



An
Bord
Pleanála

Inspector's Report

ABP-315591-23

Development	To erect an 18m high monopole telecommunications support structure together with antennas, dishes and ancillary works all enclosed in security fencing
Location	Eir Exchange, off Granard Street, Moodoge Td, Ballyjamesduff, Co Cavan.
Planning Authority	Cavan County Council
Planning Authority Reg. Ref.	21131
Applicant(s)	Eircom Limited.
Type of Application	Planning Permission.
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party
Appellant(s)	Eircom.
Observer(s)	Irish Aviation Authority.
Date of Site Inspection	1 st November 2021.

Inspector

Elaine Sullivan.

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1.0 Introduction

- 1.1. This is an addendum report relating to an appeal case that follows a High Court Order [2022 No. 27 JR] dated the 8th day of December 2022. The Board's decision on An Bord Pleanála (ABP) file reference (ref.) 310371-21 has been quashed and the file has been remitted back to the Board for a new determination.
- 1.2. A new file has been assigned with ABP ref. 315591-23. This addendum report should be read in conjunction with the original Inspector's report on file, (ABP ref. 310371-21), dated the 8th day of November 2021. I am the Inspector who undertook the original assessment of this appeal under ABP ref. 310371-21.
- 1.3. Under Section 131 of the Planning and Development Act 2000, as amended, notices were issued to all parties to the appeal to invite further submissions.
- 1.4. Notices were issued to:

- Cavan County Council

Appellants -

- Towercom Limited, (agent for Eir)
- Gary McNeill (lay litigant)

Observers -

- Irish Aviation Authority

Submissions were received from:

- Cavan County Council
- Gary McNeill
- Towercom

2.0 Proposed Development

- 2.1. Planning permission is sought to erect an 18m high monopole with a 1.5m lightning filial on the top to the north of the existing exchange building. Operating equipment including antennae would be fixed to the top of the pole in two clusters. Ground

mounted equipment is also proposed in two cabinets to the west of the monopole, (dimensions not supplied).

- 2.2. Planting is proposed along the western boundary which adjoins the Ashford Downs housing development. A 2.4m palisade fence in green colour would be installed along the eastern site boundary.
- 2.3. A number of poles are currently in place on the site. These include an 8m pole with telecommunications equipment attached, a 10m wooden pole and electricity poles for overhead lines. It is not proposed to remove any of these structures.

3.0 Submissions Received

3.1. Cavan County Council

- 3.1.1. The PA wish to advise that their response remains as per the response dated the 23rd June 2021.
- 3.1.2. As a new Development Plan has been adopted since the Board's initial decision, (dated the 2nd day of December 2021). The PA requests that the policies and objectives of the Cavan County Development Plan 2022-2028 are taken into consideration when the Board is determining the appeal.

3.2. First Party Appellant - Towercom, (agent for Eir) –

- 3.2.1. The rationale for the development is to improve the coverage and capacity of mobile telecommunications and broadband services around Ballyjamesduff.
- 3.2.2. The site is an established utilities site with infrastructure in place since 1999. The proposed new monopole would be suited to an urban area and would allow for co-location of providers.
- 3.2.3. The main objective of the development is to provide indoor voice and data services to the homes, businesses, and roads in the area. To do this the infrastructure must be located in a reasonable vicinity to the area in which it is intended to serve.
- 3.2.4. It is not unusual for such structures and antennae to be near towns and villages and there is no requirement for separation distances. The proximity of commercial and

residential development increases the justification for the infrastructure as there is a demand for services.

