



An  
Bord  
Pleanála

## Inspector's Report

### ABP-313433-22

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<b>Development</b>	24 meter lattice mobile and broadband tower with headframe carrying telecommunications equipment, associated equipment and cabinets, 2.4m palisade fence compound and access track. Significant further information and revised plans have been submitted.
<b>Location</b>	Lecks , Shercock , Co. Cavan
<b>Planning Authority</b>	Cavan County Council
<b>Planning Authority Reg. Ref.</b>	21558
<b>Applicant(s)</b>	Ontower Ireland Ltd.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	To grant.
<b>Type of Appeal</b>	Third Party
<b>Appellants</b>	Paula and John McEnroe.
<b>Observers</b>	None.
<b>Date of Site Inspection</b>	5 <sup>th</sup> October 2022
<b>Inspector</b>	Deirdre MacGabhann

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## 1.0 Site Location and Description

- 1.1. The 0.082ha appeal site lies c.1.25km to the south of Shercock in the townland of Lecks, County Cavan. The site is situated c.130m to the south of a minor road, the L75431, that runs east west south of the village between the R178 and R162.
- 1.2. The L75431 county road rises and falls across the drumlin landscape. Along the road are farms and scattered rural development. The nearest dwelling lies c.230m to the west of the proposed compound. The nearest farm is c.150m to the east of the proposed compound. Beyond this is a cluster of residential development (c.12 dwellings).
- 1.3. The appeal site comprises the access to and part of an agricultural yard and adjoining agricultural land. The proposed access route extends from the public road via the farm yard and climbs through three agricultural fields and the rising topography to the site of the proposed compound and tower. The proposed compound comprises part of an agricultural field and it is situated alongside the hedgerow that runs along its southern boundary.

## 2.0 Proposed Development

- 2.1. The proposed development, as revised by way of significant further information and clarification of further information (revised site notices erected on the 12<sup>th</sup> January 2022), comprises a 24m high, multi-operator telecommunication monopole structure to provide voice and broadband communications, including 3G and high speed 4G broadband services and future technology roll out. Telecommunications equipment to be installed comprises 12 no. antenna and 8 no. dishes including radio units and associated cabling and supporting fixtures. The telecommunication structure is a replacement for the 21m monopole structure granted under PA ref. 17/454 and will set within the same footprint of the previously approved monopole.
- 2.2. The 24m lattice tower will be situated in a c.152sqm compound, surrounded by a gated, 2.4m high palisade fence. The tower will be situated at 167.5m above sea level on a concrete plinth which will be cut into the rising topography, with a retaining wall to be provided along the eastern side of the compound. Included within the compound are cabinets and power meters. Access to the tower site will be way of

an existing agricultural entrance from the public road, and construction of 250m access track with a minimum width of 3m.

- 2.3. The tower will provide infill coverage for Three and other networks in the surrounding area where there are indoor coverage issues for a number of networks.
- 2.4. The planning application includes a Planning Report and Photomontages received with the planning application and revised Technical Justification Report (submitted with FI, January 2022).

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

- 3.1.1. On the 1<sup>st</sup> April 2022 the PA decided to grant permission for the proposed development subject to 12 no. conditions, including:
  - C2 - States that the permission supersedes that granted under PA ref. 17/454,
  - C3 - Limits the transmitter power output, antennae type and mounting configuration to the details submitted, and
  - C4 - Requires provision of unobstructed sightlines at the proposed access with the public road.

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

- 3.2.1. Planning Reports
  - 1<sup>st</sup> November 2021 – The report refers to the site location, relevant national and local planning policy, the planning history of the site, submissions and internal reports. It considers the merits of the development and raises concerns in respect of overlap with PA ref. 17/454, technical justification for proposed development, visual impact of lattice structure and height of structure. It recommends further information in respect of these matters.
  - 31<sup>st</sup> January 2022 – Refers to the FI response and recommends clarification of FI in respect of the rational for the height of the proposed mast above sea

level, compared to the height of permitted mast under PA ref. 17/454 (+9m) and the height above sea level that was used for the visual impact assessment.

- 1<sup>st</sup> April 2022 – Considers that the applicant has addressed the clarification of FI and having regard to the planning history of the site, absence of significant change in visual impact of proposed development from that permitted, technical justification for the development and location of site outside of Sensitive Landscape and removed from European sites, recommends granting permission for the development.

