



An
Bord
Pleanála

Inspector's Report ABP315144-22

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| Development | 24m monopole telecommunications structure together with antennas, dishes and associated telecommunications equipment enclosed by security fencing and extend existing access track . |
| Location | Tobertown, Stamullen, Co. Dublin. |
| Planning Authority | Fingal County Council. |
| Planning Authority Reg. Ref. | F22A/0473. |
| Applicant(s) | Vantage Towers Limited. |
| Type of Application | Permission. |
| Planning Authority Decision | Refuse permission. |
| Type of Appeal | First Party |
| Appellant(s) | Vantage Towers Limited. |
| Observer(s) | Liam & Bernie Howley Catherine & Stephen Tormey Mary McLoughlin Kevin & Barbara Lucey. |

Date of Site Inspection

3rd July 2023.

Inspector

Des Johnson.

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1.0 Site Location and Description

- 1.1. The site is located in Tobertown approximately 1.5km east of the M1 Motorway, approximately 1.4km south of the village of Stamullen, and approximately 3.5km north-east of Naul in north County Dublin.
- 1.2. The site is irregular in shape with a stated area of 0.0428Ha. It is elevated relative to surrounding lands, rising to 72m A.S.L. at the site of the proposed mast. There is an equestrian gallop adjoining to the east. The surrounding area is primarily agricultural in character. There is a row of existing dwellings to the south and south-east of the site of the proposed mast (approximately 150m), and another row of housing to the south-east (approximately 280m).
- 1.3. The road network is typical of a rural agricultural area with hedgerows either side of the carriageway for the most part. Carriageway widths are approximately 3–4metres. The proposed access to the site is gained via a laneway off a right angled bend in the public road; the public road goes through two right angled bends a short distance apart adjacent to the laneway. Access to the site is through a gateway off the laneway and runs parallel to a mature field boundary to the west and the gallops to the east.

2.0 Proposed Development

- 2.1. Erection of a 24m monopole telecommunications structure together with antennas, dishes and associated telecommunications equipment enclosed by 2.4m high palisade security fencing, and extension of existing access track by approximately 90m. The site area is stated to be 0.0428ha.
- 2.2. The application is made with the consent of the owner of the property. The application is accompanied by a letter of support from Three Ireland Limited who expect to locate equipment at this location on to the proposed structure.
- 2.3. It is stated that there is a clear deficiency in basic 4G coverage in Stamullen, Balreask and the surrounding area, including the M1 motorway, and significant coverage improvement is needed.

3.0 Planning Authority Decision

3.1. Decision

By Order No.PF/2318/22, dated 26 October 2022, the planning authority decided to refuse permission for 3 reasons, summarised as follows:

1. This is an elevated site in a sensitive landscape, located within a designated green belt. Conflict with objectives of the Fingal County Development Plan. Obtrusive and incongruous form of development, seriously injuring the visual amenity of the area.
2. Close proximity to a number of existing dwellings. The proposed development would be visually obtrusive and overly dominant when viewed from these dwellings. Depreciate the value of property in the vicinity.
3. Endanger public safety by reason of traffic hazard as the proposed development is reliant on access from a public roadway via a private laneway where no right of way has been demonstrated,

3.2. Planning Authority Reports

3.2.1. Planning Reports

The site is in an area zoned GB – protect and provide for a green belt.

While the application includes a map showing the location of existing structures, insufficient evidence is submitted to show why existing structures currently not used by Vodafone are not available for co-location of antennae. Less sensitive locations would be more appropriate than Greenbelt lands. No Visual Impact Assessment has been submitted and visual impact cannot be fully assessed. Locations along the public roads that have an objective to preserve views should be considered. These are elevated lands, designated as a Greenbelt and identified as High Lying Agricultural landscape character type. The lands are of high landscape value and sensitivity. The proposed structure would be an excessively prominent, obtrusive feature and an incongruous form of development.

Seven observations were submitted raising issues including impact on visual amenities, impact on residential amenities, health impacts, lack of detail in

application, devaluation of property, impacts on wildlife, including a badger sett in close proximity, contravention of Development Plan objectives, lack of convincing need for the proposed development and impact on traffic safety.

