



An
Bord
Pleanála

Inspector's Report ABP313055-22

Development	Retain existing telecoms compound, enclosure, and equipment. Permission for new 25m tower, anew equipment.
Location	ESB Substation, Ninth Lock Road, Clondalkin, County Dublin.
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD21A/0352
Applicant(s)	ESB Telecoms Limited
Type of Application	Retention Permission & Permission
Planning Authority Decision	Refuse Permission and Refuse Retention.
Type of Appeal	First Party V Refusal
Appellant(s)	ESB Telecoms Limited
Observer(s)	Gerry O'Neill
Date of Site Inspection	15 th October 2022
Inspector	Hugh Mannion

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1.0 Site Location and Description

- 1.1. The appeal site is located in Clondalkin town centre on the eastern side of the Ninth Lock Road. The Grand Canal is c.450m due north of the site and the M50 motorway is c.1.3km due east. The Ninth Lock Road becomes Tower Road just south of the appeal site and Clondalkin Round Tower is c.300m south along the same road.
- 1.2. The telecoms mast which was the subject of the application under ABP301070-18 has been removed from the site. The appeal site is within an existing ESB compound that accommodates a substation and four pylons which is fenced off from the public realm by a low spud wall topped by a substantial metal security fence (for a total height of about 2.5m). Opposite the site on Ninth Lock Road is the Mill Shopping Centre which is about 3 storeys high and on the same side as the site and just south of Thornfield square is another three-storey building housing an Intreo Government Services centre. Thornfield Square to the southwest is a 4-storey residential development. Immediately to the north of the site facing onto Oakfield is a 4 storey building in use as a direct provision centre. The area has a mix of uses including residential, retail and commercial.

2.0 Proposed Development

- 2.1. The proposed development comprises **retention permission** for the existing telecommunications compound, including enclosure and ground mounted equipment and **permission** for the replacement of a 25m high lattice tower with a new monopole carrying antennae, dishes, and associated equipment with ground works, including foundation (overall height of 20m, excluding lightening finial) at ESB telecoms limited lands at ESB Clondalkin 38KV substation, Ninth Lock Road, Clondalkin, Dublin 22.

3.0 Planning Authority Decision

3.1. Decision

Refuse permission

The proposed development is in a central and highly visible location within Clondalkin town centre and would have unacceptable impacts on the visual amenity of the area. Clondalkin is identified as a primary urban area in the County Development Plan and the proposed development would be contrary to Policies UC1 and UC2 Objective 2 in the County Development Plan 2016 – 2022.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The planner's report recommended refusal for the reason set out in the manager's order.

3.2.2. Other Technical Reports

The **Environmental Health Officer** recommend permission subject to conditions.

Roads Department reported no objections to the proposed development.

4.0 **Planning History**

ABP301070-18 permission refused for the continued use of a 25m telecoms mast with antennas, and dishes in a palisade fence and walled compound at the ESB substation at Ninth Lock Road, Clondalkin, County Dublin.

Other relevant planning history is set out in the planning authority's reports.

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. The Regional Spatial and Economic Strategy for the Eastern and Midlands Region includes the following regional planning objectives.

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. **Development Plan**

5.6. The South County Dublin Development Plan 2022-2028 is the relevant County Development Plan for the area.

5.7. In relation to Information and Communications Technology the overall policy is IE5 to “Promote and facilitate the sustainable development of a high-quality ICT network throughout the County in order to achieve social and economic development, whilst protecting the amenities of urban and rural areas”.

5.8. **IE5 Objective 1:** To promote and facilitate the provision of appropriate telecommunications infrastructure, including broadband connectivity and other innovative and advancing technologies within the County in a non-intrusive manner.

5.9. **IE5 Objective 3:** To permit telecommunications antennae and support infrastructure throughout the County, subject to high quality design, the protection of sensitive landscapes and visual amenity.

