



An
Bord
Pleanála

Inspector's Report ABP-314826-22

Development	Construction of Mobile and broadband tower.
Location	Cappocksgreen, Ardee, Co. Louth
Planning Authority	Louth County Council
Planning Authority Reg. Ref.	22/604
Applicant(s)	On Tower Ireland Ltd
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Vincent Matthews
Observer(s)	None
Date of Site Inspection	02 nd of June 2023
Inspector	Karen Hamilton

1.0 Site Location and Description

- 1.1. The site is located on the outskirts and within the settlement boundary of Ardee, Co. Louth. The site is a greenfield site, located to the north of a housing development which is currently under construction. The N33 runs to the east and northeast of the site and the site can be accessed from a cul0de-saced road which has c. 10 houses along the edge of this road.
- 1.2. The site, and surrounding area is relatively flat. The site is not particular visible from the N33, due to many mature trees and hedging along roadside boundary. The site is visible form the other approaches.

2.0 Proposed Development

- 2.1. The proposed development comprises the following:
 - 33m lattice mobile and broadband tower,
 - Associated equipment and cabinets
 - 2.4m palisade fence compound
 - Access track.

3.0 Planning Authority Decision

3.1. Decision

Permission was granted subject to 9 no conditions of which the following are of note:

C2: The proposed mast and all associated antennas and equipment shall be removed from site when it is no longer required. The site shall be reinstated to its predevelopment condition at the expense of the developer.

C4: The applicant/ developer shall provide and make available, on reasonable terms the proposed mast for the provision of mobile telecommunications antennae/dishes of third party licensed mobile telecommunications operators.

C7: Protection of existing hedgerow apart from that specified in the submitted plans.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planners report reflects the decision to grant permission and is summarised as follows:

- The principle of a telecommunications structure at this location is generally acceptable.
- The zoning includes telecommunications structures as open for consideration.
- The proposal complies with Section 13.18.3 of the development plan.
- The design, scale and form are acceptable.
- The photomontages demonstrate the visual impact will be intermittent.
- The technical justification submitted with the application is considered comprehensive.
- There is an established access point which connects the Black Ridge to the subject site.
- An additional 13m of track is required.

3.2.2. Other Technical Reports

Infrastructure Section: No objection subject to conditions.

3.2.3. Observations

One submission was received on the application from the appellant. The issues raised are similar to those in the grounds of appeal and have been summarised below in Section 6.0.

4.0 Planning History

Reg Ref 21/1190

Permission granted to the south of the appeal site to the appellant consisting of a revision to planning permission reg. ref. 081220 (extended duration under planning reg. ref. 19/178) and previously amended by permission Ref No. 2120 comprising 48 no units) and 28 no dwellings and the provision of 48 no dwellings.

5.0 Policy and Context

5.1. Circular Letter PL 07/12, DoECLG 2012.

This includes further advice on the issue of health and safety and reiterates that this is regulated by other codes and is not a matter for the planning process.

5.2. Louth County Council Development Plan 2021-2027

5.2.1. Land use zoning

The site is located on lands zoned as A3- New Residential- Phase 2 where it is an objective “to provide for new residential neighbourhoods and supporting community facilities.”

- Telecommunications Structures are open for consideration.

5.2.2. Telecommunications Guidance

Section 13.18.3: Telecommunications Structure

- Have regard to the national guidance.
- New Antennae will only be considered when co-location is not feasible and have a supporting statement.
- A visual impact assessment may be required.

Policy Objective IU 41: To ensure the orderly development of telecommunications throughout the County in accordance with the requirements of the Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities, DECLG, 1996, except where they conflict with Circular Letter PI07/12 which shall take precedence, and any subsequent revisions or expanded guidelines in this area.

5.3. Telecommunications Antennae and Support Structures; Guidelines for Planning Authorities (DEHLG 1996).

Section 4.3 includes; Only as a last resort should freestanding masts be located within or in the immediate surrounds of smaller towns and villages. If such 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.

5.4. Natural Heritage Designations

The site is located:

- c. 5km to the southwest of Stabannan-Braganstown SPA (site code 004091)
- c. 12km to the southwest of Dundalk Bay SAC (site code 000455) & Dundalk Bay SPA (site code 004026).

5.5. EIA Screening

The proposed development does not fall within the scope of any Class of development for the purposes of EIA.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal area submitted from a resident of Dunleer, the owner of lands within the vicinity of the site. The issues raised are summarised below:

6.1.1. Ownership

- A section of the access track falls within the ownership of the applicant and no consent has been given for these works.
- The applicant does not have sufficient interest in the lands.

6.1.2. Public Notice

- The site notices do not mention access tracks, surfacing or turning circle in the description.
- The site notice is not a true reflection of the proposed works.

6.1.3. National Guidance on telecommunications

- The Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities, DECLG, 1996, provides requirements for the location of telecommunications infrastructure.
- The structure should be in industrial lands when located in settlements.
- The proposed development is in an open field beside residential zoned lands.
- There are houses currently under construction to the south of the site and Phase 2 lands to the north.

