



An  
Bord  
Pleanála

## Inspector's Report ABP-315102-22

### Development

Proposed 18m dual operator pole, associated equipment, together with ground-based equipment cabinets and all associated site development works for wireless data and broadband services.

### Location

Western Distributor Road,  
Ballymoneen West, Knocknacarra,  
Galway

### Planning Authority

Galway City Council

### Planning Authority Reg. Ref.

P/DC/22/21

### Applicant(s)

Emerald Tower Ltd

### Type of Application

Section 254 licence

### Planning Authority Decision

Refusal

### Type of Appeal

First Party -v- Decision

### Appellant(s)

Emerald Tower Ltd

### Observer(s)

None

**Date of Site Inspection**

11<sup>th</sup> May 2023

**Inspector**

Hugh D. Morrison

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## **1.0 Site Location and Description**

- 1.1. The site is located on the northern side of the Western Distributor Road, which serves extensive new areas of predominantly residential development on the western side of Galway City. This east/west Road forms a junction at Blake Roundabout with the north/south Ballymoneen Road, and the site lies to the north-east of this roundabout and its accompanying eastern pedestrian crossing. Ballymoneen Road rises at gentle/moderate gradients in a northerly direction, and it affords access to the housing estate known as Leitir Burca, which is on elevated lands to the north of the site.
- 1.2. The site itself is rectangular in shape and it extends over an area of 13.6 sqm. This site abuts the back edge of the footpath, which along with a cycle path accompany the carriageway to the Western Distributor Road. The site presently forms part of the grass verge to this Road, beyond which lies a semi-mature hedgerow that screens the retaining/boundary wall to a courtyard in the south-western portion of Leitir Burca. The western side of this courtyard is composed of 3 no. two storey apartment buildings, which face west. The eastern side is enclosed by the rear boundary wall to the back gardens of 4 no. two-storey detached dwelling houses on the nearside of a cul-de-sac further to the east. The nearest apartment building and the nearest dwelling house present gabled side elevations to the south and hence the aforementioned retaining/boundary wall. The site itself lies due south of the aforementioned rear boundary wall.

## **2.0 Proposed Development**

- 2.1. The proposal would entail the erection of an 18m high streetpole, which would contain 3 no. 4m long antennas in its head and 2 no. GPS beacons and 2 no. link dishes, which would be externally mounted as small items just below this head.
- 2.2. The proposal would also entail the siting of ground mounted cabinets for the 2 no. prospective operators, i.e., Eir and another, on either side of the streetpole.
- 2.3. At the appeal stage, the applicant proposes to re-site the entire proposal c. 8m to the north within the landscaped strip.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Refused for the following reason:

The proposal would be premature in advance of the determination of a BusConnects route, which would be likely to affect the site as part of roadside lands within the Western Distributor Road Corridor. Under Policies 3.3 and 3.5 of the Galway City Development Plan 2017 – 2023, the Planning Authority seeks to progress the Galway Transportation Strategy's commitment to sustainable transport, and, in particular, its commitment to high frequency cross city bus services, and the provision of infrastructure that would facilitate the same.

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

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

The case planner discussed visual amenity and cited the Board's decision on ABP-311298-21. Refusal was recommended, not on the grounds of visual amenity, but on the grounds that future transportation options for the Western Distributor Road Corridor need to be safeguarded.

#### **3.2.2. Other Technical Reports**

- Galway City Council:
  - Recreation & Amenity: Objects on the grounds of visual amenity, especially with respect to the views of local residents to the north of the site.
  - Transportation: Objects, see reason for refusal.

## **4.0 Planning History**

- Site: None
- Vicinity of the site: 07/252: Bus shelter with advertisement panel: Permitted.

- Elsewhere on the Western Distributor Road: LIC 20/2103: Section 254 licence for 18m high street pole telecommunications mast: Permitted at appeal ABP-311298-21.

During my site visit, neither the bus shelter nor the mast was in-situ.