3.2.2. Other Technical Reports

Transportation Planning Section report recommends additional information including a Speed Survey taken across the bend of the main road, sightline drawing based on a topographical survey and showing the extent of achievable sightlines, and evidence of right of way from the main road to gain access to the proposed structure.

The Parks and Landscaping Division report recommends additional information in the form of a Landscape Visual Impact Assessment containing verified views, and a complete Tree Survey.

4.0 Planning History

None on file.

5.0 Policy and Context

5.1. National Policy

The Telecommunications Antennae and Support Structures. Guidelines for Planning Authorities are dated 1996. The Guidelines set out current national planning policy in relation to telecommunications structures and, in Section 4, address the following issues:

- Design and Siting
- Visual Impact
- Access Roads and Poles
- Sharing Facilities and Clustering
- Health and Safety Aspects
- Obsolete Structures
- Duration of Permission

The 1996 Guidelines are generally supportive of the development and maintenance of a high quality telecommunications service. Visual impact is identified as among the more important considerations which have to be taken into account and visual impact will vary with the general visual context of the proposed development. Great care is needed when dealing with fragile or sensitive landscapes, and with other areas designated or scheduled under planning or other legislation. In most cases the applicant will only have limited flexibility as regards location, given the constraints arising from radio planning parameters. In terms of design, support structures 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 facilities is to be encouraged and applicants should satisfy the authority that they have made a reasonable effort to share.

Circular Letter PL07/12 revise sections of the 1996 Guidelines. The Circular Letter refers to a growing trend for Development Plans to specify minimum distances between telecommunications structures and houses and schools. This does not allow for flexibility on a case by case basis, and can make the identification of new infrastructure very difficult. Separation distances should not be specified in Development Plans. Section 2.6 of the Circular letter refers to Health and Safety Aspects and reiterates the advice of the 1996 Guidelines that planning authorities should not include monitoring arrangements as part of planning permission conditions nor determine planning applications on health grounds. Planning authorities should be primarily concerned with the appropriate location and design of telecommunications structures. Health issues are regulated by other codes and such matters should not be additionally regulated by the planning process

5.2. **Development Plan**

The Fingal County Development Plan 2017-2023 was made on 16th March 2017.

The site is in an area zoned GB – to protect and provide for a Greenbelt.

Telecommunications structures are neither ‘permitted in principle’ or ‘not permitted in principle’.

The Vision for the Greenbelt is to create a permanent demarcation of the boundary (i) between the rural and urban areas, (ii) between urban and urban areas. The role of the Greenbelt is to check unrestricted sprawl of urban areas, to prevent coalescence of settlements, to prevent countryside encroachment and to protect the setting of towns and/or villages. The Greenbelt is attractive and multifunctional, serves the needs of both the urban and rural communities, and strengthens the links between urban and rural areas in a sustainable manner. The Greenbelt will provide opportunities for countryside access and for recreation, retain attractive landscapes, improve derelict land within and around towns, secure lands with a nature conservation interest, and retain land in agricultural use. The zoning objective will have the consequence of achieving the regeneration of undeveloped town areas by ensuring that urban development is directed towards these areas.

Key objectives include the following

RF110 – support and facilitate the expansion and roll out of high-speed broadband services within rural areas

IT05 – provide the necessary telecommunication infrastructure throughout the County in accordance with the requirements of the Telecommunications Antennae and Support Structures Guidelines for Planning Authorities July 1996 except where they conflict with Circular Letter PL07/12 which shall take precedence, and any subsequent revisions or additional guidelines in this area.

IT06 - Promote and encourage service providers to engage in pre-planning discussions with the Planning Authority prior to the submission of planning applications.

IT07 - Require best practice in siting and design in relation to the erection of communication antennae.

IT08 - Secure a high quality of design of masts, towers and antennae and other such infrastructure in the interests of visual amenity and the protection of sensitive landscapes, subject to radio and engineering parameters.

NH33 - Ensure the preservation of the uniqueness of a landscape character type by having regard to the character, value and sensitivity of a landscape when determining a planning application.

