



An
Bord
Pleanála

Inspector's Report ABP314162-22

Development	Construction of telecommunications antennas and all associated site works.
Location	Block 1 and 2 Saint Clare's Park, Harolds Cross Road Dublin 6 (formerly known as Saint Clare's Convent and Nos 115-119 Harolds Cross Road Dublin 6.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	3899/22
Applicant(s)	Eircom Limited.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party
Appellant(s)	Eircom Limited
Observer(s)	Paul Walsh
Date of Site Inspection	8 th August 2023
Inspector	Philip Green.

1.0 Site Location and Description

- 1.1. Apparatus to be located on the rooftop of Block 1 and 2 St Clare's Park off Harolds Cross Road D6. St Clare's Park consists of a group of 5 storey apartment blocks focused around a central landscaped courtyard with vehicular access off and on the eastern side of Harolds Cross Road close to and opposite the park. These blocks of apartments have been constructed within the curtilage of a group of historic buildings comprising a designated protected structure and which have been incorporated in to the overall development. This includes the Mortuary Chapel, main Convent building and chapels of St Clare's Convent.
- 1.2. Blocks 1 and 2 are located immediately east of the Convent building and are located in the northern/north-eastern corner of the St Clare's Park development. Immediately to the north of the site is a school (St Clare's) with its access road running alongside the northern boundary of the appeal site. Immediately to the east and northeast are the more traditional scaled two storey terraced houses of Mount Drummond Avenue/Mount Drummond Square.
- 1.3. At my site inspection I was unable to gain access to the rooftops of Blocks 1 and 2 although this opportunity was subsequently made available to me should I have required. Having regard to the nature of the appeal, submissions made and issues arising and the access I was able to gain to the site and its surroundings I am satisfied that I was able to gain a full understanding of the proposed development sufficient to draft an informed recommendation to the Board. I was otherwise able to view the site from ground level from within the St Clare's Park development and the adjacent school grounds and also from nearby public locations including the park, Harolds Cross Road and Mount Drummond. Of particular note in connection with the subject matter of this appeal was the presence of what appeared to be existing telecommunications apparatus on the southernmost Block 8 of St Clare's Park (fronting Harolds Cross Road) and also a tall lattice tower when looking northeast from within Mount Drummond Avenue.

2.0 Proposed Development

- 2.1. Proposes installation of telecommunications antennae and associated equipment concealed within 3 no. shrouds with fitting apparatus and a cabinet and other

associated site development works on the building's rooftop at Blocks 1 and 2 St Clare's Park. It is intended that this development will provide high speed wireless data and broadband services (3G data / 4G high speed data). The proposed shrouds are stated to be at an overall height of 19.7 metres above ground level to top of shroud and 3.2m to top of antenna from rooftop and 3.4m to top of lightning finial. The details on the drawings indicates development including 2 no. 2m high antenna and additional mobile RRU units below (shrouded) mounted on a 2.5m x 3m. ballast mount on northern corner of the rooftop, a more central outdoor equipment cabinet on 2m. x 1.5m base and dimensions of 815mmx735mm and height 2m approx. with attached GPS beacon approx. 2.5m height above rooftop and further similar single 2m high shrouded antenna with 300mm mobile dish at the eastern end of the rooftop.

- 2.2. The application was accompanied by a Planning Statement incorporating environmental considerations and a Conservation Method Statement. There is also a Radio Emissions Statement from Eir on the file.

3.0 **Planning Authority Decision**

- 3.1. To refuse permission for a single reason on basis that the proposed development would constitute a series of visually obtrusive and dominant forms injuring the visual amenities of the protected structure, Mortuary Chapel, main convent building and chapels of former St Clare's Convent at St Clare's Park thus contravening policies CHC2 and 16.33 of the Development **Plan** and setting an undesirable precedent.

3.2. **Planning Authority Reports**

- 3.2.1. DCC Planners Report refers to following matters:

- Zoning Objective Z12 wherein public service installations are 'permissible';
- Sections 9.5.11, 16.33 and 16.33.1 of development Plan (Telecommunications, Telecommunications Apparatus and Siting design and Visual Amenity)
- 1996 DOELG Guidelines on telecoms. Antennae and Support Structures as revised by DECLG Circular Letter PL 07/12

- Observation made by Paul Walsh (observer to this appeal);
- Refusal recommendation of Council's Conservation officer;
- Report refers to conflict with policy in regard to siting of such apparatus on protected structures, lack of justification for siting proposed within curtilage and setting of protected structures and preference for development to be located within industrial areas or lands zoned for **industrial** use in the wider Harolds Cross area;
- Considered that development would appear visually incongruous and have negative impact on setting and historic curtilage of protected structures;
- Report concludes a full AA of the project is not required.

