



An  
Bord  
Pleanála

## Inspector's Report

### ABP-313869-22

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<b>Development</b>	Erection of a 21m monopole installed on a concrete base to support telecommunications antennae.
<b>Location</b>	Johnville FC, St Johns Park, Killure Road, Waterford, Co. Waterford.
<b>Planning Authority</b>	Waterford City and County Council
<b>Planning Authority Reg. Ref.</b>	22298
<b>Applicant(s)</b>	Shared Access Ltd
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Shared Access Ltd
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	7 <sup>th</sup> of June 2023
<b>Inspector</b>	Angela Brereton

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## 1.0 Site Location and Description

- 1.1. The application site is located in the southeastern side of Waterford City and is in the suburbs. It is within the grounds of Johnville Football Club sports grounds. Access is via the existing gated entrance to the Club from the Airport Road (R708).
- 1.2. The site is occupied by sports pitches and associated structures including clubhouse/dressing rooms and floodlights. One of the floodlights on the opposite side of the site has telecommunications equipment attached to same.
- 1.3. There is a petrol station and an existing residential development – Bounds Court – located to the north of the site. There is also housing on the opposite side of the R708 and being constructed further to the west.

## 2.0 Proposed Development

- 2.1. This is for the erection of a 21m monopole installed on a concrete base to support telecommunications antenna, which together with the installation of dishes, remote radio units, wire mesh fencing, ground based equipment cabinets and all associated thereto will provide mobile electronic communication services from the installation.

## 3.0 Planning Authority Decision

### 3.1. Decision

On the 1<sup>st</sup> of June 2022, Waterford City and County Council refused permission for the proposed development for the following reason:

Having regard to the ‘Telecommunications Antennae and Support Structures: Guidelines for Planning Authorities’. Department of the Environment and Local Government 1996, the location, scale and height of the structure in close proximity to existing and permitted residential developments, it is considered that the proposed development would be visually obtrusive at the location and would seriously injure the visual and residential amenities of the area and devalue existing properties in the vicinity of the site. The proposed development would therefore be contrary to Ministerial Guidance and would

set an undesirable precedent for similar type proposals in the area and would be contrary to the proper planning and development of the area.

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

#### **3.2.1. Planning Reports**

The Planner had regard to the locational context of the site, planning history and policy. The Report notes that no submissions were made. Their Assessment included the following:

- They note enforcement issues and that the current application is not seeking to regularise this situation, it is seeking to erect a proposed new monopole at a separate location within the larger landholding.
- They consider the enforcement needs to be concluded before the current application can be considered further.
- They have regard to the Telecommunications Guidelines. They consider that given the scale and height of the proposed mast at this location in close proximity to the existing residential area at Bounds Court and to a permitted residential development (Reg.Ref 21/595) both located to the north of the site, and highly visible from the Airport Road (R708), that they would be concerned that the mast would be visually obtrusive and would seriously injure the amenities of the area, and of residential development in the vicinity.
- They refer to existing and permitted residential in the area and consider that it may be possible to find a more suitable location within the larger site, possibly to the southeast corner of the site. They recommend that permission be refused for the current application.

### **3.3. Other Technical Reports**

The Planner's Report notes that there are no Referrals.

### **3.4. Prescribed Bodies**

3.4.1. The Planner's Report notes that there are no Referrals.

### 3.5. **Third Party Observations**

The Planner's Report notes that no submissions were received.

### 4.0 **Planning History**

The Planner's Report has regard to permissions granted but never enacted at the application site, and notes that these have now expired.

- UD3295 - There is active enforcement undertaken against the owner/occupier of the sports ground the subject of the current application in regard to the possible unauthorised erection of telecommunications infrastructure at an existing flood light which serves the playing field to the southwest of the application site and within the larger site outlined in blue on the submitted plans.
- Reg.Ref.21/595 – Permission granted subject to conditions by the Council for the demolition of existing industrial unit and permission for the construction of 22no. residential units, together with car parking, landscaping, boundary treatment, connection to public services and all associated site works at Killure Road, St. John's Park, Waterford.