### 3.2.2. Other Technical Reports

- EE Bailieborough/Cootehill MD – Recommends further information in respect of sightlines at junction of access lane with the public road, turning movements for LGV and HGV at entrance and surface water roadside drainage. Subsequent to FI – Recommends conditions for any grant of permission.
- Environment – No likely significant effects on the environment. No objections.

### 3.3. Prescribed Bodies

- None.

### 3.4. Third Party Observations

3.4.1. On file are 22 no. third party observations on file (15 no. submitted after the planning application and 7 no. following the submission of FI). The observers object to the proposed development on the following grounds:

- Inadequate technical justification.
- Proximity to playschool/creche, National School, houses and working farmland and health issues (in particular arising from 5G technology).
- Impact on biodiversity and fertility of dairy herd.
- Impact on landscape character.
- Impact on visual and residential amenities.

- Traffic hazard due to location on narrow and substandard road.
- Inappropriate precedent that the development would set.

## 4.0 Planning History

### 4.1. In respect of the appeal site:

- PA ref. 17/454 - Permission granted to Three Ireland for a 21m high slimline monopole telecommunications monopole structure carrying antennas and transmission dish, with associated equipment units, security fencing and access track. Plans for the development indicate height of the tower above ground level.

### 4.2. Others:

- PA ref. 20/361 – Permission granted to CK Hutchinson Networks Ireland for retention of 30m high telecommunications tower and permission for additional antennae on land at Taghart South, c.3.5km to the south of the appeal site.
- PA ref. 21/781 – Planning permission sought by ESB Telecoms Ltd for development of 30m monopole telecommunications structure at ESB Shercock 38kV substation, located on the R178 c. 1km to the north west of the appeal site. Application deemed withdrawn.
- PA ref. 21/288 – Permission granted to Signal Infrastructure Ltd for 24m lattice tower with telecommunications equipment at Ralaghan townland, c.2km to the southwest of the appeal site, situated east of the R178.

## 5.0 Policy Context

### 5.1. National Planning Guidelines

- Project Ireland – National Planning Framework. Policy Objective 48 – supports the development of a stable, innovate and secure digital communications and services infrastructure on an all island basis.
- Telecommunication Antennae and Support Structures: Guidelines for Planning Authorities 1996. The Guidelines support the role out of

telecommunications infrastructure in the country. In section 4.2 Design and Siting, the guidelines recognise that location will be substantially influenced by radio engineering factors and recommends consideration of a number of factors including:

- Visual Impact (section 4.3), the Guidelines state that visual impact is among the more important considerations which have to be taking into account at arriving at a decision on a particular application. It is acknowledged that the approach taken by the PA will depend on the location of the development e.g. rural/agricultural area or industrial area. However, it advocates great care in applications in sensitive landscapes and designated areas. Along major roads or tourist routes, the Guidelines state that where masts may be visible but not terminating views, it might be decided that the impact is not seriously detrimental. Similarly, along such routes it is stated that views of the mast may be intermittent and incidental and may not intrude on the general view or prospect. The Guidelines also refer to local factors which will have to be taken into account in determining the extent of visibility e.g. intermediate objects, topography, other objects in wider landscape. The Guidelines also acknowledge the need for increased number of cells, to cater for a larger number of customers.
- Sharing Facilities and Clustering (section 4.5) – The Guidelines state that the sharing of installations will normally reduce the visual impact on the landscape and that *'All applicants will be encouraged to share and will have to satisfy the authority that they have made a reasonable effort to share'*.
- Circular letter PL07/12 – Amongst other things the circular advised that planning authorities should not include time limited conditions, specific separation distances in development plans for telecommunications installations or be concerned regarding health and safety matters, which are regulated by other codes.