NH35 Resist development such as houses, forestry, masts, extractive operations, landfills, caravan parks and large agricultural/horticulture units which would interfere with the character of highly sensitive areas or with a view or prospect of special amenity value, which it is necessary to preserve.

NH36 - Ensure that new development does not impinge in any significant way on the character, integrity and distinctiveness of highly sensitive areas and does not detract from the scenic value of the area. New development in highly sensitive areas shall not be permitted if it: • Causes unacceptable visual harm • Introduces incongruous landscape elements • Causes the disturbance or loss of (i) landscape elements that contribute to local distinctiveness, (ii) historic elements that contribute significantly to landscape character and quality such as field or road patterns, (iii) vegetation which is a characteristic of that landscape type and (iv) the visual condition of landscape elements.

NH37 - Ensure that new development meets high standards of siting and design.

NH39 - Require any necessary assessments, including visual impact assessments, to be prepared prior to approving development in highly sensitive areas.

NH40 - Protect views and prospects that contribute to the character of the landscape, particularly those identified in the Development Plan, from inappropriate development.

DMS143 - Require the co-location of antennae on existing support structures and where this is not feasible require documentary evidence as to the non-availability of this option in proposals for new structures.

DMS144 - Encourage the location of telecommunications based services at appropriate locations within the County, subject to environmental considerations and avoid the location of structures in fragile landscapes, in nature conservation areas, in highly sensitive landscapes and where views are to be preserved.

DMS145 - require the following information with respect to telecommunications structures at application stage:

- Demonstrate compliance with Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities issued by the Department of the Environment in July 1996 and / or to any subsequent amendments, Code of Practice on Sharing of Radio Sites issued by the Commission for Communications Regulation and to such other publications and material as maybe relevant in the circumstances.
- Demonstrate the significance of the proposed development as part of a national telecommunications network.
- Indicate on a map the location of all existing telecommunications structures (whether operated by the applicant or a competing company) within a 1km radius of the proposed site.
- Where sharing is not proposed, submit documentary evidence clearly stating the reasons why it is not feasible to share existing facilities bearing in mind the Code of Practice on Sharing of Radio Sites issued by the Commission for Communications Regulation.
- Demonstrate to what degree there is an impact on public safety, landscape, vistas, and ecology.
- Identify any mitigation measures.

5.3. **Natural Heritage Designations**

River Nanny Estuary and Shore SPA approximately 4.6km separation.

5.4. **EIA Screening**

Having regard to the nature and scale of the proposed development, its location in a rural agricultural 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.

6.0 The Appeal

6.1. Grounds of Appeal

These may be summarised as follows:

- The surrounding villages are a recognised weak coverage area for Vodafone and Three Ireland 4G and 5G services. Maps are submitted showing Vodafone and Three Ireland coverage for the Tobertown area. The proposed site is on raised lands enabling 360' coverage to a wide area.
- Existing structures in the area can be discounted for providing coverage to the target area. The proposed site meets the objectives for planning, the Guidelines, and technological requirements to ensure proper coverage.
- The Development Plan recognises the significance of the ICT industry. The proposed development is supported by objectives set out in the Development Plan.
- The proposed development is not contrary to the requirements of the Greenbelt zoning. It would support the local community and enable other objectives of the Plan to be met.
- The subject site is approximately 2.1km north of the boundary line for the designated area listed as High Sensitive Landscape. It is in an area listed as High Lying Agriculture. Naul and Bog of the Ring are located at distances of 4km and 4.6km from the subject site, and would not be impacted by the proposed structure.
- It is accepted that lines of protected views run along the roads in the vicinity of the subject site. A series of photomontages is submitted which indicates that the proposed structure would be essentially hidden due to hedgerows along the road network with only spasmodic and intermittent views available.
- There are realistically only two designs for self-standing infrastructure for multi-operator use – lattice and monopole. Lattice is most common where more equipment is required and carries many advantages for the operator regarding flexibility installing equipment, and for dishes to achieve links to the

network. However, the proposed design is monopole with a headframe, as it is considered most suitable for the location.