### 5.0 **Policy Context**

#### 5.1. **National Planning Framework 'Project Ireland 2040'**

This is broadly supportive of the national rollout of broadband communications.

National Policy Objective 24: *Support and facilitate delivery of the National Broadband Plan as a means of developing further opportunities for enterprise, employment, education, innovation and skills development for those who live and work in rural areas.*

## 5.2. **Regional, Spatial and Economic Strategy for the Southern Region**

The RESES seeks to improve high-quality telecommunications infrastructure across the region. Policies are broadly supportive and support the roll out of mobile and broadband infrastructure and include:

*RPO137: It is an objective to strengthen the continued delivery of high-speed, high-capacity digital and mobile infrastructure investment in our Region and strengthen cross regional integration of digital infrastructures and sharing of networks.*

## 5.3. **National Broadband Plan 2020:**

The National Broadband Plan (NBP) is the Government's initiative to improve digital connectivity by delivering high speed broadband services to all premises in Ireland, through investment by commercial enterprises coupled with intervention by the State in those parts of the country where private companies have no plans to invest.

## 5.4. **Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities, 1996 (Department of the Environment and Local Government):**

These Guidelines set out the criteria for the assessment of telecommunications structures. The relevant points include the following:

Section 4.3 of the Guidelines refers to visual impact and states that only as a last resort should free-standing masts be located within or in the immediate surrounds of smaller towns or villages. If such locations 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. The Guidelines also state that visual impact is among the more important considerations which should be considered in arriving at a decision for a particular application. In most cases, the Applicant will only have limited flexibility as regards location, given the constraints arising from radio planning parameters, etc. Visual impact will, by definition, vary with the general context of the proposed development.

The Guidelines state that the approach will vary depending on whether a proposed development is in:

- a rural/agricultural area;
- an upland/hilly, mountainous area;
- a smaller settlement/village;
- an industrial area/industrially zoned land; or
- a suburban area of a larger town or city.

The sharing of installations and clustering of antennae is encouraged as co-location will reduce the visual impact on the landscape (Section 4.5).

### **Circular Letter PL 03/2018**

This includes a requirement that Local Authority Development Contribution Schemes include waivers and reductions for broadband infrastructure (masts and antennae).

The waiver applies to any telecommunications infrastructure both mobile and broadband. This includes masts, antennae, dishes and other apparatus or equipment being installed for such communications purposes.

**Circular Letter PL07/12** This Circular Letter revised the Telecommunication Antenna and Support Structures Guidelines, 1996. (October 2012)

The circular advises that Planning Authorities should cease attaching time limit conditions to telecommunications masts, except in exceptional circumstances. It advises Planning Authorities to:

- Cease attaching time limiting conditions or issuing temporary durations to telecommunications masts, except in exceptional circumstances.
- Avoid including minimum separation distances between masts or schools and houses in Development Plans.
- Omit conditions on planning permissions requiring security in the form of a bond/cash deposit.
- Not include monitoring arrangements on health and safety or to determine planning applications on health grounds.



- Include waivers on future development contribution schemes for the provision of broadband infrastructure.

## 5.5. Waterford City and County Development Plan 2022-2028

This Plan was adopted on the 7<sup>th</sup> of June 2022 and came into effect on the 19<sup>th</sup> of July 2022 and replaces the previous City and County Development Plans.

### ICT/Communications

Chapter 6 of Volume 1 deals with Utilities Infrastructure, Energy & Communications

Section 6.7 refers to ICT/Communications

*Physical and digital infrastructure improves connectivity, helping our cities, towns and region to drive growth, supporting our economy and social development. Digital technologies are increasingly critical in the day-to-day operations of businesses and households and in improving access to public services across our more rural areas. It is anticipated that the National Broadband Plan will address the lack of high-speed connectivity in rural areas. The Council will continue to support and facilitate operators to improve speed and service across Waterford in line with national policy.*

Section 6.9 provides the Utility, Energy & Communication Policy Objectives.

