



An  
Bord  
Pleanála

## Inspector's Report

**ABP-315554-23**

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<b>Development</b>	Erection of an 18m dual operator monopole and ancillary equipment cabinets
<b>Location</b>	R711 Road/Abbey Road, Ferrybank, Co. Waterford
<b>Planning Authority</b>	Waterford City & County Council
<b>Planning Authority Reg. Ref.</b>	22944
<b>Applicant(s)</b>	Emerald Tower Limited
<b>Type of Application</b>	Section 254 licence
<b>Planning Authority Decision</b>	Refusal for 2 no. reasons
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Emerald Tower Limited
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	12 <sup>th</sup> August 2023
<b>Inspector</b>	Bernard Dee

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## 1.0 Site Location and Description

- 1.1. The appeal site is located in Ferrybank on the east bank of the River Suir. The site of the proposed telecommunications pole is on the south side of Dock Road/Fountain Street (R711) and west of the junction of the R711 with Abbey Road (L90011). The area is characterised primarily by large educational buildings to the east of Abbey Road and a mix of residential and retail uses on the north side of the R711. To the south of the R711 is a brownfield site which was previously a bus depot and is currently undergoing regeneration works as part of the North Quays regeneration plan.
- 1.2. The appeal site is located on the public footpath running along the southern edge of the R711 near a stop sign. At the time of the site visit the vegetation and grass verge referenced by the planning authority and the appellant had been altered by site clearance works immediately south of the appeal site.

## 2.0 Proposed Development

- 2.1. The development will consist of an 18m high freestanding telecommunications monopole together with antenna, internal cabling, dish, and two ancillary cabinets and two GPS beacons. The monopole would be approximately 0.4m at its widest point and all cables would be housed internally. The purpose of the proposed infrastructure is to provide improved, high quality network coverage for the surrounding area
- 2.2. The site area has a footprint of 6.85m x 2m and the application site area is approximately 13.7m<sup>2</sup>.
- 2.3. It should be noted that at the time of the submission of the Section 254 licence application on the 4<sup>th</sup> November 2022, the site clearance works to the south of the proposed monopole application location was not cleared at that time and the site then was a grass verge inside the public pavement as can be seen in photographs on file.

## 3.0 Planning Authority Decision

### 3.1. Decision

The Section 254 licence application for the proposed development was refused by the Planning Authority on 20<sup>th</sup> December 2022 for 2 no. reasons:

1. Having regard to the location of the proposed development within the boundary of the site for the approved Part VIII planning scheme (P8 09/18 for road/junction realignment works at Dock Road/Fountain Street (R711) and Abbey Road (L90011) to facilitate infrastructure works associated with the delivery of the North Quays development scheme, it is considered that the proposed development would prejudice the delivery of the approved Part VIII planning scheme and therefore the Planning Authority is precluded from granting permission for the Section 254 Licence.
2. Having regard to the 'Telecommunications Antennae and Support Structures Guidelines for Planning Authorities', Department of the Environment and Local Government 1996, and the location, scale and height of the structure at a highly visible junction of the Dock Road/Fountain Street (R711) and Abbey Road (L90011), it is considered that the proposed development would be visually obtrusive at this location and would seriously injure the visual amenities of the area and properties in the vicinity and would contravene Ministerial Guidelines and would therefore be contrary to the proper planning and sustainable development of the area.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The Planner's Report dated 15<sup>th</sup> December 2022 notes the following points:

- The proposed development is located within the area covered by the approved Part VIII planning scheme (P8 09/18 for road/junction realignment works at Dock Road/Fountain Street (R711) and Abbey Road (L90011) which is part of the overall regeneration plan for the North Quays area.

- The presence of a monopole at this location would be problematic in terms of the proposed infrastructure works and the Planning Authority is therefore precluded from granting the Section 254 licence.
- It is noted that a valid technical justification for the location of the proposed monopole as not alternative sites could be found that fulfilled the goal of increasing the broadband speed in an area where there is an urgent need for such an upgrade.
- Notwithstanding the justification provided by the applicant, the proposed 18m monopole would be visually obtrusive at this highly prominent location contrary to the 1996 Guidelines and should be refused on this basis.
- The Planner's Report did not deem that either AA or EIA was required in relation to the proposed telecommunications mast.

#### 3.2.2. Other Technical Reports

- The Economic Development Department raised concerns regarding the location of the monopole in terms of making Part VIII infrastructure works in the area problematical.

#### 3.2.3. Prescribed Bodies

- TII had no observations to make on this case.

#### 3.2.4. Observations

- No Observations were received in relation to this case.

## 4.0 **Planning History**

### 4.1. On the Appeal Site

- Aside from the approved Part VIII planning scheme (P8 09/18) for road/junction realignment works at Dock Road/Fountain Street (R711) and Abbey Road (L90011) there are no other references to planning or licence applications on file.