- The photomontages submitted show that the proposed structure would not have an unacceptable impact on the character and setting of the protected views or landscape and would not affect the visual amenity of the area. The proposed structure is well hidden from the road network and along lines of protected views. Where the full structure can be seen, it assimilates well into the landscape with minimal impact.
- The nearest property is 130m from the subject site. There is no empirical evidence that telecoms infrastructure devalues property. It would be impossible to provide telecommunications services without locating infrastructure in proximity to dwellings. The Board has previously concluded that there is no evidence that a development of this nature can have an impact on the value of property (reference numbers PL02.236307 and PL02.216361).
- The proposed access has been in use for many decades. Traffic generated by the proposal would be minimal and would have no impact. Mitigation measures can be considered such as cutting of bushes or adding a sign or viewing mirror.
- The proposal is consistent with both the Development Plan and Guidelines. It does not create a terminating view, does not impact on vulnerable features or special amenities and is away from protected sites and monuments. There would be no obstruction or degradation of views.
- Supporting letters from Vodafone and Three Ireland are submitted with the appeal.

6.2. Planning Authority Response

The planning authority has no further comments. The Board is requested to uphold the decision to refuse. Should the Board decide to grant permission, a financial contribution condition under Section 48 should be applied.

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6.3. Observations

1. KT Designs on behalf of:

- Liam & Bernie Howley, Doolagh Road
- Catherine & Stephen Tormey, Doolagh Road
- Mary McLoughlin, Lands at Doolagh

The submission may be summarised as follows:

- The reasons for refusal are well founded and valid. The reasons reflect many of the points raised by Observers at planning application stage. The decision had regard to National Policy.
- The Observers are fearful that, if permission is granted, they would have to live in the shadows of a large communications structure that would bring the local community no benefits.
- The application does not comply with the Telecommunications Antennae and Support Guidelines 1996, and Circular Letter PL07/12. These documents were fully considered by the Planning Authority in the making of its decision. The applicant failed to hold a pre-planning meeting with the Planning Authority to discuss important aspects of the proposal.
- The site is on a hilltop with adjacent roads having a Development Plan objective 'to preserve views'. Visual impact is not properly considered.
- The local community has never complained to there being a lack of coverage in the area, and it experiences good broadband and mobile phone coverage.
- The proposed development would set a very dangerous planning precedent insofar as the Irish Landscape is concerned. The proposed development is not justified.
- The letters of support from Vodafone and Three Ireland Limited merely indicate that they will work with whatever company can secure infrastructure. This is part of a race between companies to build a

portfolio of infrastructure as quickly as possible. This is a speculative application.

- Local and National objectives ask for existing infrastructure to be shared instead of building new structures.
- There is no Landscape Visual Impact Assessment. Photomontages were not taken from locations with a clear view of the proposed mast. The proposal is in clear breach of the County Development Plan objective DMS144.,
- Regarding the proposed access, no speed survey has been submitted, no sightline drawing submitted, and there is no evidence that the applicants have sufficient interest to access the proposed site. The observers dispute ownership of part of the lands and submit an extract showing Observers own half of the proposed access laneway, and do not consent to the use of the laneway for construction or maintenance vehicles. Available sightlines to the south are 18m and the requirement is 145m.
- The proposed development is not consistent with current objectives of the Fingal County Development Plan 2017-2022. The proposal is not balanced and does not safeguard the existing rural environment as required in the National Broadband Plan, August 2012.
- The proposed development would potentially destroy an occupied badger sett, would have an impact on public health and would devalue property.

2. Kevin & Barbara Lucey.

This submission may be summarised as follows:

- This focusses on the information contained in the appeal and is in addition to the observation submitted to the Planning Authority, particularly the disregard for protected views
- The applicant appears to be targeting the rural Fingal area for improved coverage (specifically mentioning the Tobertown area, Balscadden and

Grangemount villages). This appears to be a material change in the scope of the application.