6.1.4. Louth Couy Development Plan 2021-2027

- The proposal represents a material contravention of the development plan.

6.1.5. Visual Impact and Proximity to planned housing.

- 33m telecommunication antenna is inappropriate given the residential nature of the zoned lands.
- Due to public perception on the impacts of telecommunication towers they should be located away from housing.
- There is a lot of other zoned lands appropriate for locating telecommunications masts.
- Free standing masts in residential areas should be a last resort.
- The guidelines do not consider palisade fencing is appropriate. The proposal includes palisade fencing.
- The TASS Guidelines disfavour tripod and square structures in residential areas.
- The submitted visual impact assessment does not take into account approved and under construction housing development.

6.1.6. Technical Justification

- The applicants submitted technical justification is not detailed enough to indicate other alternative sites are not feasible for a mast.

6.1.7. Absence of Appropriate Assessment

- The proposal was not screening for AA.

- The proposal is not in compliance with the development plan policy or the national guidelines on AA.

6.2. **Planning Authority Response**

6.2.1. The PA submission notes no further comments.

6.3. **Applicant Response**

6.3.1. The applicant's agents have submitted a response to the third-party appeal. This submission is summarised below:

6.3.2. Use of proposed access road

- A letter of consent of the landholder (folio maps submitted) has been submitted.
- The proposal complies with Article 22 (2) (g) of the Planning and Development Regulations, 2001 (as amended).
- A temporary access track for construction can be included in the proposal. This will not materially alter the development and the Board can condition this.

6.3.3. Technical Justification

- The proposed site will improve local 3G and 4G and 5G technology.
- This area is known as a coverage deficit.
- Research indicates how building materials impact the signal into new builds.
- An independent assessment and technical justification have been submitted.
- In relation to co-location, none of the options available in Ardee are close enough to the demand area.
- Only a site in the immediate vicinity of the site will be capable of providing the service level to its customers.
- Without this upgrade there will be a coverage gap in the area.
- The planner's assessment considered the technical justification.

6.3.4. Policy

- Project Ireland stresses the importance of the growth of the telecommunications.
- The national guidance (1996) indicate that the siting and design is indicated by radio and engineers' parameters and note limited flexibility in this regard.
- The ministerial circular states there should be no time limited conditions on telecommunication structures.
- There should be no development contributions on any telecommunication infrastructure.
- The development plan includes guidance and policy supporting the orderly developmetn of telecommunications infrastructure. Efforts made have been made to comply with the policies of the plan.

6.3.5. Location and Zoning

- In relation to health full compliance with the ICNIRP guidelines can be achieved.
- The minimal height of 33m is required to meet the coverage requirements of the surrounding area.
- This site is the only option for providing service to new residents as there are not willing providers in the vicinity.

6.3.6. Visual Impact

- The national guidance provides details on the visual impact, having regard to the site constraints, impact on the surrounding areas.
- The guidelines state that due to the low rising nature of suburban locations supporting masts or towers may be required.
- The visual impact indicates the proposal is acceptable at this location and the planner's assessment did not raise any issues.
- The impact on the site will be a low impact.
- A breakdown of the visual impact analysis is provided. The impact quality is negative, neutral or slight at all chosen viewpoints.
- The structure will not be visible from any of the recital dwellings in the area.

6.3.7. Appropriate Assessment

- The planner's report refers to the screening report which accompanied the application.
- The proposed development has been screened out having regard to buffer zone of 15km.

6.4. Observations

6.4.1. None submitted.

7.0 Assessment

The issues raised in the grounds of appeal are addressed under the following headings:

- Siting and Location
- Impact on Residential and Visual Amenity
- Other Issues
- Appropriate Assessment

7.1. Siting and Location

Introduction

- 7.1.1. The subject site is located to the northeast of Ardee town, within the defined settlement boundary. The lands along the south of the site are zoned for new residential, phase 1, in the Louth County Development Plan 2021-2027 and the lands to the north are zoned as residential, phase 2. Telecommunications infrastructures are open for consideration under the residential zoning.
- 7.1.2. The grounds of appeal have argued that the location of the site for the proposed 33m mobile and broadband tower is not appropriate and states that alternative sites within Ardee and the wider area have not been reasonably considered. The applicant response refers to the need to provide adequate coverage at this location, the new residential developments. The Technical Justification Report which accompanied the

application states that all other options for alternative sites have been exhausted and any existing telecommunications structures are not located close enough for the demand area.