Policy Objective UTL 16 refers to ICT/Communications

This notes the Council's support to facilitate the development of communications networks in appropriate locations and includes that in considering proposals for such infrastructure and associated equipment, the following will be taken into account:

- *The installation of the smallest suitable equipment to meet the technological requirements,*
- *Solutions to deliver shared telecommunication physical infrastructure in new development to facilitate multiple service providers at a non-exclusive basis and at economically sustainable cost to service providers and end users,*
- *Concealing or disguising masts, antennas, equipment housing and cable runs through design or camouflage techniques; or*

- *A description of the siting and design options explored and the reason for the chosen solution, details of the design, including height, materials and all components of the proposals,*
- *A landscaping and screen planting plan (if appropriate),*
- *An assessment of the cumulative effects of the development in combination with existing equipment in the area; and a visual impact assessment (if relevant).*

*Proposed development will be required to have regard to the “Telecommunications Antennae and Support Structures - Guidelines for Planning Authorities, 1996 and Circular Letter PL07/12” issued by the Department of the Environment Heritage and Local Government and to any subsequent amendments as may be issued.*

### Telecommunications

Section 5.20 of Volume 2 of the Plan notes:

*The Council recognises the importance of the need for high quality communications and information technology networks in assuring the competitiveness of the County’s economy and its role in supporting regional and national development. The advantages of a high quality ICT infrastructure must however be balanced against the need to safeguard the rural and urban environment.*

Development Management Policy Objective DM 30 notes the following:

*In evaluating applications for telecommunications installations, the Council will have regard to “Telecommunications Antennae & Support Structures Guidelines for Planning Authorities” (1996), and Department Circular PSSP 07/12.*

*Co-location of such facilities on the same mast or cabinets by different operators is favoured to discourage a proliferation, and co-location agreements to be provided where possible. Where new facilities are proposed applicants will be required to satisfy the Council that they have made a reasonable effort to share facilities or to locate facilities in clusters.*

### Land use zoning

Section 11 of Volume 2 refers to Zoning and Land Use.

Volume 4 provides the Maps. This shows the subject site is within the 'OS' – Open Space and Recreation' land use zoning where the Objective seeks to: *Preserve and provide for open space and recreational amenities.*

## 5.6. Natural Heritage Designations

The Lower River Suir SAC (site code: 002137) is c.1.8kms from the site.

## 5.7. EIA Screening

The proposed development does not fall within a class of development set out in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations, 2001, (as amended), and therefore is not subject to EIA requirements.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

A First Party Appeal has been submitted by Pegasus Group on behalf of Shared Access Limited. This includes regard to the proposed development, planning history and policy and to the context of the site. They provide a list of plans and particulars submitted with the original application. Their Grounds of Appeal are summarised under the following headings and include the following:

#### Grounds of Appeal

- The proposed development will not result in a visually intrusive or unduly incongruous form of development into the existing street scene and is not in a landscape of greater sensitivity or a location that is detrimental to views, prospects or vistas.
- There is a specific technical requirement for the location of the mast in this built-up area of Waterford and the proposed installation is the minimum height required to deliver the necessary coverage required to serve the wider area.
- The proposed mast is situated close to existing vertical structures including floodlights and an additional combined floodlight/telecommunications structure

that characterise the immediate context and will help the proposal assimilate visually within the grounds of the club and surrounding area.

- They note that the proposed mast is located in close proximity to existing and permitted residential development and would be directly overlooked by a small number of dwellings. They submit that it would be viewed in the context of the existing car dealership and vertical structures in the immediate surroundings of the site. That this proposal would have no undue impacts on schools, churches, creches, community buildings, other public and amenity areas of conservation areas.
- The Council's reason for refusal states that the proposed development would devalue existing properties in the vicinity of the site. Planning is generally concerned with land use in the public interest, so the protection of purely private interests such as property values for neighbouring development is generally not seen as a material planning consideration on which planning permission can be refused.
- They note the Planner's suggestion that the ongoing enforcement (ref. UD 3295) for the neighbouring telecommunications instalment located within the sports ground to the southwest of the site would need to be concluded before the application subject to this appeal could be further considered. They submit that this proposal is separate to the existing mast at the sports ground and therefore should be considered on its own merit. That there is no reason why the existing enforcement case needs to be resolved before the proposals can be considered in their own right.
- There are no other alternative options to either co-locate the proposed services on an existing mast in the surrounding area or any other suitable option available to host telecommunications equipment. The design of the mast has been future proofed to accommodate additional operator's equipment to prevent proliferation of masts in the future.
- The proposed installation has been sited and designed to meet certain design parameters and provides the minimum height required to deliver the necessary service coverage to the target area.