## 5.2. Cavan County Development Plan (CDP) 2014-2020

- 5.2.1. Section 4.8 deals of the current CDP with telecommunications. It is stated that '*A high quality and competitive telecommunications service is considered essential in order to promote industrial and commercial development and to improve personal security and enhance social inclusion and mobility*'.
- 5.2.2. Policy objectives PIO118 to PIO126 apply in respect of telecommunications (see attachments). In summary:
- PIO118 – Encourage co-location on existing structures and documentary evidence as to non-availability of this option for new structures.
  - PIO119 – In Special Policy Landscape and Amenity Areas, all applications must meet the co-location requirement and be supported by a Visual Impact Assessment Report that demonstrates that the development can be satisfactorily absorbed into the landscape.
  - PIO121 – Masts will only be permitted if supported by an acceptable Visual and Environmental Impact Assessment Report.
  - PIO125 - Require 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 include details of what other sites or locations were considered and include a map showing the location of all existing telecommunication structures within 1km of the proposed site and reasons why these sites were not feasible.
- 5.2.3. Section 8.6 of the Plan deals with landscape and amenity areas. The appeal site falls within the Drumlin Belt and Uplands of East Cavan. Policy NHEP19 protects landscape character, quality and local distinctiveness and Policy NHEP20 requires any necessary assessments including landscape and visual impact assessments when undertaking, authorising or approving development. Similar policy objectives apply under NHEO22, 24, 28 and 29.

## 5.3. Natural Heritage Designations

- 5.3.1. The appeal site is substantially removed from any sites of natural heritage interest. The nearest national site is c.7.5km to the north, Loughbawn House Loughs

proposed Natural Heritage Area (site code 001595) and the nearest European site is >20km from the appeal site (see attachments).

#### **5.4. EIA Screening**

- 5.4.1. Having regard to the location of the proposed development, removed from any site of natural heritage interest and its modest scale in terms of land take and site works, it would not result in a 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.

### **6.0 The Appeal**

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

- 6.1.1. Third party grounds of appeal, made by residents in the area, are:
- Justification and clustering/sharing. No adequate technical justification for proposed development. Alternative sites available e.g. Garda station in Shercock, that proposed under PA no. 21/288. No demonstration of need. Shercock and its hinterland is adequately served in terms of telecommunications infrastructure. Development contravenes PLO188, PLO122 and PLO125 of CDP. Development would lead to unnecessary proliferation of telecommunication structures.
  - Visual impact. Proposed development is a higher mast and at a higher location on the site that that approved under PA ref. 17/454 and will be 9m higher than the permitted mast. Proposal to reduce the height by 1.5m will not reduce the visual impact of the mast. Scale and design of the structure would have an adverse impact on visual and residential amenities and set an undesirable precedent for future development, contrary to Objective PLO120 of the CDP. Landscape plan provided by the applicant is substandard and lacks any significant detail. No landscaping proposals will adequately screen 24m tower. Visual impact assessment does not make reference to all nearby dwellings and the amenity of these properties will be greatly impacted upon by the development.

- Residential amenity. Proximity of development to residential dwellings in the area. Open and exposed character of the site and inadequate consideration of effect on amenity of nearby residential properties, contrary to Telecommunications Antennae & Support Structures Guidelines for Planning Authorities 1996.
- Further information. Inadequate response to request for further information (visual impact).
- Proximity to national school. Development is in close proximity to St. Patrick's National School. The school is also within 600m of the existing mast at the Garda station. Compounded concerns regarding children's health. Unproven effects of mobile technology on health, in particular 5G technology.

## 6.2. Applicant Response

6.2.1. The applicant makes the following responses to the appeal:

- Proposed development. Is an established telecommunication site with a telecommunications structure in place which is becoming unfit for purpose. 24m high structure is required to comply with modern standards.
- Technical justification. Development's primary function is for infill coverage in surrounding area. Technical justification provided by Three.
- Co-location. Other sites do not provide cover in the target area (MH0018, CN0068 and CN0070) or are not suitable for co-location (VR\_CN036).
- Height. Subject site is more suitable than previously permitted site under PA ref. 17/454 (close to corner of field). Taller structure facilitates co-location and to maximise an effective telecommunications network. Height of tower approved under PL Ref. 17/454 was surveyed to be 167m ASL. Proposed structure is at 167.5m ASL, only 0.5m difference in height, with no significant difference in visual impact.
- Visual impact assessment. Site is relatively prominent in its immediate vicinity but only slightly visible from elsewhere (Figure 14 and assessment of viewpoint nos. 1 to 15).

