



An  
Bord  
Pleanála

## Inspector's Report ABP-315192-22

### Development

The installation of a 15m dual operator pole, associated equipment, together with ground-based equipment cabinets and all associated site development works for wireless data and broadband services.

### Location

Tirellan Heights, Headford Road,  
Ballinfoile, Galway.

### Planning Authority

Galway City Council

### Planning Authority Reg. Ref.

P/DC/22/22

### Applicant(s)

Emerald Tower Ltd

### Type of Application

Section 254

### 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 in the Tirellan Heights housing estate in the northern suburbs of Galway City. This site is c. 530m north of the junction between the N6 and the N84 Headford Road. It lies on the south-eastern side of the spine road through the housing estate.
- 1.2. As it passes the site, the spine road rises at a gentle gradient in a north-easterly direction and it is accompanied on either side by grassed areas with tree planting. The site itself occupies a position abutting the rear of the public footpath and adjacent to a bus stop and shelter. It is 6.8m long and 2m wide. Semi-mature deciduous trees lie within the vicinity of the site and pairs of two-storey semi-detached dwelling houses lie to the south on a cul-de-sac, which is accessed off the spine road.

## 2.0 Proposed Development

- 2.1. The proposal would entail the erection of an 15m 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.

## 3.0 Planning Authority Decision

### 3.1. Decision

Permission was refused on the grounds that the siting of the proposal beside a suburban road within an established neighbourhood and close to dwelling houses would, due to its height and prominence, negatively impact visual amenity and be intrusive and overbearing within the public realm and, thus, contrary to Policy 9.13 of the Development Plan, which supports telecommunications infrastructure, subject to environmental, visual and residential considerations.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

Concern is expressed over particularly the proximity of dwelling houses and the lack of screening from deciduous trees during the winter.

### 3.2.2. Other Technical Reports

Galway City Council – Recreation & Amenity: Objects on the grounds of visual amenity and potential harm to adjacent trees in the public realm. If permitted, then the involvement of a qualified arborist/landscape architect is requested for the construction phase.

## 4.0 Planning History

None

## 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 2<sup>nd</sup> November 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 policy 9.13 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**

The site is zoned residential and Tirellan Heights is identified as a (Galway Transportation Strategy) bus route.

## Policy 9.13 Telecommunications

*Support the development and expansion of telecommunication infrastructure (including the broadband network) within the city where appropriate, subject to environmental, visual and residential considerations.*

*Ensure that development for telecommunication and mobile phone installations take cognisance of the Planning Guidelines for Telecommunications Antennae and Support Structures (DECLG, Circular Letter PL07/12), so that any potential environmental impacts associated with installations are minimised.*

*Encourage the siting of new mobile phone installations to follow the hierarchy of suitable locations proposed in the DECLG Guidelines. Only when a number of other possibilities have been exhausted, masts may be erected within or in the immediate vicinity of residential areas.*

*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.*

## Current CDP

The site is zoned residential and Tirellan Heights is identified as bus routes.

## 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 Structures (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**

- Lough Corrib SAC (000297)

### 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 methodology of a visual assessment of the proposal is outlined and the findings of this assessment are set out, i.e., the visual impact at three of the four selected viewing points would be moderate/low, while the visual impact at the remaining viewing point would be negligible.
- National, regional, and local policies, which are supportive of improved telecommunications, are summarised.
- The proposal would improve telecommunications coverage by Eir within the residential area of Tirellan Heights. Under the Telecommunications, Antenna and Support Structures Guidelines and Circular PL07/12, the site is a “last resort” one, which would facilitate co-location in the future. (Eir already co-locates on the three nearest telecommunication structures to the site).



- The Section 254 process relates to sites on public roads lands only.
- The proposal would be sited 20m away from the nearest dwelling house. This proposal would be 15m high rather than the normal 18m, and views of it would be reduced by local tree cover.
- As discussed by the inspector in the appeal case ABP-300664-18, neither national or local policies stipulate a minimum separation distance between dwelling houses and telecommunication infrastructure.
- Under the planning system there is no right to a view. A telecommunications proposal would need to be severely overbearing in its relationship to a dwelling house to warrant objection. This threshold would not come near to being crossed in the current case.
- The Planning Authority’s critique of the proposal is overdrawn in the light of the findings of the applicant’s visual assessment.