- 3.2.5. A review of local and national planning policy, including the new Cavan County Development Plan, is included in the submission with reference to the suitability of the site within a Self-Sustaining Town, and policy which supports the improvement of telecommunications infrastructure.
- 3.2.6. The agent also includes a list of precedent applications for similar developments that were granted permission in Cavan and other counties.
- 3.2.7. A letter of support from Vodafone was included in the submission. The letter states that Vodafone is currently in the process of expanding and upgrading its network and expects to enter into an agreement to co-locate equipment on the new structure if permitted and built.
- 3.2.8. A Site Justification Report was also prepared by Vodafone and included in the submission. The report states that the Ballyjamesduff is currently covered by CN009 Latton Waterworks and CN057 Ramonan, but these sites are outside of the town. There is a large use of 4G data services by residential and business customers in Ballyjamesduff and a new site is required.
- 3.2.9. The new site will enable Vodafone to provide dedicated 4G highspeed capacity and increase the premium indoor coverage and 5G technology.
- 3.2.10. Maps included in the report show the existing and proposed 2G and 3G, and 4G service in the area. Figure 1 shows that there is a gap in the 'Very Good' 2G and 3G coverage from the existing Vodafone sites at CN009 Latton Waterworks and CN057 Ramonan. Should the infrastructure be permitted, this would provide an increased level of 'Very Good' service, (Figure 2).
- 3.2.11. Figures 3 and 4 illustrate the difference in 4G services with the existing sites providing 'Good' to 'Fair' coverage. The proposed development would increase the level of 'Very Good' service in parts of the town.
- 3.2.12. The existing sites at CN009 Latton Waterworks and CN057 Ramonan serve a large area. The proposed site would help to offload traffic from these sites to allow them to better serve the surrounding rural area. The proposed site provides dedicated

capacity to 1,476 people who would experience enhanced 4G data services as well as future 5G services.

3.3. Gary and Linda Mc Neill

The submission is summarised as follows,

- 3.3.1. The O'Neill's live in a property that borders the subject site. The size, scale and proximity of the monopole would be visually overbearing, intrusive and would have a detrimental effect on the existing residential amenity and how the family use their open space.
- 3.3.2. The scale, size and proximity of the monopole has the potential to depreciate the value of their property at 63 Ashford Downs, which contravenes Article 40.3(2) of the Irish Constitution 1937 and ECHR protocol 1 Article 1.
- 3.3.3. The planning application contravenes Article 19. (1) (c) and 19. (2) of the Planning and Development Act, (the Act), as it failed to give adequate notice of intention to make a planning application.
- 3.3.4. It also contravenes Article 33. Section 2(a)(g) of the Act by failing to include the required information. Maps submitted with the application do not show the full extent of existing and neighbouring development and buildings are incorrectly labelled. The upper Shannon (Inny) Catchment (HA 26 F) is labelled a stream instead of a river. This river forms a hydrological link to Louth Sheelin SPA.
- 3.3.5. Article 9 of the Aarhus Convention is also contravened and Principle 10 of the Rio Declaration. Enacted into Irish law under Section 3 of the Environment Miscellaneous Provisions Act 2011 (amended) and Article 6, (the right to a fair hearing) of the ECHR and Article 13 (right to an effective remedy) failing the applicants right of information and to participate in environmental matters that will have a detrimental effect on him.
- 3.3.6. The community and residents of Ballyjamesduff were not given adequate opportunity to make observations/submissions as the public notices did not adequately advertise the proposal.
- 3.3.7. The application did not include EIA or SEA scoping, Stage 1 AA, visual, landscape or historic character assessments. The Cavan Development Plan 2014-2020 requires

the submission of an acceptable Visual and Environment Impact Assessment Report.