- Planning policy. Development is consistent with national and local planning policy, maintains and improves the provision of mobile and wireless broadband communications infrastructure in a sustainable manner by utilising existing structures and sites in the area as well as providing and supporting site sharing of telecommunications infrastructure.
- Proximity to National School/health. Site is c.1.5km from St. Patrick's National School and due to topography/vegetation will not be visible from this location. Equipment is fully compliant with Guidelines of the International Commission on Non-Ionising Radiation Protection (ICNIRP). Compliance will be monitored by ComReg. Under Government Legislation, the applicant states that the equipment to be used on site is licenced to Eir (*sic*) under relevant legislation to provide 3G and 4G services. It is also stated that the applicant does not intend to install 5G at the site.

### 6.3. Planning Authority Response

6.3.1. The PA make the following additional comments on the appeal:

- Ground levels. Ground levels were re-surveyed for clarification of FI. Survey showed ASL of 163m for mast permitted under PA ref. 17/454 should have read c.167m. Same survey identified an ASL for the proposed development of 167.5m. Therefore ASL for proposed mast is c.0.5m higher than what plans for PA ref. 17/454 was intended to show. Change of 0.5m does not undermine technical justification for proposal. Visual impact assessment remains robust as it is based on a visual representation using existing landscape heights/profile of the area as opposed to survey data.
- Existing coverage, need for development and proliferation of masts. The mast granted under PA ref. 21/288 is 2.2km south west of the development. The site is separated from the subject site by topography which in large part prevents the areas being served by one mast. PA ref. 21/288 helps to improve cover in the southwest and northern directions along the R178 road corridor and there is no significant coverage overlap between the mast sites. This is corroborated by ComReg maps.

- Validity of visual assessment. Purpose of VIA is not to assess the visual effect on every single property but to present a reasonable representative sample based on the location and particular vantage points to the development. VIA is considered reasonable and enough to form an assessment of visual impact.
- Health concerns. St. Patrick's National School is at considerable distance from the development (1.2km) and not a reasonable ground for objection in the light of current planning guidelines.

#### 6.4. **Observations**

- None.

#### 6.5. **Further Responses**

- 6.5.1. The planning authority make comments on the first party response to the appeal, but raise no new issues.

### 7.0 **Assessment**

- 7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local and national policies and guidance, I consider that the main issues in this appeal are as follows:

- Technical justification, clustering and sharing.
- Visual impact.
- Impact on residential amenity.
- Proximity to national school and health concerns.

#### 7.2. **Technical Justification**

- 7.2.1. The CDP, reflecting national planning guidelines on telecommunications, supports the role out of a high quality telecommunications service in the County. Recognising the potential for visual effects, the CDP requires a reasoned justification for the

proposed development at the subject location in the context of existing structures and encourages co-location and the sharing of structures in order to minimise proliferation of masts and to minimise visual impacts.

- 7.2.2. In this instance, the applicant's technical justification indicates an absence of cover in the south of Shercock. This is supported by ComReg maps of coverage in the area which indicate fringe to fair coverage for 4G for the area to the south of Shercock to approximately the L75431. The justification for the development is also reflected in the PAs previous decision to grant permission for the development under PA ref. 17/454.
- 7.2.3. Notwithstanding the indicated need in the area and the permission granted under PA ref. 17/454, the applicant has not provided evidence that the existing mast at the Garda station (site CN036) cannot accommodate the proposed equipment. It is described in the Technical Justification as a 'lightweight structure' that is 'completely unsuitable' for a second operation. Further, the applicant has not referred to the telecommunications tower granted permission under PA ref. 21/288 under '6.0 Existing Sites/Structures Analysed'. It is stated by the PA that this mast will serve the R178 to the south west of the appeal site. However, it is evident from the proposed coverage from the subject site that there is some overlap with the target area for the mast approved under PA ref. 21/288 i.e. to the south west of the site (coverage map in section 7.2 of Technical Justification).
- 7.2.4. Having regard to the foregoing, I consider, that despite the evident lack of coverage in the area south of Shercock the applicant's technical justification is not ideal, lacks comprehensiveness and evidence of reasonable effort to share.

### 7.3. **Visual impact.**

- 7.3.1. The appeal site is situated in a drumlin landscape. The applicant provides a Visual Impact Assessment of its likely effects from the surrounding environment. I have observed the appeal site from these locations and from other locations in the area and I have the following concerns:
- Under PA ref. 17/454, permission was granted on the subject site for a 21m telecommunications slimline monopole, with the compound and tower situated just west of the proposed compound and tower. Drawings of the structure

indicate a height above sea level of 163m (Location Map, drawing no. MON1056-P03).