3.2.2. Other Technical Reports

- Report of DCC Conservation Officer includes reference to the historic status of the former St Claires Covent containing a number of designated protected structures (RPS Ref 3583) and NIAH survey of the Church/Chapel and Covent/Nunnery both given 'Regional' ratings. The planners report summarised above appears to draw from the comments of the Conservation Officer whose report concludes with a recommendation of refusal. This translates in to the DCC Reason for Refusal on its Notification of Decision.

4.0 Planning History

- There would appear to be a very substantial planning history (including planning appeals) related to the overall residential development of the St Clare's Park site of which the current appeal blocks form part. A number of these are set out in the DCC Planners report on this case, in the DCC planners report on DCC case 3272/22 referred to below, in the submission of the Observer and on the Board's own GIS plotting system. DCC have also forwarded brief history documents of a number of these cases in association with this appeal. Having regard to the nature of the development subject of this appeal I draw the Board's attention to the following case in particular:

- **3272/22:** Planning permission granted by Dublin City Council on 28 July 2022 (lodged 25 May 2022) for erection of telecommunications antennas and associated equipment concealed within three no. shrouds with fitting apparatus and a cabinet on building rooftop (Block 8) at St Clare's Park at corner of 119 Harolds Cross Road and Leinster Park, Harolds Cross D6.

5.0 Policy and Context

5.1. DOELG Telecommunications Antennae and Support Structures Guidelines for Planning Authorities (1996).

- The Government's telecommunications policy aims to place Ireland in the top quartile of OECD economies as regards the availability, price and quality of telecommunications services in order to promote industrial and commercial development, to improve personal and household security and to enhance social exchange and mobility...
- Areas legally designated for environmental conservation must be given the required protection when considering planning applications for mobile telephony infrastructure. Accordingly, fragile landscapes have to be treated sensitively, scenic views preserved, archaeological/geological sites and monuments and buildings of historical and architectural interest protected and sacred areas respected...
- These considerations demand that the fullest attention is paid to the location of masts by operators and planning authorities. In addition, in order to avoid an unnecessary proliferation of masts, owners (i.e. those controlling access to support structures and masts) would be expected to facilitate colocation of antennae with other operators. Owners and operators will be expected to respond to requests for sharing in a timely, fair and reasonable manner. Accordingly, where the existing site operator/owner considers it is technically possible and where sharing would not preclude the parties from foreseeable future development on the shared facility,

planning authorities should encourage co-location of antennae on existing support structures and masts.

- In urban areas (centre city) these antennae can generally be mounted on buildings or other structures. In rural areas, and in many suburban situations, because of the low rise nature of most of our suburban buildings and structures a supporting mast or tower is needed. As technology develops, the number and size of antennae may change, becoming more efficient and less obtrusive.
- Each planning authority's development plan should include in relation to those telecommunications installations which form part of the requirements for public mobile telephony....an authority should also indicate any locations where, for various reasons, telecommunications installations would not be favoured or where special conditions would apply. Such locations might include, for example, lands whose high amenity value is already recognised in the development plan or sites beside schools which might give rise to local concerns,.... Whatever the general visual context, great care will have to be taken when dealing withother areas designated or scheduled under planning and other legislation Proximity to listed buildings, archaeological sites and other monuments should be avoided.
- In the vicinity of larger towns and in city suburbs operators should endeavour to locate in industrial estates or in industrially zoned land. The possibilities offered by some commercial or retail areas should be explored whether as rooftop locations or by way of locating "disguised" masts. It should also be noted that substations operated by the ESB may be suitable for the location of antennae support structures. This possibility should also be investigated. In urban and suburban areas the use of tall buildings or other existing structures is always preferable to the construction of an independent antennae support structure. In urban areas the need for increased numbers of cells to cater for customer growth will lead more and more to the subdivision of existing cells and, in some instances to the

introduction of “microcell” technology..... Only as a last resort and if the alternatives suggested in the previous paragraph are either unavailable or unsuitable should free-standing masts be located in a residential area or beside schools. If such a location should become necessary, sites already developed for utilities should be considered and masts and antennae should be designed and adapted for the specific location. The support structure should be kept to the minimum height consistent with effective operation and should be monopole (or poles) rather than a latticed tripod or square structure.

