



An  
Bord  
Pleanála

## Inspector's Report

### ABP-314847-22

---

<b>Development</b>	Replacement of 3 timber poles with an 18m high telecommunications monopole, antennas, dishes and all associated telecommunications equipment, all enclosed by timber fencing.
<b>Location</b>	Eir Exchange, Corgrig, Dernish Avenue, Foynes, Co. Limerick
<b>Planning Authority</b>	Limerick City and County Council
<b>Planning Authority Reg. Ref.</b>	22810
<b>Applicant(s)</b>	Eircom Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Eircom Limited
<b>Date of Site Inspection</b>	13 <sup>th</sup> April 2023
<b>Inspector</b>	Liam Bowe

## 1.0 Site Location and Description

- 1.1. The subject site is located in the village of Foynes in County Limerick, which is on the N69 national road that connects Limerick City to Tarbert and Listowel in west County Limerick / north County Kerry. The appeal site is located approximately 150m to the northeast of the national road / main street in Foynes village. The appeal site is located within an existing telecoms exchange compound with associated building, vehicular access and boundaries. There are detached and semi-detached houses directly opposite / north of the appeal site. There is an agricultural field immediately to the east and there is a small wooded area immediately to the southwest of the appeal site.
- 1.2. The appeal site has a stated area of 0.011 ha. and the site comprises an area to the side / rear of an existing telecoms exchange building and three 12m high wooden poles with an antenna attached. The telecoms exchange building forms part of the southwestern and northwestern boundaries of the site. The remaining parts of the southwestern and northwestern boundaries, as well as the north-eastern boundary are open within the telecoms exchange compound. There is a low concrete post and wire mesh fence (c.1.2m in height) along the south-eastern boundary of the appeal site. There is a vehicular access to the site / compound from the street (Dernish Avenue) and parking for vehicles is facilitated within the existing compound.

## 2.0 Proposed Development

- 2.1. The proposed development is for a 18m high free-standing telecommunications monopole with an associated ground cabinet. The monopole would replace the three existing 12m high wooden poles and an antenna on the site.
- 2.2. A wooden fence 2.4m in height would be erected along the boundaries of the site within the existing compound. Some screen planting is proposed along the eastern boundary adjacent to the agricultural field.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. By order dated 16<sup>th</sup> September 2022 Limerick City & County Council issued a notification of decision to Refuse Permission for the proposed development for the following reason:

The proposed development, by reason of its height and bulk and having regard to its prominent location adjacent to an established residential development on Dernish Avenue and having regard to the 'Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities', 1996 which stated "only as a last resort should free standing masts be located within or in the immediate surrounds of smaller towns and villages" the proposed development is considered to be visually obtrusive and would seriously injure and depreciate the value of properties in the area.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Report

The Planning Officer in the report dated 14<sup>th</sup> September 2022 outlined the relevant development plan policy, the relevant planning history, the third party submission, the internal and external consultations, and outlined concerns regarding the impact on the visual and residential amenities of the area. The report recommends permission be refused consistent with the notification of decision which issued.

Appropriate Assessment Screening was carried out and concluded that there is no likely potential for significant effects to any Natura 2000 site.

#### 3.2.2. Other Technical Reports

**Roads Engineer:** No objections. Conditions recommended.

**Mid-West NRDO:** No observations to make.

**PEPM:** No objections. Conditions recommended.

### 3.3. Prescribed Bodies

**IAA:** No objections. No requirement for obstacle lighting.

**Uisce Eireann:** No objections. Conditions recommended.

**TII:** No observations to make.

### 3.4. Third Party Observations

There was one submission made by Dernish Residents Association outlining concerns regarding visual amenity, overbearing impact on adjoining residential properties, and depreciation of the value of residential property in the vicinity of the site.

## 4.0 Planning History

### 4.1. Appeal site:

**P.A. Ref. No. 20/1063:** Permission refused to erect a freestanding 21m high monopole telecommunications support structure together with antennas, dishes and associated equipment all enclosed in security fencing and to remove the existing 12m high timber pole with antenna for the following reason:

The proposed development, by reason of its height and bulk and having regard to its prominent location adjacent to an established residential development on Dernish Avenue and having regard to the 'Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities', 1996 which stated "only as a last resort should free standing masts be located within or in the immediate surrounds of smaller towns and villages" the proposed development is considered to be visually obtrusive and would seriously injure and depreciate the value of properties in the area.

### 4.2. Adjacent Sites:

**ABP-306146-19:** Permission granted for Foynes to Limerick Road (including the Adare Bypass) including all ancillary and consequential works to the south, east and west of the appeal site.