- 5.10. **IE5 Objective 4:** To discourage a proliferation of telecommunication masts in the County and promote and facilitate the sharing of facilities.
- 5.11. **IE5 Objective 7** Ensure that applications made in relation to the provision of overground telecommunications infrastructure, including planning applications and Section 254 licence applications, take into consideration and demonstrate compliance with the ‘Guidance on the Potential Location of Overground Telecommunications Infrastructure on Public Roads’ (2015).
- 5.12. The site is zoned with the objective TC “To protect, improve and provide for the future development of the town centre” in the current **County Development Plan**.
- 5.13. **Uses permitted in principle are:**
- 5.14. Housing for Older People, Nursing Home, Open Space, **Public Services**, Residential, Residential Institution, Retirement Home, Shop-Local, Traveller Accommodation. Uses open for consideration are, Advertisements and Advertising Structures, Allotments, Agriculture, Bed & Breakfast, Betting Office, Camp Site, Car Park, Caravan Park-Residential, Cemetery, Childcare Facilities, Community Centre, Crematorium, Cultural Use, Doctor / Dentist, Education, Embassy, Enterprise Centre, Funeral Home, Garden Centre, Guest House, Health Centre, Hotel / Hostel, Home Based Economic Activities, Industry-Light, Live-Work Units, Motor Sales Outlet, Office-Based Industry, Offices less than 100 sq m, Offices 100 sq m-1,000 sq m, Off-Licence, Petrol Station, Place of Worship, Primary Health Care Centre, Public House, Recreational Facility, Recycling Facility, Restaurant / Café, Service Garage, Shop-Neighbourhood, Sports Club / Facility, Stadium, Veterinary Surgery.
- Appendix 5 of the Plan includes a glossary of terms and **public services** includes a building or part thereof or land used for the provision of public services. Public services include all service installations necessarily required by electricity, gas, telephone, radio, **telecommunications**, television, drainage and other statutory undertakers, it includes public lavatories, public telephone boxes, bus shelters, bring centres, green waste and composting facilities
- 5.15. The previous County Development Plan included the following objectives referenced in the refusal reason.

- 5.16. **UC1 Objective 1:** To direct retail, commercial, leisure, entertainment, civic, community and cultural uses into town, village, district and local centres and to achieve a critical mass of development and a mix of uses that is appropriate to each level in the urban hierarchy.
- 5.17. **UC1 Objective 2:** To recognise the pre-eminence of our County's town centres and traditional villages as the preferred location in considering development proposals for non-retail civic, public service and community developments, and to apply a sequential approach as appropriate for such proposals

5.18. **Natural Heritage Designations**

Not relevant

5.19. **EIA Screening**

- 5.20. The proposed development is not of a class in Schedule 5 of the Planning and Development Regulations 2001, as amended, and the requirement for submission of an EIAR and carrying out of an environmental impact assessment can be set aside at a preliminary stage.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- Demand for mobile telecoms services arises from voice mobile use and data use for communities (residential and business users). The 'cell' is area where coverage is provided and can be impacted by physical obstacles (topography or buildings) or additional demand for data. The ESB site accommodates EIR and Vodafone equipment. The removal of service from this site would significantly reduce telecoms coverage in north Clondalkin village.
- The applicant has attempted to meet the previous refusal reasons by looking for alternative sites. Within the area where coverage is required 8 possible sites were considered. All were zoned for town centre development and only one was possibly available (the Mill Shopping Centre). At a pre-planning

meeting the planning authority indicated that the site would not be favourably considered for permission.

- The most recent guidance (Telecommunications and Support Structures Ministerial Circular PL07/12) recommends that where masts are proposed in urban areas that existing utility sites should be considered. In the present case the mast is 20m high and facilitates 2 users and thereby reduces the need for additional structures in Clondalkin village.
- In terms of visual amenity, the simple design and reduced height will significantly limit the visual impact of the proposed development. The proposed development is significantly different from that now proposed and refused permission under ABP301070-18.

6.2. Planning Authority Response

- The planning authority's response to the appeal was received late and returned.

6.3. Observations

6.4. An observation was received from Gerry O'Neill who made the following observations.

- There is a history of applications/refusals of permission on this site. The justification for a temporary grant of permission in 2014 no longer exists.
- Planning notices have been left displayed on site referencing older applications and thereby confusing neighbours.
- Extra antennas have been added to this structure over time. Unauthorised development has been undertaken on the site.
- There are alternative sites available to accommodate a mast but not used by the applicant.
- The mast should be subject to the precautionary principle when assessing risks to the public.

- The ESB site is 5m from Brookfield House (the observer's home) and this has resulted in buzzing, explosions and deaths over the years.
- The mast posed health risks to the public in so far as it can impact on DNA and give rise to a risk of cancer, disrupt cell metabolism, reduce melatonin thereby increasing risk of cancer and other health related impacts.
- There is refugee accommodation and a creche within 30m and 50m respectively of the application site. Other concentrations of residential uses are close by.
- The site has been the source of fuel oil leaks into the Camac River, from where the oil can enter the Liffey River. The entire site should be subject to environmental assessment.

6.5. Further Responses

None

7.0 Assessment

7.1. Development Plan Zoning

7.2. The site is zoned TC with the objective 'to protect, improve and provide for the future development of town centres' in the County Development Plan 2022-2028. The zoning matrix includes 'public services' as permitted in principle and, in the glossary of terms set out in appendix 6 of the Plan 'public services' is defined as including 'communications' infrastructure. I conclude on this basis that the proposed development does not materially contravene the zoning objective for the site set out in the County Development Plan.