- Sharing of installations (antennae support structures) will normally reduce the visual impact on the landscape. The potential for concluding sharing agreements is greatest in the case of new structures when foreseeable technical requirements can be included at the design stage. All applicants will be encouraged to share and will have to satisfy the authority that they have made a reasonable effort to share. Where the sharing of masts or towers occurs each operator may want separate buildings/cabinets.

Circular PL07/12 Telecommunications Antennae and Support Structures Guidelines.

- This Circular was issued in October 2012 and updated/revised a number of issues set out in the 1996 Guidelines. These related to use of temporary permissions, omission of separation distances from Development Plans, removing requirement for bonds for removal of obsolescent apparatus, provision for a database of permitted structures by each planning authority, clarifying that planning authorities do not have competence to consider health and safety issues which are regulated by other codes and providing a waiver for broadband infrastructure under development contribution schemes.

Architectural Heritage Protection Guidelines for Planning Authorities (2011)

- Chapter 13 states that proposals for new development within the curtilage of a protected structure should be carefully scrutinised by the planning authority, as inappropriate development will be detrimental to the character of the

structure. Further it states that even new development both adjacent to, and at a distance from, a protected structure can affect its character and special interest and impact on it in a variety of ways. The proposed development may directly abut the protected structure, as with buildings in a terrace.

Alternatively, it may take the form of a new structure within the attendant grounds of the protected structure. A new development could also have an impact even when it is detached from the protected structure and outside the curtilage and attendant grounds but is visible in an important view of or from the protected structure.

5.2. Dublin City Development Plan 2022 – 2028

- Whilst the Planners report and DCC Notification of Decision and Appellants grounds of appeal refers to the Dublin City Development Plan 2016-2022 the DCC website indicates that the Dublin City Development Plan 2022-2028 was adopted at a Special Council meeting on the 2nd of November 2022 and came into effect on the 14th of December 2022. This report will therefore have regard to Development Plan policy as set out in this most recently adopted document.
- Under the new Zoning provisions of the 2022-2028 Development Plan the site has changed from the previous Z12 Zoning 'to ensure existing environmental amenities are protected in the predominantly residential future use of these lands' to a Z1 Zoning 'Sustainable Residential Neighbourhoods' for the permitted apartment blocks with a Z9 Zoning 'Amenity / Open Space Lands / Green Network' for its associated open space.
- A public service installation is a permissible use within a Z1 zoned area. In Appendix 15 (Land Use Definitions) of the Development Plan this definition would include for all service installations necessary for telecommunications and data transmission.
- **Chapter 9.5.11 Digital Connectivity Infrastructure** of the Development Plan recognises the importance of digital technology infrastructure and

supports sustainable development of high-quality digital connectivity infrastructure throughout the City (SI45) and are cognisant of the need to balance the objective to provide effective telecoms infrastructure with objectives to protect streetscape heritage and reduce on street clutter. Under Policy SI48 DCC encourages the sharing and co-location of digital connectivity infrastructure (including small cells, access points, communications masts and antennae) in order to avoid spatially uncoordinated and duplicitous provision that makes inefficient use of city space and negatively impacts on visual amenity and built heritage.

- **Appendix 15.18.5 Telecommunications and Digital Connectivity** sets out policy in regard to the provision and siting of telecommunications antennae. This shall take account of the Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities, (Department of Environment and Local Government, 1996), as revised by DECLG Circular Letter PL 07/12, and any successor guidance. Telecommunications antennae and supporting structures should preferably be located on industrial estates or on lands zoned for industrial/employment uses. Possible locations in commercial areas, such as rooftop locations on tall buildings, may also be acceptable, subject to visual amenity considerations. In terms of the design of free-standing masts, masts and antennae should be designed for the specific location. In assessing proposals for telecommunication antennae and support structures, factors such as the object in the wider townscape and the position of the object with respect to the skyline will be closely examined. These factors will be carefully considered when assessing proposals inthe vicinity of protected buildings The location of antennae or support structures within any of these areas or in proximity to protected structures, archaeological sites and other monuments should be avoided. Where existing support structures are not unduly obtrusive, the City Council will encourage co-location or sharing of digital connectivity infrastructure such as antennae on existing support

structures, masts and tall buildings (see Policy SI48). Applicants must satisfy the City Council that they have made every reasonable effort to share with other operators.