- In the course of the planning application for the subject development, the PA sought clarification on the height of the proposed development above sea level, noting a potential change in absolute height of c.9m. In response the applicant clarified the proposed structure would site at 169m above sea level (ASL) compared to the permitted monopole. As assessed by the PA, this would give a difference in maximum heights of 9m (i.e.  $163+21=184$  compared to  $169+24=193$ ). See also OS Map and Photographs, Drawing no. CIG\_03374-101 PA FI response.
- The applicant's clarification of FI states that the 163m ASL given for PA ref. 17/454 was inaccurate and that a more accurate height of 167m ASL has been established by a surveyor. It is also stated that the proposed structure will have a height of 167.5m ASL. This revised information would provide a difference of 3.5m in maximum height of structures ( $167+21=188$  compared to  $167.5+24=191.5$ ).
- There is no topographical survey of the appeal site to confirm the stated height and the OSi mapping of the site suggests that the structure may be located above the 170m contour line. Whilst I would accept that OSi mapping of heights may not be site specific and that the site will be cut into the rising topography, I am concerned that the topography of the site and the level of the proposed tower base is not clearly or robustly identified.
- The applicant's Visual Impact Assessment is not updated after the clarification of further information and there is no information on the height above sea level for the tower, used in the assessment. Further, contrary to good practice, it does not indicate the monopole location/outline in the photomontage i.e. to indicate the location of the structure and to demonstrate how visible the structure will/will not be (e.g. via a wireframe of the development).
- The visual impact assessment also omits views of the site where the structure is likely to be visible from the south west and from the south. In some

instances, photomontages are not directed towards the location of the monopole (e.g. no. 4).

7.3.2. Having regard to the foregoing, I have little confidence in the accuracy of the VIA.

7.3.3. From inspection of the site it is apparent that the monopole would not be overly visible from the public road to the east of the site, largely due to a mix of topography and existing development/vegetation. However, it is likely to be visible in some views from the R178 to the north west and south west of the site, from the Church to the north of Shercock, from the R162 to the north east of the site and from the minor road to the south west of the site. The appeal site is not situated in a designated or sensitive landscape and it is possible that from these locations, the subject development will not be overly visible or dominant in views. However, I do not consider it appropriate to draw this conclusion in the absence of robust information which accurately defines the location of the development by way of topographical survey and on the basis of this, accurately demonstrates and assesses the likely visibility of the development from the local road network.

#### **7.4. Impact on residential amenity.**

7.4.1. The nearest dwelling is c.230m to the west of the proposed compound and monopole structure. The nearest farm c.150m to the east, with a cluster of housing to the east of this. As stated above, the proposed development will not be overly visible from dwellings to the east or west by virtue of topography, existing vegetation and structures. For the same reasons, it will not overshadow or be overbearing on any of nearby residences. Issues in respect of health and safety, for people, animals and biodiversity, are addressed by another code which the applicant is required by law to abide by. I note that in the PAs grant of permission, under C3, transmission power output is limited to the details submitted which do not include 5G.

#### **7.5. Proximity to national school and health concerns.**

7.5.1. The appeal site is situated c.1.1km to the south of St. Patrick's National School and will have no visual bearing on it. Matters of health and safety, as directed by government guidance, are addressed by another code.



## 8.0 **Appropriate Assessment**

- 8.1. Having regard to the modest nature of the proposed development and its distance from European sites, it is concluded that no Appropriate Assessment issues arise as 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.

## 9.0 **Recommendation**

- 9.1. I recommend that in the absence of further information in respect of the topography of the appeal site and revised visual impact assessment, permission for the development be refused.

## 10.0 **Reasons and Considerations**

1. Having regard to the absence of detailed topographical survey in respect of the appeal site and limitations of the Visual Impact Assessment, it is considered that the proposed development would fail to comply with policy PIO121 of the Cavan County Development Plan 2012-2020, which states that masts will only be permitted if supported by an acceptable 'Visual and Environmental Impact Assessment Report'. In the absence of this information, the topographical location of the development is inadequately defined and it is not possible to ascertain with confidence the likely visual effects of the development. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Deirdre MacGabhann

Planning Inspector

12<sup>th</sup> October 2022