### 4.2. In the Vicinity of the Site

- No relevant cases noted on file.

## 5.0 Policy and Context

### 5.1. Guidelines for Planning Authorities on Telecommunications Antennae and Support Structures, 1996

The 'Guidelines for Planning Authorities on Telecommunications Antennae and Support Structures' (1996) set out government policy for the assessment of proposed new telecommunications structures ('the 1996 Guidelines').

The Guidelines state that the rapid expansion of mobile telephone services in Ireland has required the construction of base station towers in urban and rural areas across the country. This is an essential feature of all modern telecommunications networks. In many suburban situations, because of the low rise nature of buildings and structures, a supporting mast or tower is needed.

Section 4.3 of the Guidelines refers to visual impact and states that only as a last resort, and if the alternatives are either unavailable or unsuitable, should freestanding masts be located in a residential area. If such a 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 proposed 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.

The Guidelines also state that some masts will remain quite noticeable despite best precautions. Softening of the visual impact can be achieved through a judicious choice of colour scheme and through the planting of shrubs, trees etc. as a screen or backdrop.

Section 4.6 of the Guidelines ('Health and Safety Aspects') states that it is unlikely that accessing the site will give rise to traffic hazards as maintenance visits should not be more than quarterly. During the construction period, depending on the location of the site, special precautions may have to be taken in relation to traffic.

## 5.2. 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.

## 5.3. Circular Letter PL11/2020

Circular Letter PL11/2020 'Telecommunications Services – Planning Exemptions and Section 254 Licences' was issued in December 2020. It advises Planning Authorities that:

- Section 254 of the Act outlines the provisions in relation to the licensing of appliances and cables etc on public roads. Where development of a type specified in section 254(1) of the Act is proposed to be carried out on a public road, approval for the works is required from a Planning Authority by means of the obtaining of a section 254 licence.
- A Section 254 Licence is required for overground electronic communications infrastructure, and its associated works and that such works are exempt from planning permission.
- It should be particularly noted that the exemptions for telecommunications infrastructure along public roads do not apply:
  - (a) Where the proposed development is in sensitive areas where there is a requirement for Appropriate Assessment.

- (b) Where the proposed development would endanger public safety by reason of traffic hazard or obstruction of road users.

#### 5.4. Development Plan

Waterford City & County Development Plan 2022-2028 is the statutory plan for the area within which the appeal site is located.

The appeal site is located within zoning objective RE 'Regeneration' - Provide for enterprise and/ or residential led regeneration. Within the RE zoning objective 'Utilities' are deemed to be 'Open to Consideration'.

#### 6.9 Utility, Energy & Communication Policy Objectives

##### UTL 16 - ICT/ Communications

We will work in collaboration with service providers to deliver a more enhanced connectivity service experience in a way that protects our footway and road surfaces and delivers the economic and community benefits of technology. We will facilitate the continued provision of communication networks, smart infrastructure, broadband and appropriate telecommunications infrastructure and services, subject to environmental considerations, in order to contribute to economic growth, development, resilience and competitiveness. In considering proposals for such infrastructure and associated equipment, the following will be taken into account:

- The installation of the smallest suitable equipment to meet the technological requirements,
- Solutions to deliver shared telecommunication physical infrastructure in new development to facilitate multiple service providers at a non-exclusive basis and at economically sustainable cost to service providers and end users,
- Concealing or disguising masts, antennas, equipment housing and cable runs through design or camouflage techniques; or
- A description of the siting and design options explored and the reason for the chosen solution, details of the design, including height, materials and all components of the proposals,
- A landscaping and screen planting plan (if appropriate),



- An assessment of the cumulative effects of the development in combination with existing equipment in the area; and a visual impact assessment (if relevant).

Proposed development will be required to have regard to the “Telecommunications Antennae and Support Structures - Guidelines for Planning Authorities, 1996 and Circular Letter PL07/12” issued by the Department of the Environment Heritage and Local Government and to any subsequent amendments as may be issued.

#### 5.5. Natural Heritage Designations

The following natural heritage designations are located <15km from the appeal site:

- Lower River Suir SAC (002137).
- Tramore Back Strand SPA (004027).