- The area of Balscadden (including both Tobertown and Grangemount) has a population of 744 (2022 census) spread over a wide geographical area of 15.97 sqm). Balscadden is 2.2km away and has two mobile phone masts located considerably closer in Clonard and Flemington. The proposed mast is almost twice as far away from it as the two existing masts. The coverage maps submitted by the applicant shows this area is very well serviced. Grangemount is a townland with just a small number of dwellings. Tobertown only has a small number of dwellings.
- The applicant has not demonstrated that other sites were considered, including suitable sites in Meath. A specific strategic or technological need is required to be demonstrated. There are no letters of support from local businesses or residents. A petition, signed by 40 local residents, was submitted with an observation to the Planning Authority.
- The area is very well served by fibre broadband, and this is being increasingly used for communication purposes.
- The proposed 24m construction will be visible and will impact on the visual amenity of this sensitive location. The photomontages submitted are from carefully chosen bias locations and are not representative of the impact.

6.4. Further Responses

None on file.

7.0 Assessment

7.1. I have considered all the documentation on the file, including the grounds of appeal, planning authority response, observations and all other submissions, and I conclude that the key issues to be addressed in this appeal fall generally under the following headings:

- National Policy context
- Development Plan zoning

- Visual impact
- Residential amenity and property value
- Traffic impact
- Other issues

I submit that the information on file in respect of the proposed development is sufficiently detailed to enable a full assessment to be made.

7.2. **National Policy.**

It is National policy, as expressed in the Telecommunications Antennae and Support Structures Guidelines for Planning Authorities 1996, to support the development and maintenance of a high quality telecommunications service, while conforming to the concept of environmental sustainability. In this regard, the Guidelines require that fragile landscapes must be treated sensitively, and scenic views preserved. Proliferation of masts should be avoided where possible, and co-location of antennae should be facilitated.

In this case the proposed development would not give rise to clustering or proliferation of masts. Letters submitted with the application and appeal indicate that Vodafone and Three Ireland would locate equipment at this location if permission is granted. The grounds of appeal include a series of maps showing 4G and 5G coverage for these two operators. These indicate that 4G coverage in the wider area, which the proposed development would serve, varies from fair to good, and 5G coverage varies from good to no coverage. Observers contend that existing coverage is good and that there is no proven need for the proposed development. The Planning Authority's planning report states that "whilst it is noted that the applicants have provided a justification for the mast for the area of Stamullen, national guidelines and local planning policy recommend that such structures should not be sited in highly sensitive landscapes and where views are to be preserved". The issues of impact on the landscape and views are addressed separately in this assessment. On the issue of need, I conclude that the proposed development would not be limited to serving the immediate area, but would serve a wider area, and that the applicants have demonstrated a need for the proposed development as part of the national telecommunications network.

7.3. **Development Plan Zoning**

The site is zoned GB – to protect and provide for a Greenbelt in the current Fingal County Development Plan. Telecommunications structures are neither “Permitted in Principle” or “Not Permitted in Principle” under this zoning. Assessment of proposals considers the contribution towards the achievement of the Zoning Objective and Vision as well as compliance and consistency with the policies and objectives of the Plan.

The Vision: for this zoning is to create a rural/urban Greenbelt zone that permanently demarcates the boundary (i) between the rural and urban areas, or (ii) between urban and urban areas. The role of the Greenbelt is to check unrestricted sprawl of urban areas, to prevent coalescence of settlements, to prevent countryside encroachment and to protect the setting of towns and/or villages. It is an objective of the Plan (SS09) to promote development within the Greenbelt which has a demonstrated need for such a location, and which protects and promotes the permanency of the Greenbelt, and the open and rural character of the area. I submit that, in principle, the proposed development is not inconsistent with the role of the Greenbelt as set out in the Development Plan.

Other objectives of the County Development Plan are supportive of the expansion and roll-out of high-speed broadband, and the provision of necessary telecommunications infrastructure, subject to the protection of visual amenity and sensitive landscapes. A further objective seeks to resist masts which would interfere with a view or prospect which it is necessary to preserve, and this is a significant consideration in this case as it is a Map Based Objective to preserve views along public roads to the south-east, east and north-east of the subject site.

7.4. **Visual Impact**

This is an elevated site stated to rise to 72m ASL. in a generally low lying gently undulating rural landscape. There are panoramic views from the site to the north, east, and south. A hedgerow to the west screens views from the site in that direction. However, the proposed mast rising to 24m on this elevated site would rise above this screening and would be visually prominent from a wide area.