### Main issues for Consideration

- Whether the proposed development complies with the Telecommunications Antennae and Support Structures: Guidelines for Planning Authorities (Department of the Environment and Local Government, 1996).
- Whether the proposal would result in an incongruous and visually intrusive form of development and whether an unacceptable level of harm would result to the residential amenity of properties located within the immediate surroundings.
- Whether the proposal would result in a proliferation of telecoms masts within Waterford and there is no opportunity for the co-location of masts in the surrounding area.

### Matters not thought to be in dispute

- They note the need for modern electronic communications equipment in terms of both coverage and capacity.
- They reflect on the wider benefits of the proposal and provide that these can be broken down into each of the aspects of sustainable development. In this case they provide a summary of Economic, Social and Environmental Benefits.

### Site Context

- They provide a summary of The Appeal Site and the Proposal. This includes regard to the site and to adjacent uses and land use zonings. Also, to existing developments and those permitted but not as yet constructed in the vicinity.
- They note existing onsite features, including the adjacent floodlight that features a number of telecommunications antennae which provide 3G and 4G coverage for Vodafone and eir. They note that this has been the subject of enforcement action by the Council. That it is a longterm unauthorised use benefitting from the 7 year rule under Section 157(4) of the Planning and Development Act 2000 (as amended).

- They identify 4no. locations (within c.2kms of the site) where Three have existing telecommunications equipment installed within the urban areas surrounding the appeal site.

### Justification

- They provide details and a justification for the proposed development. The 'RF Technical Justification Report' is provided in Appendix 2.
- They submit that the proposal will meet with current Guidelines. That Three Ireland (Hutchison) demonstrate that the proposal meets International Commission guidelines for public exposition in accordance with the legislation.
- They note and list the Public Benefits of the Proposal.
- They have regard to Planning History including the enforcement action on the landholding.
- They note the history of planning permissions in the area including for residential development.
- They consider that the proposal complies with National, Regional and Local Planning Policies and Guidelines. Reference is had to the Waterford City Development Plan (2013-2019).
- They refer to Other Material Considerations relative to the proposed development.

### Case for the Appellant

- They consider that the proposed development complies with the Telecommunications Antennae and Support Structures: Guidelines for Planning Authorities (DoELG, 1996).
- They have regard to issues of Design and Siting, Visual Impact and Sharing Facilities and Clustering and provide details under each of these headings.
- They consider that the proposal would not result in an incongruous and visually intrusive form of development. That it would not result in an unacceptable level of harm to residential amenity of properties located within the immediate surroundings.

- Appendix 5 of the Appeal Statement includes Revised Photomontages.
- They do not consider that the proposal would result in a proliferation of telecoms masts within Waterford and provide that there is no opportunity for the co-location of masts in the surrounding area.
- Section 5.22 of their Appeal Statement includes a list of sites that could be used as an alternative and they include a Table. The reason for discounting each of these sites is assessed.
- The appellant submits that the subject site to be the only appropriate location to site an installation that will provide the required coverage to the cell area.
- They contend that there is no reason why the existing enforcement case needs to be resolved before the appeal proposals can be considered in their own right.

### Conclusion

- They conclude that having regard to the reasons considered fully within their Statement of Case and the supporting evidence, that the appeal proposal is an acceptable development solution to deliver the much-needed technical coverage through a sensitively designed mast in this location, providing the latest 4G and 5G service provision. As a result, they request that the appeal be allowed.
- They include Appendices 1 to 5 in support of their appeal.