## 5.0 Legislative Provisions

Section 254 of the Planning and Development Act, 2000 – 2021, is entitled “Licensing of appliances and cables, etc., on public roads”. This Section states, amongst other things, the following:

*1) Subject to subsection (2), a person shall not erect, construct, place or maintain—*

*... (ee) overground electronic communications infrastructure and any associated physical infrastructure, ...*

*on, under, over or along a public road save in accordance with a licence granted by a planning authority under this section ...*

*(4) A licence may be granted under this section by the planning authority for such period and upon such conditions as the authority may specify, including conditions in relation to location and design, and where in the opinion of the planning authority by reason of the increase or alteration of traffic on the road or of the widening of the road or of any improvement of or relating to the road, the appliance, apparatus or structure causes an obstruction or becomes dangerous, the authority may by notice in writing withdraw the licence and require the licensee to remove the appliance, apparatus or structure at his or her own expense.*

*(5) In considering an application for a licence under this section a planning authority, or the Board on appeal, shall have regard to—*

*(a) the proper planning and sustainable development of the area,*

*(b) any relevant provisions of the development plan, or a local area plan,*

*(c) the number and location of existing appliances, apparatuses or structures on, under, over or along the public road, and*

*(d) the convenience and safety of road users including pedestrians...*

*(6) (a) Any person may, in relation to the granting, refusing, withdrawing or continuing of a licence under this section or to the conditions specified by the planning authority for such a licence, appeal to the Board.*

*(b) Where an appeal under this section is allowed, the Board shall give such directions with respect to the withdrawing, granting or altering of a licence under this section as may be appropriate, and the planning authority shall comply therewith.*

## **6.0 Policy and Context**

### **6.1. National Planning Guidelines**

Telecommunications Antennae and Support Structures Guidelines as revised by Circular Letters PL 07/12 and PL 11/20.

### **6.2. Development Plan**

The Planning Authority (PA) made its decision on the current application on 19<sup>th</sup> October 2022. The Galway City Development Plan 2023 – 2029 came into effect on 4<sup>th</sup> January 2023. Accordingly, the PA's decision was made under the Galway City Development Plan 2017 – 2023. This decision cites policies from this Plan, which I set out below for ease of reference. I will also set out the equivalent/relevant provisions of the replacement Galway City Development Plan 2023 – 2029.

#### **Former CDP:**

Under the land use zoning and specific objectives map, the Western Distributor Road is identified as bus routes (GTS) and a primary cycle network.

The PA's decision cites the following two policies:

- Policy 3.3 Galway Transportation Strategy (GTS)

*Continue to progress a sustainable transport solution for the city through the implementation of measures included in the GTS and required supporting projects in particular the N6 GCRR project.*

- Policy 3.5 Public Transport

*Support the GTS proposals for implementation of a local city bus network which will include for a high frequency cross-city network of services and all associated infrastructural requirements, traffic management and priority arrangements...*

**Current CDP:**

Under Map A – City Map, the Western Distributor Road is identified as a bus route and a primary cycle network.

- Chapter 4: Sustainable Mobility and Transportation

Policy 4.1: General

*4. Support the Galway Transport Strategy (GTS) and the associated implementation programme which will deliver a high quality public transport network, provide and encourage the use of other sustainable modes of transport, and facilitate the efficient movement of private vehicles and freight.*

*5. Support the Galway Transport Strategy (GTS) and the outcomes of the planned evidenced based review to be carried out in collaboration with Galway County Council, the NTA ‘and other stakeholders’. This review will consider all transport modes including the feasibility of a very light rail/light rail option and will not preclude the advancement of the Cross City Link route or the planning of other projects already commenced within the Galway Transportation Strategy to planning consent stage with Galway County Council and the NTA. This review will consider all transport modes including the feasibility of a light rail option and will not preclude the advancement of the Cross City Link route to planning consent stage.*

*6. Continue to progress a sustainable transport solution for the city through the implementation of measures included in the GTS and required supporting projects in particular the N6 GCRR project.*

Figure 4.1 reproduces the proposed core bus routes from the GTS (2016). The Western Distributor Road is identified in conjunction with two of these routes.

