residential standards, environments and neighbourhoods.
- 7.3.2. Undisputedly therefore, the application should be considered with regard to the authorised residential element within the mixed use Citypoint building. It is considered that the amenities of the residential development would be adversely affected by way of significant installations mounted on the roof above residential accommodation and the associated external amenity areas, beneath the roof as pointed out in the planning officer report. As such the proposal would not be consistent with sustaining the availability and provision of high-quality residential accommodation available for long term tenancies and occupancy. As such the views of the planning officer as indicated in his report and reflected on the reasoning for the planning authority's decision to refuse permission is supported.

7.4. Impact on Visual Amenities.

- 7.4.1. The location for the proposed installation is very prominent in that it is at the north east corner of Eyre Square which comes within a statutory Architectural Conservation Area and as such is sensitive and it is considered to have very limited capacity for the proposed development without undue adverse negative visual impact. Furthermore, it is of note that there are significant clusters of communications equipment installed on roofs of other buildings overlooking Eyre

Square which have significant visual impacts in views from the public realm within and around Eyre Square.

- 7.4.2. It should be noted that the site location at the north east corner of Eyre Square is visually prominent from most locations within and around Eyre Square and as such its designation as a statutory ACA should be taken into consideration. In the course of the visual inspections that were carried out it was concluded that generally, the photomontages did not fully reflect the installations within the context of the building and the immediate environs and as such under-represented the visual impact.
- 7.5. Similarly on approach along Prospect Hill, the building partially closes the vista and again, the installation would be more dominant than is apparent in the photomontages. As such it is not accepted that the visual impacts can be classified as slight or imperceptible. In the event of possible positive consideration of the proposed development, a further visual impact assessment may be warranted. It is considered that proposed development individually and when considered in terms of cumulative impact in conjunction with the other installations on buildings at Eyre Square is unacceptable.

7.6. Environmental Impact Assessment Screening

- 7.6.1. Having regard to the nature of the proposed development and its location in a serviced urban area removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.7. Appropriate Assessment Screening.

- 7.7.1. Having regard to the location and to the nature of the proposed development in a serviced inner suburban area in the city, no Appropriate Assessment issues arise. The proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1.1. In view of the foregoing, it is recommended that the planning authority decision to refuse permission be upheld based on reasoning similar to that attached to its decision as set out below.

8.1.2. It is also considered that it has not been satisfactorily demonstrated that the proposed development either alone, or, cumulatively in conjunction with existing communications installations on buildings would have negative adverse impact on the integrity, character and visual amenities of the Eyre Square Architectural Conservation Area. In the event of possible favourable consideration of the proposed development, otherwise, the applicant could be provided with an opportunity by way of Section 131 notification to address this issue in a further submission.

9.0 **Reasons and Considerations**

It is considered that the proposed development, owing to the selected location on the rooftop of the building above apartments on its upper floors which are intended for use as long-term residential accommodation and the adjacent external amenity space for these dwellings, it is considered that the proposed development would seriously injure the residential amenities and quality of these apartments. As a result, the proposed development would be contrary to the proper planning and sustainable development of the area.

Jane Dennehy

Senior Planning Inspector

15th July, 2022.