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

There has been no response to the grounds of appeal from Waterford City and County Council noted on file.

### **6.3. Observations**

Note noted.

## 7.0 Assessment

7.1. I consider the main issues in the assessment of this appeal are as follows:

- Policy Considerations
- Justification for Proposed Development
- Extent of Proposal
- Discussion of Alternatives and Co-Location
- Impact on the Character and Amenities of the Area
- Public Health
- Other Issues.

### 7.2. Policy Considerations

- 7.2.1. The 'Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities' (DOE, 1996) state that it is national policy to develop a comprehensive mobile telecommunications service within Ireland in order to promote industrial and commercial development, to improve personal and household security, and to enhance social exchange and mobility. Such proposals are considered in light of this guidance in addition to revisions provided in Circular PL07/12.
- 7.2.2. This strategic policy is reiterated in the National Planning Framework: Project Ireland 2040. National Policy Objective 24 seeks to support and facilitate broadband including for those who live and work in rural areas and NPO48 which aims to develop stable, innovative and secure digital communications and services infrastructure on an all-island basis. The National Broadband Plan also aims to deliver a high-speed broadband network throughout Ireland.
- 7.2.3. It is noted that this application was considered by the Council under the Waterford City Development Plan 2013-2019 (as extended). This has now been superseded by the Waterford City and County Development Plan 2022-2028. The policies and objectives therein relative to Telecommunications have been noted in the Policy Section above. While such ICT infrastructure is generally supported, this needs to be balanced against the need to safeguard the rural and urban environment. Therefore,



in dealing with applications for such development it is essential that care and consideration be afforded to siting and design. Regard is had in the Policy Section above to Section 6.9 of Volume 1 of the current plan which includes Policy UTL 16 which refers to ICT/Communications and Section 5.20 of Volume 2 and Policy Objective DM 30. This includes regard to site selection, justification and need for the proposed development and to environmental considerations, to design issues, visual and residential impact, access roads, possibilities for sharing facilities and clustering.

- 7.2.4. Reference is had to the documentation submitted including regard to the justification and merits of the proposed development and to consideration of co-location and alternatives. Also, to the details submitted in the First Party Appeal and to the Councils concerns as noted in their reason for refusal. It needs to be ascertained as to whether this proposal can be considered to comply with planning policies and guidelines and as to whether the proposed development would be considered to be in accordance with the proper planning and sustainable development of the area. These issues are considered further in this Assessment below.

### **7.3. Justification for Proposed Development**

- 7.3.1. The documentation submitted with the application by Shared Access Limited is accompanied by a 'RF Technical Justification Report' prepared by a Three Radio Engineer. The report sets down the context, requirements and technical considerations in terms of network coverage to justify the need for the proposed development. It is submitted that when taken in isolation or together, the coverage maps (along with the capacity improvements to 4G) demonstrate a need for improved network coverage within the vicinity of the application site. That the proposal is a key part of the Three's overall plans for the County providing coverage to both existing and proposed areas of Waterford.
- 7.3.2. Details note that in this instance Johnville FC, Shared Access have partnered with the Club to deliver a site that will enhance the network coverage for Waterford and the surrounding area including the extensive residential areas to the north and west of the club as well as significant parts of the surrounding arterial road network, notably the R708 and R710. They submit that the proposal will provide both an

improvement in coverage to the local area across a range of technologies and network capacity bringing benefits to surrounding businesses and residents.

7.3.3. They provide that once developed, Shared Access Limited will manage the site ensuring maintenance, health and safety and site access are kept to the highest standards and within agreements with the site provider/landlord. A letter has been submitted to verify that Johnville FC is the leasehold owner of the lands indicated and is agreeable for Shared Access Limited to develop a telecommunications structure and compound on their lands.

7.3.4. Details submitted with the application note that the site presents an opportunity to improve the existing telecommunications coverage network in the area, whilst allowing for a capital contribution to be made to the site provider, Johnville F.C. and that this will result in a direct social benefit to the scheme as well as economic benefits associated with improvements to the communications network.