#### 5.6. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity/ the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

6.1. The relevant planning grounds of the First Party appeal are, in summary, as follows:

- The proposed monopole is urgently needed at this location as Eir cannot meet its wireless broadband and data objectives in the absence of the proposed monopole due to site specific circumstances – build structures, vegetation and topography obstacles.
- Alternative sites are too remote to provide the 100% coverage for 4G and 5G technologies to operate effectively which Eir is obligated to provide to customers.
- Refusal of the monopole will result in customers, residential and commercial, receiving a less than optimum service.
- The proposed monopole location was chosen following a very thorough site selection process and the chosen site is the optimum location for the placement of a monopole to provide coverage to customers in this area.
- There are no adverse environmental impacts associated with the proposed monopole and there are no suitable alternative locations available in the locality.
- Table 1 of the appeal submission lists 10 no. alternative existing sites considered during the location search process but all of them are inferior to the proposed location in Ferrybank. Figure 1 of the appeal submission plots these alternative sites on a map base.
- The monopole will be shared by two operators thereby reducing the proliferation of telecommunications masts in the locality as per the Ministerial Guidelines requirements.
- The design of the monopole is such that its slenderness will minimise its visual impact and the monopole will be painted grey, a neutral colour, to blend in with its urban context.
- It is not considered that the proposed monopole, given its small footprint, will have any impact on Part VIII infrastructure works and the proposed monopole would blend in with the proposed lighting poles along the upgraded R711.

- The appellant is willing to accept a temporary permission so that the planning authority may remove the monopole should it be found that it is impeding the implementation of the Part VIII works.
- The proposed monopole is not located near any heritage, landscape or any designated ecologically sensitive area.
- Emissions associated with the proposed monopole will be in compliance with the standards set down by the International Commission for Non-Ionising Radiation Protection (ICNIRP).
- Photomontages attached to the appeal submission and taken from 3 no. key viewpoints demonstrate that the visual impact associated with the proposed monopole can be classified as being of moderate/low visual impact.
- Sections 2.2 and 5.1 of the National Planning Framework (NPF) emphasise the critical role the strengthening of the data communications network is to achieving the stated economic goals in the lifetime of the NPF.
- The Regional Spatial & Economic Strategy for the South East Region (RSES) and the Waterford City & County Development Plan 2022-2028 also support the strengthening of the communications network in Waterford city and county.
- The Ministerial Guidelines of 1996 recognise that in some cases there is limited flexibility in the range of locations for monopole sites and that compromise may be necessary to achieve adequate coverage.

#### 6.2. Applicant Response

Not applicable.

#### 6.3. Planning Authority Response

There is no response from the Planning Authority on file.

#### 6.4. Observations

None received.

#### 6.5. Further Responses

Not applicable.

## 7.0 Assessment

Having examined all the application and appeal documentation on file, and having regard to relevant local and national policy and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise.

The main issues to consider therefore are as follows:

- Principle and justification of development.
- Part VIII infrastructure works.
- Visual impact.
- Human health.
- AA Screening.

### 7.1. Principle and Justification of Development

#### 7.1.1. The proposed monopole is located within zoning objective RE 'Regeneration' -

Provide for enterprise and/ or residential led regeneration. Within the RE zoning objective 'Utilities' are deemed to be 'Open to Consideration'. Telecommunications masts and monopoles are familiar elements in the urban landscape and can be absorbed more readily in to the urban rather than the rural visual spectrum.

#### 7.1.2. Government policy and guidelines as well as the statutory Development Plan for the area promote the upgrading of telecommunication infrastructure in the interests of the public good and to support businesses and industries in the area.

#### 7.1.3. Therefore I would consider that the proposed monopole is acceptable in principle at this location.

#### 7.1.4. In terms of technical justification for the siting of the proposed monopole at this location, I note that the 10 no. alternative existing sites contained in Table 1 of the First Party appeal are all located outside the search ring which defines the area within which a new monopole need to be located in order to provide coverage within this defined geographical area.

7.1.5. Presumably this search for an alternative existing site to co-locate a monopole at was conducted to demonstrate to the planning authority and the Board that no alternative sites were available. Apart from a statement in the First Party submission that a search for alternative sites within the search ring was carried out there is no further documentation in the appeal submission regarding details of this search. This issue does not affect the acceptability in principle of a monopole at the appeal site.

## 7.2. Part VIII Infrastructure Works

7.2.1. The Economic Development Department of Waterford City & County Council have advised that the proposed monopole being located within the Part VIII infrastructure works area will be problematic. The relevant internal report contains a map which overlays the proposed road infrastructure works on the location of the proposed monopole.

7.2.2. The First Party states that a temporary Section 254 licence could be issued for the proposed monopole and that if it is found that the monopole is impeding the implementation of the Part VIII works, then the monopole could be removed.

7.2.3. There is no uncertainty in my mind, having regard to the available Part VIII layout plans and to the location of the proposed monopole where large scale road infrastructure works will take place, that the proposed monopole would indeed obstruct and impede said Part VIII infrastructure works.

7.2.4. Having regard to the above, I do not believe that the Board should direct the planning authority to issue a Section 254 licence in this instance.

7.2.5. Reference to a temporary Section 254 licence by the First Party as an interim solution is not, in my opinion, appropriate as the timetable of the infrastructure works may not align with the temporary period which the planning authority may issue the Section 254 licence for. In terms of the common good, the Part VIII works must take priority over improved telecommunications and data coverage for the area.