**ABP-301561-18:** Permission granted for port capacity extension to consist of modifications to the existing jetties and quays, phased expansion of the port estate and all associated site development works to the north of the appeal site.

## 5.0 Policy Context

### 5.1. Limerick Development Plan 2022-2028

- 5.1.1. Under Volume 2b of the Plan, Foynes is designated as a large village. Foynes is a model estate large village, which has historic associations with trans-Atlantic transportation in the 19th and 20th Century, and is developing as a tourist destination arising from this.

The appeal site has a land use zoning of 'Utilities' under the Foynes Zoning Map (Drawing No. CDP-V2-L4-FY-01 refers).

#### 5.1.2. Section 8.4.2 Telecommunications Support Structures, Antennae and Domestic Satellite Dishes

'The Council recognises the importance of high-quality telecommunication infrastructure as a prerequisite for a modern society and economy. While the advantages of a high-quality ICT infrastructure is acknowledged, these must be balanced with the need to safeguard both the urban and rural landscape, which can be significantly impacted due to the physical nature of telecommunication structures.'

#### **Objective IN 05: Telecommunications Support**

It is an objective of the Council to:

- a) Promote shared telecommunications infrastructure in all new developments to facilitate multiple network providers. Shared infrastructure should be made available to all broadband service providers on a non-exclusive basis to both suppliers and users of the new infrastructure.
- b) Work closely with the telecommunications industry during the development and deployment phase of telecommunications infrastructure to carefully manage Limerick's road networks and minimise future road infrastructure works.

- c) Require co-location of antennae support structures and sites where feasible. Operators shall be required to submit documentary evidence as to the non-feasibility of this option in planning applications for new structures.
- d) Facilitate the public and private sector in making available where feasible and suitable, strategically located structures or sites, including those in the ownership of Limerick City and County Council, to facilitate improved telecommunications coverage if the need is sufficiently demonstrated.

## 5.2. **Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities (1996)**

- 5.2.1. The guidelines aim to provide a modern mobile telephone system as part of national development infrastructure, whilst minimising environmental impact. Amongst other things, the Guidelines advocate sharing of installations to reduce visual impact on the landscape.

**4.3 Visual Impact** – The guidelines note that visual impact is one of the more important considerations which have to be taken into account and also that some masts will remain quite noticeable in spite of the best precautions.

**4.5 Sharing Facilities and Clustering** – Applicants will be encouraged to share facilities and to allow clustering of services and will have to satisfy the Planning Authority that they have made a reasonable effort to share.

## 5.3. **DoECLG Circular Letter PL07/12**

Circular Letter PL07/12 revised elements of the 1996 Guidelines under Section 2.2 to 2.7. 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.

It also reiterates the advice in the 1996 Guidelines that Planning Authorities should not determine planning applications on health grounds and 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'.

#### **5.4. Natural Heritage Designations**

The site is not located within any European site. The closest Natura 2000 sites are the River Shannon and River Fergus Estuaries SPA (Site Code: 004077) and the Lower River Shannon SAC (Site Code: 002165), which are both located approximately 785m to the north of the appeal site.

#### **5.5. EIA Screening**

The development is not a class of development for which EIAR is required.

### **6.0 The Appeal**

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

6.1.1. The grounds of appeal are submitted by Towercom, Usher House, Main Street, Dundrum, Dublin 14, D14 N7Y8 on behalf of the First Party, Eircom Limited, and the main points made can be summarised as follows:

- Outlines the justification to improve 4G coverage, particularly for Vodafone, in the area.
- States that the existing structures are too far away and obscured to provide quality 4G and 5G services for Foynes village centre.
- States that the site is zoned for 'Utilities' where telecommunications development is generally permitted.

- States that there are no protected structures in proximity to the site and that the site is located some 490m from the Foynes Architectural Conservation Area.
- Outlines how the design of the proposed monopole has been modified to reflect the guidance issued under Section 4.3 of the Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities (1996).
- Includes photomontages of the proposed monopole.

## 6.2. Planning Authority Response

The Planning Authority has not responded to the grounds of the appeal.

## 7.0 Assessment

I consider the main issues in determining this appeal are as follows:

- National and Local Telecommunications Policy
- Residential Amenity
- Visual Amenity
- Appropriate Assessment

### 7.1. National and Local Telecommunications Policy

- 7.1.1. The NDP has as a fundamental underlying objective for the need to prioritise the provision of high-speed broadband. Likewise, Objective 48 of the NPF undertakes to “develop a stable, innovative and secure digital communications and services infrastructure on an all-island basis.” Under Objective IN O5 of the County Development Plan, the Planning Authority supports the roll out of the National Broadband Plan throughout the County in conjunction with relevant statutory agencies and the delivery of a high capacity ICT infrastructure and high-speed broadband network and digital broadcasting throughout the County. Therefore, I consider that there is strong national and local policy support for the form of development proposed.