#### **7.4. Extent of Proposal**

7.4.1. It is noted that the subject site consists of a small parcel of land (0.0065ha as stated on the application form) along the western boundary of the wider club grounds that is not currently used for any formalised specific purpose. The sports grounds are included within the wider landholding boundary shown blue. The wider sports club grounds are characterised by numerous tall vertical steel structures ie. Floodlights and details are given of these.

7.4.2. The application seeks approval for the erection of a 21m free standing multi-user telecommunications monopole. I would note that while the public notices refer to a 21m monopole the drawings show a differential between 18m shown for the south east elevation and the other elevations shown at 21m in height. It is submitted that the structure is the minimum height necessary to allow for the coverage required to service the wider area.

7.4.3. The documentation submitted with the appeal provides that this proposal seeks permission for up to 12no. antenna and 3no. transmission dishes for up to 3no. network operators, 2no. transmission dishes measuring 0.6m, 1no. measure 0.3m. The First Party notes that the antennas will be mounted on a headframe in a series formation (i.e. one set of antennas situated above the next), with the dishes attached

to the monopole below. 7no. cabinets are proposed at ground level to house the required telecommunications equipment together with associated metering cabinets.

7.4.4. Details submitted provide that at each series the operator orientates the existing antennae in three directions in order to provide 360degree coverage from the site. They provide that in this sense, there is no opportunity to proposed fewer antenna, the minimum number are proposed in order to achieve the comprehensive coverage around the site for which it is designed.

7.4.5. The First Party notes that neither the Council's decision nor the Planner's Report objected to the design of the proposed development. That the applicant has proposed a minimum level of equipment required to provide the uplift in coverage required to deliver new communications services to this area of Waterford and the R710 corridor. They consider that the mast is not overly bulky or tall, that it is the minimum size required to safely host the proposed equipment. They submit that a smaller mast would not provide antennas at the requisite height to provide the required uplift in coverage where antennas need line of sight' across a given area in which to operate.

7.4.6. Access to the club is to be taken via an existing access point directly onto the R708. It is intended to use this access to the grounds for any installation and maintenance works. Details submitted provide that no access or highways improvement works are required to facilitate the proposed development. The mast is to have a galvanised finish and cabinets are to be finished in grey. The whole site is to be enclosed in 2.4m fencing with a galvanised finish. The fence to feature a single access gate which is to be located and is to be locked and used for maintenance purposes only.

## **7.5. Discussion of Alternatives and Co-Location**

7.5.1. The Appeal Statement has regard to restrictions on locating on existing telecoms structures. The 'RF Technical Justification Report' (Appendix 2) provides a list of other masts, identifying four locations where Three have existing telecommunications equipment installed within the urban areas surrounding the appeal site, i.e. within a 2kms of the site. Section 3.2 includes a figure showing existing sites analysed and details are given of these relative to the appeal site. They submit that due to lack of suitable structures to provide adequate coverage, Three

Ireland have identified and designed a solution that meets the coverage and capacity requirement for the network as well as minimising the visual impact.

- 7.5.2. A Table is included in Section 5.22 of the Appeal Statement providing a list of sites that could be used as an alternative and this includes regard to Williamstown GAA Club, Agricultural Land to the South and South-West and the site of the Petrol Filling Station to the north. Details are given for 'Reasons for Discounting' each of these sites to provide a reasoned justification why these sites have not been progressed as an alternative location.
- 7.5.3. Note is also had in this list of the Existing Telecom Structure in Johnville FC. They provide that due to other operator equipment on the structure the proposed height for Three Ireland's end state design will not meet the minimum required antenna height to best serve the surrounding population and future proof the site. Also, that their structural surveying team has made an assessment of the structure and concluded that it is not capable of safely accommodating additional operator equipment given it has a specific loading capacity which would be exceeded if additional equipment were to be added.
- 7.5.4. In summary it is concluded that detailed consideration has been given to either upgrading an existing site or identifying an alternative option. That this table demonstrates that the proposed site is the preferred option for delivering the uplift in coverage to the cell search area. It is submitted that the proposed development will only be occupied by Three at first, however, the applicant is fully amenable to other operators joining the mast in due course and that the design of the mast has been future proofed to ensure this is a possible eventuality.