- There are a number of buildings designated as a protected structure within the St Clare's Park site RPS Ref No 3583 which are the Mortuary Chapel, main Convent building and chapels of the former St Clare's Convent. The Church/Chapel are recognised as being of Architectural, Artistic and Social Interest and are given a Regional Rating on the NIAH ref 50081053) as is the Convent/nunnery (NIAH ref 50081054).
- It is the policy of DCC to ensure development conserves and enhances protected structures and their curtilage (Policy BHA2) and to have regard to the Architectural Heritage Protection Guidelines (2011) and to have regard to the NIAH ratings in the assessment of planning applications (Policy BHA4).

5.3. EIA Screening

- 5.4. Having regard to the nature and modest scale of the proposed development, its location in a built-up urban area and the likely emissions therefrom it is possible to conclude that the proposed development is not likely to give rise to significant environmental impacts and the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

5.5. Natural Heritage Designations

- None of relevance to this case

6.0 The Appeal

6.1. Grounds of Appeal (First Party)

- Includes description of Applicant Eircom Limited described as largest communications provider in Ireland. States that this proposal will facilitate

that part of Eir's business providing a national wireless data and broadband network;

- Addresses reason for refusal in context of site selection, technical need for proposal, chosen site selected, proposed design, existing screening and visual impact on surrounding heritage assets, residential areas and city centre and policy including Ministerial Guidelines on telecommunications Antenna and Support Structures and Development Plan;
- Emphasis given to Guidance stating in urban areas antennae can be located on tall buildings and that use of such tall buildings or other existing structures is preferable. As a result a number of options were considered centred on the cell search area of Harolds Cross Road, St Clare's Avenue, Mount Drummond Square, Grosvenor Square, Grosvenor Lane and Ashworth Place. Regard was had to operational requirements and any existing telecommunication structures (details provided) and it was concluded there were no existing suitable structures suitable to provide the necessary 3G and 4G coverage. Whilst there a lot of telecommunication sites in Dublin City the constraints on capacity and increasing demand in area has put strain on network in immediate area requiring a localised solution;
- Coloured coverage maps provided demonstrating existing and enhanced coverage;
- Notes built up character of site surroundings including nearby protected structures and comments that there are a lot of vertical structures and mature trees in close proximity helping to assimilate the proposed development;
- Antennae concealed within three no. shrouds on rooftop and provision is made for a second or third operator to co locate on the rooftop in accordance with the Guidelines. Shrouds are considered aesthetically pleasing and design by virtue of height, volume and colour (including cabinets) stated to minimise impact on surrounding streetscape and to be modest in scale with building on which they are to be located. Proposed height of 19.7m above ground level (top of shroud) and 3.2m. above rooftop is minimum operational requirement to achieve line of sight;

- Site is optimal location to achieve area and level of coverage whilst minimising number of freestanding base stations and visual impact;
- Visual impact would not detract from residential amenity or protected structures and strikes good balance between environmental impact and operational requirements to provide a 3G and 4G service;
- Submission includes a photomontage and 4 critical viewpoint assessment which conclude no significant visual effects on sensitive receptors contrary to reason for refusal;
- Compliance with emission standards is part of Licence requirements. Board to note that appeal states ICNIRP declaration is provided (**Inspectors Note this does not appear to be included in the grounds of appeal on file. There is however a Radio Emissions Statement from Eir included with documents provided by the Planning Authority as part of this appeal**). Appeal states that Board has consistently ruled that health effects are not a material consideration in the determination of telecommunications appeals but a matter for ComReg;
- No noise issues will arise;
- Development located within curtilage of **protected** structures and NIAH sites (identified) however due to small nature of proposal which is designed to be discrete will not have a detrimental impact on any surrounding heritage;
- Support from policy is cited including National Planning Framework, Regional Planning Guidelines, Dublin City Development Plan (2016-2022) and DOEHLG Guidelines on Telecommunications Antennae and **Support Structures** (1996) and Circular PL07/12. Concludes that this development would be wholly in compliance with this policy background;
- Concludes that proposal does not contravene Policy CHC2(d) and 16.33.1 of development Plan, provides an essential public service, is optimal solution to providing required technology and minimum necessary to operate with no significant adverse environmental impacts.