## 7.2. Planning Authority Response

None

## 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), 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) Legislation, policy, and site selection,
- (ii) Visual amenity, and
- (iii) Appropriate Assessment.

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

- 8.2. 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 spine road to Tirellan Heights in the northern 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.
- 8.3. 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.”
- 8.4. 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.
- 8.5. 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.

**(ii) Visual amenity**

- 8.6. The applicant has submitted a visual assessment of the proposal. This assessment draws upon four viewpoints of the site from within its vicinity, and it examines the visual impact of the proposal upon them.
- 8.7. The Planning Authority considers that a further viewpoint should have been selected from within the cul-de-sac to the south of the site. During my site visit, I observed that the gaps between the two-storey semi-detached dwelling houses in this cul-de-sac and to the south of the site are narrow and they would afford, at most, only very limited views of the proposal. In these circumstances, viewpoint no. 2, which was taken from the grassed area to the north of the site, and which includes the semi-detached dwelling houses in the background, illustrates the proposal to a greater extent.
- 8.8. I consider the selected viewpoints to be representative of views that local residents and road users, including pedestrians at the bus stops on either side of the spine road through Tirellan Heights in the vicinity of the site, would experience. I also consider that the applicant's visual assessment based on these viewpoints fairly establishes the extent of visual impact that would ensue from the proposal.
- 8.9. The Planning Authority draws attention to the seasonal nature of the screening that semi-mature deciduous trees in the vicinity of the site would afford to the proposal. I recognise that variation in this respect would occur at different times of the year. However, the presence of these trees and streetlights would ensure that the proposed streetpole would be viewed in conjunction with other strongly vertical features, and so it would not be a conspicuous addition to the streetscape.
- 8.10. The proposal would be sited 20m away from the nearest two-storey semi-detached dwelling houses to the south. Views from habitable room openings in the rear elevations of several of these dwelling houses and from their rear gardens include the aforementioned trees and streetlights. Within this context, the proposed streetpole would be visible. However, its slimline form and moulded head, which would contain three antennae, would be designed to ensure that its visual impact is ameliorated.

8.11. In the light of my foregoing observations, the importance of the semi-mature deciduous trees in the vicinity of the site is clear. I, therefore, agree with the advice of Recreation & Amenity to the PA that, in the event of a licence being granted, an arborist/landscaped architect should supervise the erection of the proposal, in order to ensure that these trees are protected. A condition to this effect should be attached to any grant.

8.12. I conclude that the proposal would be compatible with the visual amenities of the area.

### **(iii) Appropriate Assessment**

8.13. 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.

8.14. 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**

That a Section 254 licence be granted.

## **10.0 Reasons and Considerations**

Having regard to:

- The provisions of Section 254 of the Planning and Development Act, 2000 (as amended),
- The National Development Plan 2018 – 2027,
- Objective 48 of the National Planning Framework 2020 – 2040,
- The Telecommunications Antennae and Support Structures Guidelines as revised by Circular Letter PL 07/12, and
- Policy 9.9 of the Galway City Development Plan 2023 – 2029,

it is considered that, subject to conditions, the proposal would contribute to the roll out of broadband services in accordance with national and local policies and objectives. This proposal would be compatible with the visual amenities of the area. No Appropriate Assessment issues would arise. The proposal would, therefore, accord with the proper planning and sustainable development of the area.

## 11.0 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>Details of the proposed colour scheme for the telecommunications structure, and ancillary structure 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>
3.	<p>Prior to the erection of the proposal, the name and qualifications of an arborist or landscape architect who will supervise the works on site during the construction phase shall be submitted to and agreed in writing with the planning authority.</p> <p>Reason: In order to ensure that trees adjacent to the site are protected.</p>
4.	<p>(a) This licence shall apply for a period of five years from the date of this order. The telecommunications structure and related ancillary structure shall then be removed unless, prior to the end of the period, a license shall have been granted for their retention for a further period.</p>

	<p>(b) The site shall be reinstated on removal of the telecommunications structure and ancillary structures. Details relating to the removal and reinstatement shall be submitted to and agreed in writing with the planning authority at least one month before the date of expiry of this license.</p> <p><b>Reason:</b> To enable the impact of the development to be re-assessed, having regard to changes in technology and design during the specified period, and any emerging proposals for Dunmore Road.</p>
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Hugh D. Morrison  
Planning Inspector

6<sup>th</sup> July 2023