## **7.6. Impact on the Character and Amenities of the Area**

- 7.6.1. The Council's reason for refusal includes that the proposal would be visually obtrusive and would seriously injure the visual and residential amenities of the area. It is noted that as shown on the Land Use Zoning Map in Volume 4 of the current Waterford CCDP the subject site is within an area zoned 'OS' Open Space and Recreation. The adjoining area to the north, which contains the petrol station and garage area is zoned 'CD'-Light Industry/High Technology/Manufacturing Campus

Development. The undeveloped site to the south of the sports ground is zoned as a 'Regeneration and Opportunity Site'.

- 7.6.2. However, the majority of the area in the vicinity of the site is within the residential zoning. There is existing residential to the west and north of the site. 'Bounds Court' to the north is on the opposite side of the garage development and is primarily apartment type development. Permission has recently been granted to the south of 'Bounds Court' for 22no. mixed residential units under Reg.Ref.21/595 to the north of the application and the garage site. This site is in closer proximity to the proposed development site, and while permitted the housing development has not yet been constructed, it will be within c.35m to the north of the subject site. A copy of the approved site layout for application Reg.Ref. 21/595 is provided at Appendix 4 of the Appeal Statement. This shows that the proposed residential will be adjacent to the southern site boundary i.e closer to the mast than the existing residential development.
- 7.6.3. The Planning Statement submitted notes that viewpoints have been selected to give a representation of how the mast would look in practice from a variety of viewpoints, including from the entrance gates to the club. Appendix 5 of the Appeal Statement includes Revised Photomontages. They consider that the proposed multiuser monopole structure will fit into the context of the wider surrounding area. That the proposal will be viewed amongst the other examples of existing vertical infrastructure at the sports club, including 15m floodlights and a 16m telecommunications installation, which will help assimilate the proposal into the surroundings. That it would not be overly dominant nor harmful to the character and appearance of the playing fields, nearby existing and permitted residential or the wider surrounds.
- 7.6.4. As shown on the Site Layout Plan the proposed mast site is to be set back c. 90m from the public road and will be sited to the rear of the Clubhouse. As the site is more elevated than the road it will be visible in the context of the wider area, including the existing and permitted residential. However, it will also be seen in the context of the existing floodlights for Johnville FC.

## 7.7. Public Health

- 7.7.1. Having regard to the proximity of the proposal to existing and permitted not yet constructed dwellings and the issue of public health, I refer the Board to Circular Letter PL 07/12, issued by the Dept. of Environment, Community and Local Government on the 19th of October 2012 which states 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.'*

- 7.7.2. Therefore, having regard to the content of the Circular Letter, issues of public health in relation to the telecommunications structure are not a matter for the planning authority and there are no safety concerns in relation to construction of the development. It is of note that the operator's compliance with general public exposure limits will be covered by the terms of the operator's licence. Appendix 3 of their Appeal Statement includes an ICNIRP Compliance Statement.
- 7.7.3. Safety during construction was also referenced. However, the development would be a standard construction project and any issues could be addressed by way of a Construction Management Plan if considered appropriate by the Board.

## 7.8. Other issues

- 7.8.1. Other notable onsite features include a series of telecommunications cabinets situated immediately adjacent to the southernmost floodlight at the site. The adjoining floodlight itself features a number of telecommunications antennae which provide 3G and 4G coverage for Vodafone and eir. This combined structure has limited strength and has been assessed as incapable of hosting the additional telecommunications equipment being proposed by Three.
- 7.8.2. It is noted from the Planning History and the documentation submitted including in the Planner's Report and in the Appeal that there is concern that use of this structure for telecommunications equipment constitutes unauthorised development. The First Party provides that Shared Access position remains regardless of whether the

Council takes a contrary view, that the 'seven year rule' under Section 157(4)(a) of the Planning and Development Act 2000 as amended means that this should not be the subject of enforcement action.