- 7.1.2. As regards to questions in relation to the need for the replacement mast and the assessment of alternatives, I note that the first party refers to the existing wooden poles at the Eir Exchange in Foynes as being outdated and at present their height is inadequate for both Eir's and Vodafone's mobile coverage and 4G requirements. It sets out that the new structure with its 6m additional height would meet Eir's and, in particular, Vodafone's needs for reliable 4G services and the introduction of 5G services at this location. As regards mast sharing and co-location, I note that the application indicates that the proposed new structure will be capable of accommodating site sharing.
- 7.1.3. In terms of technical justification, it sets out that Vodafone requires this improved telecommunications infrastructure to provide improved 4G services to homes, tourists, and businesses in Foynes. Reference is made to Comreg maps which demonstrate local coverage deficiencies. It is indicated in the documentation provided that Vodafone's current coverage in this area is only 'fair' for 4G services. The first party includes an assessment of three possible sites for co-location and outlines the reasons why these sites can be ruled out as alternatives. I consider that in light of the submissions by the first party the need for upgrade has been demonstrated.
- 7.1.4. Having reviewed the material contained within the application, appeal submission, and the existing coverage information that is available on the ComReg website, I am satisfied that alternative sites have been duly considered by the first party, the proposal is justified, and that it would help to improve the existing services and provide 4G and 5G service coverage for the area. Having regard to the existing and established Eir telecommunications exchange and its proposed use as a replacement of an existing telecommunications structure, the reduction in height of the proposed monopole to the minimal practicable, I am satisfied that the proposed development would be located in a suitable and appropriate location for the purposes of providing broadband and wireless signal coverage in the area.
- 7.1.5. In conclusion, I consider that the first party has provided adequate technical justification showing that there are service deficiencies in the area, which would be resolved by the proposed development. The proposal is consistent with Objective IN 05 of the Limerick Development Plan 2022-2028, and the 1996 Guidelines and I am satisfied that the principle of the development is acceptable.

## 7.2. Residential Amenity

- 7.2.1. I also note that the decision of the Planning Authority to refuse permission, and the previous refusal of the Planning Authority at this location adjacent to a residential area, concluded that the proposal would injure the residential amenity of nearby properties and would devalue the property.
- 7.2.2. The “Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities” published by the Department of the Environment in 1996 as noted, state that visual impact is one of the more important considerations which have to be taken into account. The Guidelines advocate a sequential approach with regard to the identification of suitable sites for telecommunications installations.
- 7.2.3. I note that the Guidelines recommend 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 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.
- 7.2.4. In terms of assessing the impact of the replacement mast there are two aspects to consider. The first important aspect to the proposed development, in my view, is the proposal to locate the new mast in the same location as the existing poles. I consider that siting the new mast in the same position as the existing would also allow for the establishment of some tree planting along the boundaries of the appeal site / exchange compound (area outlined blue) so as to further mitigate the impact on third party property. This can be required by condition.
- 7.2.5. The second aspect is the increased height by 6m, from 12m to 21m. It is clear also that the proposed mast will carry additional antennae adding to the overall bulk of the top of the structure. Nevertheless, I do not consider that the increased height and bulk of the new structure, in themselves, would give rise to significantly greater impacts on third party properties than exists at present.
- 7.2.6. Given that the existing facility is already in place, and that the proposal essentially relates to an upgrade of that facility, I consider that the proposed development is

acceptable. In this context I do not consider that there is any basis to the contention that the proposed development would devalue property.

7.2.7. As regards impact on residential amenity, the proposal will be locally prominent however, I consider that this impact could be mitigated by landscaping measures along the northwestern boundary of the exchange compound. I recommend that the Board attach a condition to a grant of permission requiring precise details of all planting to be agreed with the Planning Authority.

7.2.8. On balance having regard national and local policy, I consider that the proposed monopole would not unduly injure the residential amenities of the area and of properties in the vicinity. I, therefore, consider that the proposal would be in accordance with the proper planning and sustainable development of the area.

### **7.3. Landscape and Visual Impact**

7.3.1. I consider that a substantive of the reason for refusal issued by the planning authority to visual impact of the proposed monopole. The site by reason of its location in proximity to existing houses in Dernish Avenue was considered to be visually prominent at a local level.