Policy 4.3: Public Transport

*1. Support the implementation of Bus Connects Galway and the overall bus transport network which will include for a high frequency cross-city network of services and all*



*associated infrastructural requirements, traffic management and priority arrangements.*

- Chapter 9: Environment and Infrastructure

#### Policy 9.9: Telecommunications...

- 1. Support the development and expansion of telecommunication infrastructure (including the broadband network) within the city where appropriate, subject to environmental, visual and residential amenity considerations.*
- 2. Ensure that developers of masts facilitate the co-location of antennae with other operators in order to avoid an unnecessary proliferation of masts. Where this is not possible operators will be encouraged to co-locate so that masts and antennae may be clustered.*
- 3. Ensure that development for telecommunication and mobile phone installations take cognisance of the Planning Guidelines for Telecommunications Antennae and Support (DECLG, Circular Letter PL07/12) and in relation specifically to new free standing masts and antennae, locations in the immediate proximity to residential areas, schools and other community facilities will only be considered where all other more suitable options, including opportunities to locate on tall buildings, rooftops and co-location with existing masts, have been exhausted following an evidenced based evaluation of potential sites.*

### 6.3. Natural Heritage Designations

- Galway Bay Complex SAC (000268)
- Inner Galway Bay SPA (004031)

### 6.4. EIA Screening

The proposal is for a telecommunications structure with antennae and dishes. As such, it does not come within the scope of any of the Classes of development that are potentially the subject of EIA.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

The applicant begins by outlining its role in the provision of masts and by referring to Eir as a prospective operator. It also refers to the scope for another operator to share the proposed mast.

The applicant proceeds to explain both the need for the proposal from a technical perspective and why existing masts would be too remote to allow for satisfactory mast sharing. It describes the site and its proposal, and it summarises the pre-application consultation that took place with the Planning Authority. The applicant then responds to the reason for refusal as follows:

- The need for improved public transport is recognised, e.g., Galway BusConnects, and attention is drawn to two bus routes, which are shown in Figure 5.3 on Page 96 of the Galway Transport Strategy Technical Report (September 2016). These proposed routes would pass the site. They would run between Knocknacarra and Parkmore, via the city centre, and between Bearna and Oranmore, via the city centre, at 15-minute intervals or better. Nevertheless, as the reason for refusal alludes to, the determination of a layout for the BusConnects route remains outstanding, and any such determination maybe several years away.
- Attention is drawn to the existing Western Distributor Road in the vicinity of the site. This Road comprises a two-lane carriageway with cycleways and footpaths on either side of it. It is accompanied on its northern side by a 10.5m wide strip of landscaping. The applicant contends that if its 2m-wide proposal was to be re-sited from the back edge of the footpath to a position immediately adjacent to the retaining/boundary wall, which bounds the northern side of the landscaped strip, there would be ample room to incorporate a 4.5 – 5m wide bus lane and associated apparatus, e.g., street lighting. Its re-sited proposal would thus be compatible with any future BusConnects layout requirements.

- The applicant expresses the view that the Planning Authority should have made its BusConnects concerns the subject of a request for further information, in a bid to expediate matters.
- Notwithstanding the foregoing, attention is drawn to the 5-year duration of Section 254 licences, and the powers that are available to the Planning Authority to withdraw a licence, and have a mast removed at the licensee's expense.

## **7.2. Planning Authority Response**

Notwithstanding a Section 132 request for a response to the applicant's grounds of appeal, none has been received.

## **7.3. Observations**

None

## **7.4. Further Responses**

None

## **8.0 Assessment**

8.1. I have reviewed the proposal in the light of Section 254 of the Planning and Development Act, 2000 (as amended) (herein after referred to as "the Act"), the National Development Plan 2018 – 2027 (NDP), the National Planning Framework 2020 – 2040 (NPF), Telecommunications Antennae and Support Structures Guidelines as revised by Circular Letter PL 07/12, the Galway City Development Plan 2023 – 2029 (CDP), relevant planning history, the submissions of the parties, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Preliminaries,
- (ii) Legislation, policy, and site selection,
- (iii) Western Distributor Road,

- (iv) Visual amenity, and
- (v) Appropriate Assessment.