- 7.8.3. However, it must be noted that this does not mean that the structure would then have planning permission by default, it would still remain unauthorised. Reference is had to the concept of 'unauthorised use' in Section 3 of the Planning and Development Act 2000 (as amended). Regard is also had to Article 9 of the Planning and Development Regulations 2001 (as amended). This provides the 'Restrictions on exemption'. It is noted that this restriction includes Article 9(1)(viii) which refers to development that would i.e.: *consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use.*
- 7.8.4. I would consider that this an unauthorised use, which has led to a material change of use to what was a floodlight to serve the sports ground to use as a structure for the support for telecommunications equipment. In any event, it must be noted that enforcement is not under the remit of the Board, rather it is within the remit of the Council. Having regard to its location proximate (c.120m from the subject site) for the proposed development and to the south of the pitch within the same landholding, I would consider that it would add to the proliferation of structures used to support telecommunications equipment in the area.
- 7.8.5. I would be concerned that this proposal along with the existing telecommunications equipment as provided by the unauthorised development will lead to an over proliferation of such equipment on the subject landholding. The Board may wish to refuse having regard to the issue of unauthorised development for telecommunications and the proliferation of masts within a concentrated area in proximity to residential development. However, in the event that the Board decides to permit, I would recommend that a condition be included that prior to the commencement of development the existing telecommunications installation/equipment be removed from the site. It is of note, having regard to the documentation submitted, that there may be issues with the enforceability of such a condition.

7.8.6. Therefore, I would consider that in the interests of clarity and to avoid a proliferation of masts and associated telecommunications equipment in the immediate area on the landholding, that the Board may consider that it would not be appropriate, to permit the proposed development. In this instance regard must be had to the fact that there is an existing unauthorised structure on the landholding, that includes support for telecommunications equipment. It would appear, the operators are haphazardly applying for planning permission for new communications structures without due consultation between the providers to share and co-locate in accordance with the Ministerial Guidelines. Therefore, it would be preferable in the interest of sustainable development, that the existing unauthorised structure and telecommunications equipment be removed and that until this situation can be resolved that it would be premature to locate a mast or additional telecommunications equipment on the subject site.

7.8.7. In my opinion, the erection of the proposed mast within such a confined area on the subject landholding represents a concentration of telecommunication masts that will be detrimental to the visual amenities of the area, given the cluster impact of such infrastructure on the suburban landscape in this part of Waterford City. Whilst I accept the site and the immediate area do not possess great townscape qualities, the area is zoned for 'Open Space and Recreation' and is proximate to the 'Residential Zoning', and a cluster of masts/telecommunications equipment could potentially set an undesirable precedent and impact negatively on the residential and visual qualities of the area.

## 7.9. **Appropriate Assessment**

7.9.1. Having regard to the nature and scale of the proposed development and its proximity to the nearest European site, I do not consider that any Appropriate Assessment issues arise and I do not consider 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 for the proposed development be refused for the reasons and considerations below.

## 9.0 Reasons and Considerations

Having regard to:

- a) the Guidelines relating to Telecommunications Antennae and Support Structures which were issued by the Department of the Environment and Local Government to planning authorities in July, 1996,
- b) the highly visible context of the proposed structure and the close proximity (c.120m) to an existing unauthorised structure used to support telecommunications equipment on the subject landholding and the lack of proposals for the removal of this telecommunications equipment to allow for the erection of a new mast.
- c) The policies and objectives of the Waterford City and County Development Plan 2022-2028, including policies UTL16 and DM30, which require orderly development of telecommunications infrastructure.

It is considered that the proposed development does not comply with national, regional and local guidelines as the applicant has failed to demonstrate sufficiently justification for the mast on the subject site. In addition, taking into account the existing unauthorised telecommunications development on the subject landholding the proposal represents a haphazard and piecemeal approach to providing the required coverage in the area to the detriment of the visual and residential amenities of the area. The proposed development would, therefore, set an undesirable precedent and be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Angela Brereton  
Planning Inspector

2<sup>nd</sup> of August 2023