It is an objective of the County Development Plan to preserve views along the public roads to the east and south of the subject site. At the time of inspection, when

hedgerows were uncut, I noted that public views from the public road to the east of the site were restricted in the direction of the site, but there were good public views available to the east and north-east. Views from the public road to the south-east of the site, towards the subject site, were partly restricted by uncut hedgerows, but good public views were available from the entrance to the gallops and, also a second gateway off the public road. There is a row of houses to the south side of this public road. The grounds of appeal include photomontages taken when the hedgerows were uncut; these show that the proposed mast would be visible from the entrance to the gallops to the south-east, and from the access laneway to the south.

The planning authority concludes that the proposed structure would constitute an obtrusive and incongruous form of development which would seriously injure the visual amenity of the area. On balance, I conclude that the proposed 24m high mast, together with associated telecommunications equipment enclosed by a 2.4m high compound palisade fence, on this elevated site, would be unduly obtrusive, would obstruct public views which are listed for preservation in the County Development Plan, and would seriously injure the visual amenity of the area.

7.5. Residential Amenity and Property Value

The nearest housing to the proposed mast site is approximately 150m to the south, and there is a separate grouping of houses approximately 280m to the south-east. The proposed mast would be clearly visible from both sets of housing, although the extent of visibility would vary depending on the time of year and the maintenance of the hedgerows along the public roads.

Observers raise the issue of health impacts from the proposed development. This issue is addressed in Circular Letter PL07/12, which states that separation distances should not be specified in Development Plans in order to allow for flexibility on a case-by-case basis. The Circular Letter refers to health and safety aspects, reiterating the advice of the 1996 Guidelines that planning authorities should not determine planning applications on health grounds.

Having regard to National policy as outlined, I conclude that the proposed development should not be refused for reason of adverse impact on residential amenity.

I consider that there is no convincing argument has been made to demonstrate that the proposed development would impact on property values in the area.

7.6. Traffic Impact

Access to the proposed site would be via an existing laneway and the construction of a new access road from this laneway. The laneway joins the public road at a right-angled bend where visibility is restricted to the south due to a second right-angled bend at a distance of approximately 30m. The laneway exists and is in use giving access to adjoining farm lands. The public road is a minor road with carriageway width of 3-4 metres, soft margins, and hedgerows along this stretch. The proposed development would generate traffic at the time of construction, and infrequent maintenance traffic during the lifetime of the mast.

The planning authority conclude that “the proposed development could endanger public safety by reason of serious traffic hazard because the development is reliant on access from the public roadway via a private laneway and no right of way over said land has been demonstrated”. An observer claims ownership over half of the access laneway. On the issue of the right to use the access laneway for the proposed development, I draw the Board’s attention to Section 34(13) of the Planning and Development Act 2000, as amended, whereby the issue of planning permission alone under this section does not entitle a person to carry out development

Having regard to the nature and scale of the proposed development and the extent of traffic likely to be generated during its construction and maintenance, and to the minor nature of the public road, I conclude that the additional traffic movements generated at the existing access laneway on to the public road would not endanger public safety by reason of traffic hazard.

7.7. Other Issues

Observers contend that the proposed development would endanger an existing badger sett and would have a negative impact on other wildlife in the area. I consider that there is no convincing evidence submitted to demonstrate that the proposed development would have any negative impact on wildlife.

7.8. Appropriate Assessment Screening

7.9. The proposed development is not directly connected with or necessary to the management of any designated site. Having regard to the nature and scale of the proposed development, the nature of receiving environment as a rural agricultural area and to 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 EIA at an initial stage.

8.0 Recommendation

8.1. I recommend that planning permission be refused.

9.0 Reasons and Consideration

The proposed 24m high mast, together with associated telecommunications equipment, enclosed by a 2.4m high compound palisade fence, on an elevated site in a generally low lying gently undulating rural landscape, would be unduly prominent and obtrusive, would obstruct public views which are listed for preservation in the current County Development Plan, would be seriously injurious to the visual amenity of the area and contrary to the proper planning and sustainable development of the area.

Des Johnson
Planning Inspector

15 July 2023

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.