6.2. Planning Authority Response

- None on file

6.3. Observations (Paul Walsh)

- Proposing placing masts on a protected structure. Section 16.33 of development Plan requires close examination of such proposals in vicinity of protected structures and should be avoided;
- Proposal immediately adjacent to and within 200 metres of St Clares National School. Fingal Development Plan requires a 200m separation distance between schools and telecommunications structures;
- No documentation lodged to satisfy planning authority that they have made every reasonable effort to share with other operators. Under DCC reference 3722/22 (**Inspector Note this appears to be a typographical error and should read 3272/22 as referred to in Observers original submission to DCC**) planning permission was recently granted for masts on same site. There should be sharing of these masts not additional ones. Application should have referred to this permission and outlined attempts to share these masts;
- No documents lodged to demonstrate **endeavours** to locate on industrial buildings within industrial areas in accordance with Section 16.33 of Development Plan and Government Guidance and Circular Letter. There are ample commercial and industrial (and ESB) buildings in vicinity that could be used instead and there is absence of documentation demonstrating consideration of these. It is only as a last resort that Guidelines suggests freestanding masts or locations in a residential area or beside schools might be considered and where suggested sites already developed for utilities and they should be designed specifically for the location;
- Support structures should be kept to minimum height consistent with effective operation and should be monopole (or poles);

- No documentation lodged demonstrating compliance with IRPA Guidelines or equivalent Pre standard 50166-2; Radio Emissions Statement submitted dated from July 2017 five years ago;
- Similar application by a different applicant refused permission under appeal reference 309693-21 (DCC ref 3923/20 (extracts from Inspectors report quoted) **(Inspectors Note: This case refers to a First Party appeal against refusal by DCC on a site in Santry Dublin 9 for telecommunications apparatus and support structure. Permission was granted by the Board in September 2021. File attached).**

7.0 Assessment

7.1. Having inspected the site and surroundings and having regard to the submissions lodged with the application and appeal, the national and local policy context and documentation on file I consider the main issues to be considered in this case to be:

- Principle of development
- Appropriateness of Location Technical justification for location chosen
- Visual impact and impact on surrounding streetscape and property including built heritage/protected structures, nearby residential and community uses and wider streetscape
- Health and safety
- Appropriate assessment

7.2. **Principle of development:** The proposed development's location on Blocks 1 and 2 of the St Clare's Park development would appear to be entirely consistent with the Z1 zoning provision of the current Development Plan wherein such development is deemed to be permissible. Further I draw the Board's attention to the Appellants grounds of appeal which sets out a comprehensive policy background. This includes reference to the National Planning Framework, Regional Planning Guidelines, DOEHLG Guidelines on Telecommunications Antennae and Support Structures (1996) and to the (previous) Development Plan. I have referred to a number of these above. Clearly there is a general overall recognition of the social and economic

importance and indeed support for the implementation of such infrastructure and its importance in modern society is reflected in this support. This is a significant material consideration for the Board in the determination of this appeal.

- 7.3. Notwithstanding this there are a number of other planning factors and constraints determining the suitability of the chosen location for this telecommunications infrastructure. Such constraints are also recognised in the policy guidance and are as such further material considerations for the Board to consider. This would include the technical justification for the development at this location and information available in regard to availability of other sites/locations given policies seeking to encourage co-location and mast sharing to prevent proliferation of such apparatus. The development's proximity to and within the curtilage of a protected structure, a school and residential property and impact on visual amenities of those receptors and the visual impact in the wider streetscape are also material considerations.
- 7.4. **Appropriateness of Location. Technical justification:** The Appellants have cited a deficit in coverage in their network in the immediate area for which this infrastructure is required. The cell search area is described as centred on Harolds Cross Road close to the proposed location, St Clare's Avenue, Mount Drummond Square, Grosvenor Square, Grosvenor Lane and Ashworth Place.
- 7.5. The Appellants argue that there is a coverage and capacity deficit in the area. I note that this was referred to in the planners report on the permitted telecommunications infrastructure on Block 8 subject of DCC permission ref. 3272/22 albeit for a different network service provider. This infrastructure now however appears to be in place on Block 8 (see photographs) visible from Harolds Cross Road. The operators in that case (Vodafone) cited the need to support broadband communications and performance of their existing network. The planners report in that case also refers to the applicant's submission that there were Eir and Three apparatus within 130 metres of that site however both rooftops were at capacity and both were not suitable for 5G networks. Somewhat surprisingly there is no explicit reference to this application/permission in the current grounds of appeal (nor indeed in the DCC Planners report despite mention by the Observer). That (permitted) application was made on 25 May 2022 and final permission was granted by DCC on the 28 July 2022. This current appeal application was lodged with DCC on the 5th May 2022, refused on 29th June 2022 and appeal lodged to the Board on 26 July 2022.