7.3.2. Under the appeal, the first party submitted a presentation of photomontages of the site without and with the proposal in-situ. I have reviewed the photomontages and these demonstrate six views of the appeal site, from various location in Foynes village, pre and post development of the monopole.

7.3.3. During my site visit, I observed the appeal site from the local road network and the points indicated with the photomontages. I consider that views of the appeal site and the proposed monopole would be obscured by existing buildings, hedgerows and trees. I consider that the monopole would be most visible from Dernish Avenue and, primarily, from the public road at the front of four houses immediately to the north of the appeal site / exchange compound. The immediate locality is a low density residential area and no significant impacts in relation to visual amenity arise, in my view, from the proposed upgrading of the existing facility. In the wider landscape, I consider that the limited views of the new monopole would register as very similar to the existing wooden poles.

- 7.3.4. I consider that whilst the proposed monopole would be visible from Dernish Avenue immediately to the north of the appeal site, it would not represent an unduly incongruous feature in the streetscape as it would be sited behind the existing exchange building and a grove of trees. On the day of my site inspection, I noted other structures in the immediate vicinity of the site such as street poles and electricity distribution poles. I consider that the visual impact of the proposed monopole, while a locally prominent feature, would not give rise to a significant additional negative visual impact as to warrant a refusal.
- 7.3.5. In conclusion, having regard to its function as a new telecommunications mast for the purposes of providing appropriate levels of service to the adjoining area with the monopole to be available for co-location in accordance with National Policy, to the extent of the mast that would be visible above the adjacent trees and the distance from Foynes village centre and approach roads, I consider the visual impact is within acceptable limits.

#### **7.4. Appropriate Assessment**

- 7.4.1. Having regard to the nature and scale of the development proposed and the absence of any direct or indirect pathway between the appeal site and any European site and the separation distances to the nearest European sites (River Shannon and River Fergus Estuaries SPA (Site Code: 004077) and the Lower River Shannon SAC (Site Code: 002165)), no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

### **8.0 Recommendation**

I recommend that permission be granted for the following reasons and considerations, subject to conditions.

## 9.0 Reasons and Considerations

Having regard to:

- a) National policy regarding the provision of mobile and telecommunications services,
- b) The Telecommunications Antennae and Support Structures Guidelines for Planning Authorities, issued by the Department of the Environment and Local Government in July 1996, as updated by circular Letter PL07/12, issued by the Department of the environment, Community and Local Government on the 19th of October 2012,
- c) The policy of the planning authority as set out in Limerick Development Plan 2022 - 2028, to support the provision of telecommunications infrastructure, and
- d) The nature and scale of the proposed telecommunications support infrastructure,

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area and would not be contrary to the overall provisions of the current development plans for the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
----	--

2.	<p>The proposed 1.5m high lighting finials shall be omitted from the proposed development.</p> <p><b>Reason:</b> In the interests of clarity and in accordance with the requirements of the Irish Aviation Authority.</p>
3.	<p>The applicant shall provide and make available at reasonable terms the proposed telecommunications structure for the provision of mobile telecommunications antenna of third party licensed mobile telecommunications operators.</p> <p><b>Reason:</b> In the interest of the avoidance of a multiplicity of telecommunications structures in the area, in the interest of visual amenity and the proper planning and sustainable development of the area.</p>
4.	<p>Prior to commencement of development the applicant shall submit and agree in writing with the Planning Authority landscaping proposals for the boundaries of the exchange compound (area outlined blue submitted to the planning authority on the 25<sup>th</sup> day of July 2022).</p> <p><b>Reason:</b> In the interest of residential amenity.</p>
5.	<p>Details of the proposed colour scheme for the telecommunications structure, ancillary structures, fencing and gates shall be submitted to and agreed in writing with the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of the visual amenities of the area.</p>
6.	<p>When the telecommunications structure and ancillary structures are no longer required, they shall be removed, and the site shall be reinstated at the operator's expense in accordance with a scheme to be agreed in writing with the planning authority as soon as practicable.</p> <p><b>Reason:</b> In the interest of protecting the visual and residential amenities of the area.</p>
7.	<p>The antennae type and mounting configuration shall be in accordance with the details submitted with this application, and notwithstanding the provisions of the Planning and Development Regulations 2001, and any</p>

	<p>statutory provision amending or replacing them, shall not be altered without a prior grant of planning permission.</p> <p><b>Reason:</b> To clarify the nature and extent of the permitted development to which the permission relates and to facilitate a full assessment of any future alterations.</p>
--	--

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.

---

Liam Bowe  
Senior Planning Inspector

29<sup>th</sup> June 2023