**(i) Preliminaries**

- 8.2. The originally submitted site layout plan (drawing no. GY-2731-01-PD-02 revision A) highlights the site by means of a red edge. This site is 6.8m long and 2m wide, and it lies in a landscaped strip in a position whereby it abuts the rear edge of the adjoining public footpath on the northern side of the Western Distributor Road.
- 8.3. At the appeal stage, the applicant has submitted a site location plan (drawing no. GY-2731-01-PD-01 revision A), which shows the site set back c. 8m within the landscaped strip from its originally proposed position. The applicant requests that the Board consider this new site.
- 8.4. Normally, under planning legislation, the opportunity for an applicant to propose a wholly new site at the appeal stage does not arise. Under Section 254(4) of the Planning and Development Act, 2000 – 2023, the Planning Authority may grant a licence subject to conditions, which can relate to matters of location and design. Under Section 254(5), the factors to be considered by the Planning Authority and the Board in making a decision on a licence application are the same. Under Section 254(6)(b), if the Board allows the appeal, then it is to direct the Planning Authority “with respect to the withdrawing, granting or altering of a licence.”
- 8.5. Clearly, in the current case, the Planning Authority refused the licence application, and so the option of conditioning the location of the proposal was not taken up. The applicant contends that, if a further information exercise had been undertaken by the Planning Authority, then its revised site location may very well have emerged, and, in its view, a refusal would have been avoided. The question thus arises as to whether the Board can, in principle, consider the revised site location, in the absence of any condition from the Planning Authority.
- 8.6. I take the view that, while there is duplication in the factors cited under Section 254(5), Section 254(4) relates to matters that are in the exclusive domain of the Planning Authority to deal with, as it has unique oversight of the public road. Accordingly, under Section 254(6)(b), the Board’s role is to effectively review the Planning Authority’s decision, rather than consider alternative locations for the

proposal. Based on this understanding, an alternative location would require to be the subject of a separate application to the Planning Authority.

- 8.7. I conclude that the Board is not in a position to consider the alternative site for the proposal that the applicant has submitted at the appeal stage.

**(ii) Legislation, policy, and site selection**

- 8.8. The proposal is for the erection of a streetpole, which would incorporate 3 no. antennae and other telecommunications equipment, and the siting of 2 no. accompanying cabinets in the grass verge to the Western Distributor Road to the north-east of Blake Roundabout in the western suburbs of Galway City. This proposal comes within the description of development set out in Section 254 Sub-section (1) (ee) of the Planning and Development Act, 2000 (as amended). Under Sub-section (4), Planning Authorities are empowered to grant licences for such development, and, under Sub-section (5), criteria are listed for assessing the same.
- 8.9. The NDP has as a fundamental underlying objective 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 Policy 9.9(1) of the CDP, the Planning Authority undertakes to facilitate the “Support the development and expansion of telecommunication infrastructure (including the broadband network) within the city where appropriate, subject to environmental, visual and residential amenity considerations.”
- 8.10. The applicant has set out its site selection process. It explains that the prospective operator Eir is unable to provide an adequate indoor service for high speed mobile broadband within the vicinity of the site in line with its obligations so to do. It also explains how existing telecommunications in the wider area of the site would be too peripheral to the area of inadequate reception to allow mast sharing to close the gap in service provision. In these circumstances, the need for the proposed streetpole arises.
- 8.11. I conclude that the proposal would accord with national and local policies that promote the provision of telecommunications. I conclude, too, that the need for additional coverage has been established, as, in the absence of satisfactory existing alternatives, has the need for the proposal itself.

### **(iii) Western Distributor Road**

- 8.12. The Planning Authority's reason for refusal relates to the position of the site within the landscaped strip, which accompanies the northern side of the Western Distributor Road. Under the CDP's Map A – City Map, this Road is identified as a bus route and a primary cycle network, and, under the CDP's Figure 4.1, it is shown as being used by two core bus routes proposed by the Galway Transport Strategy (2016). Under the CDP's Policy 4.1, the Planning Authority undertakes to support the GTS and its planned review, and, under Policy 4.3, it specifically undertakes to support Bus Connects Galway and "the overall bus transport network which will include for a high frequency cross-city network of services and all associated infrastructural requirements, traffic management and priority arrangements." In this respect, Galway's first proposed 24-hour high-frequency (15-minute intervals) bus service (Route 9), from Knocknacarra through the city centre to Doughiska and Parkmore has recently been announced.<sup>1</sup>
- 8.13. On the advice of its Transportation Department, the Planning Authority refused the applicant's proposal on the ground that the development of the site as envisaged would be premature in advance of the determination of any revised road layout, which is anticipated as being necessary to facilitate improved bus services.
- 8.14. The applicant has responded to the refusal of its application by proposing to re-site its proposal in a recessed position within the landscaped strip, thereby releasing space for the inclusion of any bus lane that maybe needed. As discussed under the first heading of my assessment, I take the view that, under Section 254 of the Planning and Development Act, 2000 – 2023, the Board is not in a position to consider such re-siting. Notwithstanding a Section 132 request to do so, the Planning Authority has not commented upon the applicant's appeal.
- 8.15. The applicant has also responded to the refusal of its application by drawing attention to the typically 5-year duration of the licence and to the powers available to the Planning Authority to withdraw such a licence ahead of time if "by reason of the increase or alteration of traffic on the road or of the widening of the road or of any improvement of or relating to the road, the appliance, apparatus or structure causes