7.6. The appellants have referred to their sequential approach in choosing this location in their grounds of appeal and state they have made all attempts to utilise any existing telecommunications infrastructure in accordance with their Licence requirements. On the extract of the ComReg Site Finder provided there is a site (Site ID DU1171 - Three) on Harolds Cross Road (No 5 on the extract) however this is stated to be too far away to deliver coverage. This extract is stated to be the most up to date however it does not include the existing infrastructure permitted by DCC under 3272/22. I have reviewed the latest imagery on the ComReg Site Viewer and this existing Vodafone infrastructure (Site ref DN899) has not been included on the extract provided (presumably unavailable at time of preparation of application documents). I consider this to be significant to the assessment of the merits of this appeal. It is an option for the Board to seek the Appellants comments on this matter as a potential new issue. I would point out however that it was raised in the Observers initial submission to the planning authority and again in his Observation to the Board in this appeal. In the absence of clarity as to why this existing base cell on Block 8 could not be utilised it would appear to me that not all options have been fully explored and considered and there is not a sufficiency of information (for example technical analysis) to demonstrate that its presence on a nearby block can be discounted. The current appeal proposal would as a consequence result in an unnecessary duplication and proliferation of such infrastructure in conflict with objectives encouraging co location and sharing. I would also point out that the planners report on 3272/22 states that it was “ Vodafone’s preference to site share on existing structures...”.

7.7. I would note the Appellants contention in regard to the need for the proposal infrastructure in the localised and specific cell defined. This is due to new building in the area and without which a severe degradation in mobile radio and data services and as a result dropped/blocked calls and poor data sessions are forecast. I would assume that this includes the St Clare’s Park development itself. However as noted above it remains a significant question why the existing location on Block 8 of the same development could not be shared/utilised to serve the cell needs defined by Eir, the proposed operators in this appeal case. The appellants submission also includes coloured maps of existing and proposed indoor coverage. I would note and accept the appellants technical submission and expertise on this issue. For the

Board's information however I have also viewed as part of my consideration of this case the ComReg online Outside Coverage Map for Eir for their 3G and 4G network coverage in the area. For 3G most of the area would appear to be designated good to very good whilst for 4G it would appear to be fair to very good. The disclaimers on that website states that its data is for illustrative purposes only and the actual user experience may, depending upon the particular circumstances of the user, differ considerably from the results shown on the Outdoor Coverage Map. I do not therefore consider it should be used in any way definitively or conclusively by the Board in this case and I also have not done so.

- 7.8. At my site inspection I noted a further tall lattice structure when viewed from Mount Drummond Avenue although this may be a structure associated with security or emergency services and may thus not be available to private operators.
- 7.9. The proposed location needs to be considered in light of policies set out in the Development Plan for preferred locations for telecommunications apparatus. The Appellant has correctly cited its location on a tall building in an urban (suburban) area as being a key consideration in their analysis (supported by Guidelines). Clearly this is a critical factor from an operational point of view and the Appellant has sought to reduce the impact of the structures by way of height and shrouded design. The policies as set out in the Development Plan express preferred locations including on industrial estates or on lands zoned for industrial/employment uses. Possible locations in commercial areas, such as rooftop locations on tall buildings, may also be acceptable, subject to visual amenity considerations. It is also emphasised that locations close to protected structures should be avoided. I would accept that this is a tall building (relatively speaking to the older, more traditionally scaled buildings surrounding) in a suburban area. Subject to the clear and demonstrated unavailability of alternatives its use for such infrastructure might need to be considered as an exception however given the above I am not satisfied that this is the case. In addition the location and visual impact in proximity to protected structures, a school, residential property and impact in the wider streetscape must be considered.
- 7.10. **Visual Impact:** The appeal is accompanied by a visual impact assessment including photomontages and the conclusion reached is that no significant impact is predicted. I do not entirely accept this conclusion. At my site inspection I was able to view the

site itself and consider the potential visual impact on the designated protected structure group and from surrounding viewpoints including the adjacent school grounds, Harolds Cross Road and residential estates to the east. As part of this I also noted the existing telecommunications apparatus located on Block 8 fronting Harolds Cross Road.