- 3.3.8. Chapter 13 of the Cavan Development Plan notes the historical layout of the town centre and seeks to maintain its unique and historical character. A number of policies support the protection of the character of Ballyjamesduff.
- 3.3.9. If the development is granted by ABP it would contravene Article 10. (1) and (2) (a)(b)(c)(d)(e) of the Act. It would also contravene Sections 4.3m, 4.5, 4.8 and 6.9 the Cavan County Development Plan 2014-2020.
- 3.3.10. There is no justification for the development as the existing service is good and there are two existing sites with service providers in the area.
- 3.3.11. The proposal is not in accordance with the Telecommunications Antennae and Support Structures Guidelines and with Circular PL 7/2012 which seek to provide services in appropriate locations.
- 3.3.12. It is not in accordance with the Regional Spatial Economic Strategy, (RSES), as it would not contribute to tourism and amenity and would dominate the historic streetscape.
- 3.3.13. The submission includes letters of objection from Ballyjamesduff Community Council, The Angels Nest Creche, and a 10-page petition of up to 200 signatures from people who object to the development.

4.0 Assessment

4.1. Introduction

- 4.1.1. I have reviewed the submitted comments and no new matters have been raised that would require a revision to my recommendation. The submissions received do not contain any additional information that would result in a change to the recommendation made in my original report under ABP 310371-21.
- 4.1.2. A number of issues were raised by third parties that relate to the validity of the planning application. I note that the Planning Authority deemed the application to be acceptable under the requirements of Article 22 of the Planning and Development

Regulations 2001, (as amended), and they had no further comments to make in their submission.

4.2. Development Plan

- 4.2.1. The site is located within the administrative boundary of Cavan County Council. The operative Development Plan for the area is the Cavan County Development Plan, (CCDP), 2022-202, which came into effect on the 11th July 2022.
- 4.2.2. The application, and appeal, were assessed in accordance with the policies and objectives of the Cavan County Development Plan 2014-2020, which was the operative Development Plan at the time.
- 4.2.3. On review of the contents of both plans I note that there are no material changes between the 2014 County Development Plan and the 2022 County Development Plan as they relate to the appeal site and the current proposal. In this regard I consider the proposal in accordance with the guidance and provisions of the operative Development Plan, namely the 2022 – 2028 Cavan County Development Plan, (CCDP).
- 4.2.4. I have reviewed the CCDP 2022-2028 within the context of the subject site and the proposed development and the following sections are of relevance to the proposal,
- Ballyjamesduff is categorised as a Self-Sustaining Town within the Settlement Strategy for the County.
 - The site is zoned '*Existing Residential*' and this objective remains unchanged from the 2014 plan. The objective of this zoning is to –
'Protect and enhance the amenity of developed residential communities'.
 - The vision for this zoning is to -
'Ensure that any new development does not adversely impact upon the amenity of existing residential properties. New housing and infill developments should be in keeping within the character of the area. Seek to enhance associated open space and community uses and improve the quality of existing residential areas'.

- Telecommunications are listed as ‘Permitted in Principle’ under the zoning objective.
- **Section 2.4** - notes that Ballyjamesduff has a very clear and distinctive, planned urban form with characteristically short and wide buildings forming a continuous street frontage typical of eighteenth and nineteenth century market towns. The town underwent a substantial population increase between 2006 and 2011 and did not experience an equivalent increase in jobs and services. Focus should be on improving services and employment to reduce commuting and to strengthen the town.
- **Section 6.14.2 – Telecommunications** – notes that Telecommunications are a key infrastructural element that requires attention.
- **Section 6.20 – Home Based Economic Activity and Remote Working** –
- **Objective HBEA 01** - Engage with all relevant stakeholders and broadband infrastructure providers to ensure the roll-out of the National Broadband Plan in County Cavan, as well as supporting in principle improvements to existing broadband networks.
- **Section 7.12 – Information Technology and Broadband** – notes that an efficient telecommunications system is important in the development of the economy. The following are objectives of the Council in this regard,
- **ICT 04** - Achieve a balance between facilitating the provision of telecommunications infrastructure in the interests of social and economic progress, and sustainable residential amenity and environmental quality.
- **ICT 05** - Ensure the locations of telecommunications structures minimise and/or mitigate any adverse impacts on communities, public rights of way and built or natural environment.
- **ICT 06** - Encourage co-location of antennae on existing support structures and to require documentary evidence as to the non-availability of this option in proposals for new structures. The shared use of existing structures will be required where the numbers of masts located in any single area is considered to have an excessive concentration.