7.3. Other objectives in relation to the management of telecoms masts include a commitment on the part of the planning authority to promote and facilitate the provision of appropriate telecommunications infrastructure throughout the County, subject to high quality design, the protection of sensitive landscapes and visual amenity.

7.4. Design/Visual Impact

7.5. The design is a fairly slim monopole 20m high which represents a reduction of 5m in height from the existing telecoms mast on site. The site is in use as an ESB substation. Notwithstanding the Telecommunications Antennae and Support Structures Guidelines for Planning Authorities (1996) advice that free standing masts are inappropriate for towns or villages in this case the site has an established a commercial/public service use and I consider that the contribution of the proposed mast to visual clutter in the area would be minimal and acceptable. Furthermore, I conclude that the mast will not be excessively high having regard to the nearby Intreo employment services building (3 storeys) the Mill Shopping Centre (3 storeys), the direct provision centre immediately to the north (4 storeys) or the Thornfield Square residential development to the southeast (4 storeys).

7.6. Additionally, the application fulfils a significant requirement in the Guidelines in that it provides shared facilities for two telecoms providers.

7.7. Sensitive landscape.

7.8. The other main consideration provided for in the Development Plan's IE5 objective 3 that sensitive landscapes be avoided when considering suitable locations for telecommunication masts. The application site is not in a sensitive landscape.

7.9. Deficiencies in the Application.

7.10. The observer makes several points including that there is a history of applications on site, that multiple planning site notices have been erected on the site and that extra antennas have been added without permission in the previous period.

7.11. The Board has no role in relation to the proliferation of planning site notices. Additionally matters of unauthorised development (for example erecting additional equipment) are matters solely for the planning authority. I note that the original mast has been removed from the site.

7.12. Alternative Sites.

7.13. The observer makes the point that there are alternative sites available which would be suitable for the proposed development. The applicant makes the case that the quality of mobile telephone and mobile data signal is determined by a geographical cell within which telecoms masts are located and relay the phone/data signal. The

application site is optimally located within the geographical cell that covers Clondalkin. Nonetheless the application examined 8 possible sites within the geographical cell, all these were similarly zoned for town centre use and the only one potentially available was advised against by the planning authority at a pre-planning meeting.

7.14. Having regard to the material submitted with the application and the grounds of appeal I conclude that the applicant makes a reasonable case that the proposed site is best located to provide mobile phone/data coverage within Clondalkin village and wider area and that there are no reasonably available alternatives.

7.15. Health Impacts

7.16. The observer appeal makes the point that the proposed development can have negative health impacts on nearby residential uses including private homes, childcare facilities and accommodation for refugees.

7.17. Telecommunications Antennae and Support Structures Guidelines for Planning Authorities is the current guidance in relation to the emissions from telecommunications infrastructure in Ireland. The guidelines 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. 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).

7.18. Having regard to these factors I conclude that the proposed development should not be refused permission on this point.

7.19. Groundwater Pollution.

7.20. The observation made to the Board states that there is a history of fuel oil leaks within the application site and that the proposed development has the potential to exacerbate ground water pollution arising from this source.

7.21. The proposed development does not consume fuel oil nor does the application provide for the discharge of any liquid emissions within or outside the application site. Surface water will be disposed of within the site.

7.22. Appropriate Assessment

7.23. 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. Having regard to the foregoing assessment and the changing technology in the field of telecommunications provision I consider that a 5-year permission is appropriate in the case to allow the issue to be revisited in the light of changing technologies.

9.0 Reasons and Considerations

- 9.1. Having regard to national policy to improve connectivity and telecommunications infrastructure, to the objectives set out in the current South Dublin County Development Plan 2022 – 2028 to facilitate the improvement of telecommunications provision in the County, to the location of the proposed mast on a site with an established public services, to the lack of available alternative sites 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 South Dublin County Development Plan, would not negatively impact on human health or water quality 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>Reason: In the interest of clarity.</p>
2.	<p>The lifetime of this permission shall be 5 years (five years) from the date of this order.</p> <p>Reason: Having regard to the changing nature of telecommunications technology it is appropriate that the planning impacts of this telecommunications structure should be reviewed within this period.</p>
3.	<p>Surface water drainage arrangements for the proposed development shall comply with the requirements of the planning authority.</p>

	Reason: In the interest of public health.
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>Reason: 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>Reason: In the interest of the visual amenities of the area.</p>

Hugh Mannion
Senior Planning Inspector

28th November 2022