7.2.6. In summary therefore I recommend that the Board direct the planning authority not to issue a Section 254 licence to the appellant on the grounds that a monopole at this location would impede the implementation of Part VIII road infrastructure works.

### 7.3. Visual Impact

7.3.1. The context within which it is proposed to erect an 18m high monopole is adjacent to a heavily trafficked road in an urban renewal area, in a visually prominent site and in a semi-residential area. The appellant has provided 3 no. photomontages with the appeal submission to which I draw the Board's attention. The planning authority in its assessment of the Section 254 licence application noted that the viewpoints did not include a view of the site of the proposed monopole from Abbeylands which is SE of the appeal site and in a more elevated position.

7.3.2. I am satisfied that the 3 no. photomontages submitted by the appellant are sufficient to assess the visual impact associated with the proposed monopole and I believe that a viewpoint in Abbeylands would be too distant to assist in the assessment of the potential visual impact of the proposed monopole.

7.3.3. Having visited the site I can confirm to the Board that the location of the proposed monopole is highly prominent and the proposed monopole would be visible from the residential areas to the north of the R711 and the educational facilities to the east of Abbey Road. In addition, the R711 is a very heavily trafficked road and the proposed monopole would be highly visible if erected at this location.

7.3.4. In terms of visual impact as opposed to visibility, the visual impact associated with the proposed monopole has been assessed by the appellant as being in the 'Moderate/Low' category. It should be noted by the Board that the photomontages and the visual impact assessment carried out by the First Party was carried out in the context of the site before site clearance works to facilitate the Part VII works were carried out. The overgrown vegetation on the site immediately south of the proposed monopole which provided some degree of visual absorption for the lower part of the proposed monopole from Viewpoint 1 (looking NE along the R711), Viewpoint 2 (looking south from a point opposite the appeal site on the north side of the R711) and Viewpoint 3 (Looking NW from a location on Abbey Road next to the National School), has now been removed.

7.3.5. The photomontages confirm my opinion arising from my site visit that the visual impact associated with the proposed monopole would fall into the 'Large' order of magnitude category in terms of visual impact and that said impact would be adverse in the extreme. The proposed monopole would be visually obtrusive in a highly prominent location in a regeneration area and have an adverse impact on the residential amenity of the area.

7.3.6. Having regard to the above, I concur with the planning authority's second reason for refusal of the Section 253 licence in this instance and recommend to the Board refusal of the licence on the grounds of adverse visual impact.

#### 7.4. Human Health

7.4.1. 'Telecommunications Antennae and Support Structures Guidelines for Planning Authorities' (1996) is the current guidance in relation to the emissions from telecommunications infrastructure in Ireland. They recognise that there is concern amongst the public in relation to the potential health impacts of these structures but makes the point that International Commission on Non-Ionising Radiation Protection reported that radiation from telecommunication infrastructure is substantially below the guideline set by the International Radiation Protection Association. Additionally, telecoms operators must satisfy ComReg, the statutory authority in these matters, that their equipment and processes meet the approved international standard to protect public health.

7.4.2. The Telecoms Guidelines make the point that the WHO has carried out studies of the effects of radiation emitted by telecoms masts on human and animal biology and concluded that no effects were attributable to this source (see Appendix II 'Health and Safety Aspects' of the National Guidelines).

7.4.3. Having regard to the foregoing I conclude the proposed monopole should not be refused for reasons related to emissions associated with the proposed telecommunications mast affecting human health

## 7.5. AA Screening

Having regard to the relatively minor development proposed within an existing housing estate and the distance from the nearest European site being approximately 200m uphill to the east of the appeal site (Howth Head SAC – 000202), 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 the Board directs the planning authority to refuse to issue a Section 254 licence for the reasons and considerations set down below.

## 9.0 Reasons and Considerations

1. Having regard to the location of the proposed development within the boundary of the site for the approved Part VIII planning scheme (P8 09/18 for road/junction realignment works at Dock Road/Fountain Street (R711) and Abbey Road (L90011) to facilitate infrastructure works associated with the delivery of the North Quays development scheme, it is considered that the proposed development would prejudice the delivery of the approved Part VIII planning scheme and would therefore be contrary to the proper planning and sustainable development of the area.
2. Having regard to the 'Telecommunications Antennae and Support Structures Guidelines for Planning Authorities', Department of the Environment and Local Government 1996, and the location, scale and height of the structure at a highly visible junction of the Dock Road/Fountain Street (R711) and Abbey Road (L90011), it is considered that the proposed development would be visually obtrusive at this location and would seriously injure the visual amenities of the area and properties in the vicinity and would contravene Ministerial Guidelines and would therefore be contrary to the proper planning and sustainable development of the area.



I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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**Bernard Dee**  
**Planning Inspector**

**15<sup>th</sup> August 2023**