- 7.1.3. Section 4.3 of the Telecommunications Antennae and Support Structures Guidelines (the Guidelines) states that placing infrastructure of this nature should be considered in small towns and villages only be as a last resort. The national guidance also concedes that it may be necessary, and, in that event, existing utility sites should be considered, and specific design solutions should be employed.
- 7.1.4. Policy Objective IU 41 supports the implementation of this guidance. Whilst I note it is challenging for telecommunications operators to identify appropriate sites for new infrastructure, I have concerns in relation to scale of the proposal in an area which is subject to significant residential expansion for Ardee.
- 7.1.5. The site itself is surrounded by an expanse of general employment lands both within and outside the Ardee town boundary. As stated above, the national guidance, implemented into the development plan, directs this infrastructure to towns as a last resort and where necessary specific design solutions should be employed. Although the applicant indicates that the existing structures cannot provide coverage to the demand area, there is no further justification in the documentation which links the structure to the subject site, rather than other employment lands in the vicinity of the area. In addition, I do not consider there is any reasonable justification as to the design and scale of the structure i.e., specific design solutions, as referred to in the national guidance. I have further addressed the visual impact below.

7.2. Impact on Visual and Residential Amenity.

- 7.2.1. The grounds of appeal have raised the adequacy of the visual impact assessment submitted, the absence of any reference to the permitted residential development in the vicinity and the design of the mast and palisade fencing. The appellant does not consider the location appropriate for this proposed development.
- 7.2.2. The appellants response includes an in-depth analysis of the visual impact assessment, which accompanied the application and concludes that the proposal will not have a negative visual impact on the surrounding area.

- 7.2.3. I consider there to be some overlap between the impact on the visual amenities and the site selection, as detailed above. Overall, the main issue with the proposed development, in my opinion, is the design and scale of the mast (33m high lattice style tower) at a dominate location in the Ardee settlement, adjoining a new housing development.
- 7.2.4. The site and the surrounding area are relatively flat. The Visual Impact Assessment provides photomontages are taken from 14 short- and long-range locations. Whilst the applicant acknowledges that the mast will be visible, the assessment notes the impact to be slight, neutral or low. I note the visual impact assessment did not include the residential estate adjoining the site, which is currently under construction, although it does include visuals from other adjoining dwellings. I consider the submitted photomontages illustrate that the mast will be visible from the surrounding area. In my opinion it will be very prominent relative to the existing dwellings in the vicinity and will dominate those permitted and currently under constructed dwellings directly adjacent and along the southern boundary of the site. I consider the submitted plans (Drwg. No. CIG-03707-107 PA) provide a better understanding of scale of the tower relative to the site, where the proposal will be significantly taller than those mature trees along the N33 boundary. This drawing also provides a better contextual assessment of the mast relative to the palisade fencing, which I consider to be industrial in nature.
- 7.2.5. Therefore, having regard to the height of the mast at 33m, the lattice design accommodating multiple operators, and the location within the settlement of Ardee, adjacent to new and existing residential development, I consider the proposal would have a significant negative impact and would seriously injure the residential amenities of this adjacent property. I do consider the subject site is appropriate for this scale of development and therefore I do not consider the proposal complies with the national guidance for telecommunications structures and in turn Policy Objective IU 41 of the Louth County Developmetn Plan 2021-2027. In this regard, I consider the proposal should be refused.

7.3. Other Issues

Land Ownership

- 7.3.1. The grounds of appeal state that they own lands along the access track, have not given any consents to the applicant and the proposal is not acceptable. The applicant's response includes land ownership details and considered that sufficient interests have been sought to make an application. In response to the appellants concerns the applicant states that the proposed temporary access track will be used for construction phase (to the north of the site). I note this proposed temporary access track is outside the site boundary. Having regard to the substantive reason for refusal listed above and the national guidance on land title, detailed below, I have not assessed this access in further detail.
- 7.3.2. I note Section 5.1 of the Development Management Guidelines for Planning Authority states that issue relating to title to lands is not a planning matter. This aside, a grant of permission does not excuse any developer from ensuring they have sufficient rights to execute any grant of permission under civil law. I do not consider that there is any basis for the Board to refuse permission under this ownership matter.

7.4. Appropriate Assessment

- 7.4.1. The grounds of appeal note the planning authority did not undertake a screening for appropriate assessment in line with Policy NBG4 of the development plan and the national guidance. They consider the planning authority or Board is precluded from granted permission in the absence of any screening assessment.
- 7.4.2. I note there are no European Sites within the immediate vicinity of the site. The closest European Site, Stabannan Braganstown SPA (site code 004091), is located c. 5km to the northeast of the site. The qualifying interest for this site is the Greylag Goose where key foraging habitat includes marshes, wet grasslands, other wetland habitats¹. The site located c. 5km from this European site, within a settlement and on dry grassland would not, in my opinion, be appropriate foraging ground for this species.

¹ [CO004091.pdf \(npws.ie\)](#)

7.4.3. Having regard to the minor nature of the proposed development within an established urban area, 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.

8.0 Recommendation

8.1. I recommend that permission be refused.

9.0 Reasons and Considerations

Having regard to its location within the settlement area of Ardee and its very close proximity to a housing estate, currently under construction, it is considered that the proposed telecommunications structure would not be in compliance with the currently national guidelines Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities, DECLG, 1996, Policy IU 41 of Louth County Development Plan 2021-2027 and would seriously injure the residential amenities of the adjacent properties to the south. 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.

Karen Hamilton
Senior Planning Inspector

06th of June 2023