7.11. The protected structures on the site are significant and I note the Conservation Officers references to inclusions on the NIAH. Guidance also makes clear that such development should avoid impact directly upon or on the setting of protected structures. There is no doubt that the setting of these designated protected structures now incorporated into the overall St Clare's Park development has been substantially impacted upon by the development of the apartment blocks. However this does not mean that further development on the rooftops of these apartment blocks should automatically be deemed appropriate or not be subject to further detailed examination. Whist I note the submissions of the Appellant I consider that the proposed telecommunications apparatus notwithstanding use of shrouds would add additional modern and somewhat incongruous monolithic vertical features above the flat rooftop of the modern blocks particularly the 2 northern-most proposed. This block is in closest proximity and adjacent to the protected structure (Convent). I consider the proposed development could be read in conjunction with the more historic building elements on the site and needs sensitive consideration. I consider that there would be views from the adjacent school grounds in close proximity and from part of Harolds Cross Road (albeit more distant) for example from which these features would be viewed and somewhat prominent rising above the rooftop. The easternmost equipment would be visible from within the developments courtyard to some extent however this would be more remote from the original protected structures themselves and to an acceptable degree but in my opinion would be apparent and prominent from a number of the rears of residential properties and between gaps in that terraced housing to the east (Mount Drummond Square) from which the residential blocks of St Clares Park are very apparent. The northern-most apparatus would have a more limited impact from the square of St Clare's Park due to their location on the roof and height of the blocks themselves when standing at ground level.

- 7.12. Although I would entirely accept and support the requirement for such apparatus in principle it is my opinion that there would be a negative visual impact from the siting of these vertical structures on the flat rooftop of these blocks. This is critical having regard to their location within the setting of a designated protected structure and visible from sensitive residential and community use receptors. Contrary to the Appellants conclusions I consider that negative visual impacts could therefore result. Such negative impacts have not been justified in my opinion having regard to my conclusions above in regard to discounting all possible suitable alternative site locations/co location for this infrastructure.
- 7.13. **Health and Safety:** I draw the Boards attention to Circular PL07/12 which reiterates 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.
- 7.14. **Appropriate Assessment Screening**
- 7.15. Having regard to the nature and scale of the proposed development, the nature of the foreseeable emissions therefrom/to the absence of emissions therefrom, the nature of receiving environment as a built up urban area and the distance from any European site/the absence of a pathway between the application site and any European site it is possible to screen out the requirement for the submission of an NIS and carrying out of an AA at an initial stage.

8.0 Recommendation

- 8.1. I have considered all the other matters raised but it seems to me that they are not so material to the consideration of the planning merits of this case to warrant reaching a different recommendation to that set out above and below. In conclusion I recommend that permission be refused for the proposed development however the Board may consider that aspects of my recommendation might constitute a new issue and that it may wish to seek further comments from the Parties prior to making its decision on this case.

9.0 Reasons and Considerations

Having regard to

- the policies and objectives of the DOELG Telecommunications Antennae and Support Structures Guidelines for Planning Authorities (1996) and Circular PL07/12 Telecommunications Antennae and Support Structures Guidelines, the Architectural Heritage Protection Guidelines for Planning Authorities (2011) and Dublin City Development Plan 2022 – 2028:
- the presence of existing telecommunications apparatus granted planning permission by Dublin City Council under planning application No 3272/22 on Block 8 of the same St Clare's Park apartment development of which the current appeal blocks 1 & 2 form part:
- The location of the proposed telecommunications apparatus within the setting of a protected structure (RPS Ref No 3583 (Mortuary Chapel, main Convent building and chapels of the former St Clare's Convent) and recognition of the The Church/Chapel and Convent/nunnery as being of Architectural, Artistic and Social Interest given Regional Ratings on the NIAH (refs 50081053 and 50081054):
- The proposed siting, height and design of the proposed telecommunications apparatus and
- visibility from sensitive residential and community receptors and in the wider streetscape including along Harolds Cross Road

the Board is not satisfied that the proposed development would not give rise to the unnecessary proliferation of telecommunications apparatus that would detract from the setting of a protected structure and seriously injure the visual amenities, character and appearance of the area. The proposed development would,

therefore, 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.

Philip Green
Planning Inspector

14th August 2023