- **ICT 07** - Facilitate the provision of telecommunications infrastructure throughout the county in accordance with the requirements of the 'Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities' July 1996 and Circular Letter PL 07/12 or any update thereof.

4.3. **Natural Heritage Designations**

- 4.3.1. No designations apply to the subject site.

4.4. **EIA Screening**

- 4.4.1. An Environmental Impact Assessment Screening report was not submitted with the application. The proposed development is not listed in either Part 1 or Part 2 of Schedule 5, Planning and Development Regulations 2001 (as amended), which sets out the types and thresholds of development that requires a mandatory EIA. The proposal has also been assessed against the criteria outlined in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and the provisions of Article 109, (3) of the Regulations do not apply to the site.
- 4.4.2. Under the provisions of Article 109, (3) of the Regulations, it is noted that the site is not located within a European site, is not designated for the protection of the landscape or of natural or cultural heritage and the proposed development is not likely to have a significant effect on any European Site as discussed below.
- 4.4.3. The proposed development is minor in nature and scale and not require any ground works or significant construction. I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination an environmental impact assessment report for the proposed development was not necessary in this case. (See Preliminary Examination EIAR Screening Form).

4.5. **Appropriate Assessment**

- 4.5.1. A Stage 1 Screening report does not accompany the application. In accordance with obligations under the Habitats Directives and implementing legislation, to take into

consideration the possible effects a project may have, either on its own or in combination with other plans and projects, on a Natura 2000 site; there is a requirement on the Board, as the competent authority in this case, to consider the possible nature conservation implications of the proposed development on the Natura 2000 network, before making a decision, by carrying out appropriate assessment. The first stage of assessment is screening.

- 4.5.2. The proposed development is for an 18m monopole with pole mounted telecommunications infrastructure and supporting ground mounted infrastructure. The development site is within an established utility compound and does not require any ground works, new access roads or water connections.
- 4.5.3. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s). The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.
- 4.5.4. The closest European sites are Lough Sheelin SPA, (Ref. 004065) which is c. 7km to the south-west of the site. The River Inny is located approximately 35m to the north of the site and would provide an indirect hydrological connection from the subject site to the designated site. However, they are at some remove from each other with a hydrological separation distance of c. 14km.
- 4.5.5. Having reviewed the documents and submissions and having regard to the nature and scale of the proposed development and the location of the site in a developed utility compound with an indirect hydrological connection at a significant remove from the designated site, I am satisfied that no Appropriate Assessment issues arise, and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

5.0 Recommendation

- 5.1. I recommend that planning permission be refused for the development.

6.0 Reasons and Considerations

1. Having regard to the nature and scale of the proposed development for an 18-metre telecommunications monopole and associated infrastructure within the town of Ballyjamesduff, it is considered that the proposed development would result in a significant and negative visual impact on the town centre and the wider area. It would also be contrary to national guidance as set out in section 4.3 of the Department of the Environment and Local Government Planning Guidelines 'Telecommunications Antennae and Support Structures' (1996) and, in particular with Objective ICT 05 of the Cavan Development Plan 2022-2028 which seeks to ensure that the locations of telecommunications structures minimise or mitigate any adverse impacts on communities, public rights of way and built or natural environment. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the Department of the Environment and Local Government Planning Guidelines 'Telecommunications Antennae and Support Structures' (1996) and the height, scale, and location of the proposed development in close proximity to residential development, it is considered that the proposed development would have an overbearing impact on the adjoining houses and would be visually obtrusive when viewed from the attendant open space of the houses. The proposal would therefore have a negative impact on the existing residential amenity, would not be in accordance with the 'Existing Residential' zoning for the site and would 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.

Elaine Sullivan
Planning Inspector

27th March 2023