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<sup>1</sup> [www.advertiser.ie/galway/article/135269/city-to-have-first-ever-24-hour-bus-service](http://www.advertiser.ie/galway/article/135269/city-to-have-first-ever-24-hour-bus-service) accessed 28th June 2023

an obstruction or becomes dangerous”. However, I consider that the likely conflict between the proposal and future changes to the Western Distributor Road can be anticipated now and so to proceed with a licence, in these circumstances, would be an inappropriate course of action.

- 8.16. I conclude that the proposal would be premature in advance of the determination of any revised layout of the Western Distributor Road, which may be needed to facilitate improved bus services in line with Policy 4.3 of the CDP.

**(iv) Visual and residential amenity**

- 8.17. The proposal would entail the erection of an 18m high streetpole, which would contain 3 no. 4m long antennas in its head and 2 no. GPS beacons and 2 no. link dishes, which would be externally mounted as small items just below this head. It would also entail the siting of ground mounted cabinets for the 2 no. prospective operators, i.e., Eir and another, on either side of the streetpole.
- 8.18. As originally submitted, the proposal would be sited on the grass verge within the landscaped strip that accompanies the northern side of the Western Distributor Road. This strip also includes a semi-mature hedgerow, and it is enclosed by means of a retaining/boundary wall to the Leitir Burca housing estate to the north.
- 8.19. The applicant has submitted a visual assessment of the proposal, which utilises four representative viewing points from within the vicinity of the site. This assessment is based on before and after photomontages taken from the viewing points, and it concludes that, while moderate/low effects would arise at three of the four viewing points, no significant effect would ensue.
- 8.20. During my site visit, I observed each of the viewing points. I also observed the cul-de-sac within Leitir Burca, which would be to the north of the site. The proposal would protrude above the retaining/boundary wall and the semi-mature hedgerow. Thus, the lower reaches of the streetpole would be screened, but the higher reaches would be visible. It would be seen in conjunction with an existing streetlight in the cul-de-sac and on the nearside of the Western Distributor Road. Accordingly, I do not consider that its visual impact would be significant.
- 8.21. I conclude that the proposal would be compatible with the visual amenities of the area.

## **(v) Appropriate Assessment**

- 8.22. The site is not in or beside any European site. This site forms part of a fully serviced public road and its development to provide a telecommunications mast would raise no Appropriate Assessment issues for any European site.
- 8.23. Having regard to the nature, scale, and location of the proposal, the nature of the receiving environment, and the proximity to the nearest European site, it is concluded that no Appropriate Assessment issues arise as the proposal would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **9.0 Recommendation**

- 9.1. That permission be refused.

## **10.0 Reasons and Considerations**

Having regard to:

- The identification of the Western Distributor Road on Map A – City Map of the Galway City Development Plan 2022 – 2028 as a bus route and its identification on Figure 4.1 of this City Development Plan for use by two core bus routes in the Galway Transportation Strategy (2016), and
- Policies 4.1 and 4.3 of the Galway City Development Plan 2022 – 2028, which undertake to support the Galway Transportation Strategy and to support Bus Connects Galway and “the overall bus transport network which will include for a high frequency cross-city network of services and all associated infrastructural requirements, traffic management and priority arrangements.”

It is considered that the proposal would be premature in advance of the determination of the infrastructural requirements, traffic management and priority arrangements that may be required to be made to the Western Distributor Road in the vicinity of the site to facilitate improvements to bus services. Accordingly, to permit this proposal now would prejudice such determination, and so it would contravene the aforementioned policies of the City Development Plan and, thereby, be contrary to the proper planning and sustainable development of the area.



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Hugh D. Morrison  
Planning Inspector

3<sup>rd</sup> July 2023