



An
Bord
Pleanála

Inspector's Report ABP315778-23

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| Development | Licence to install communications infrastructure. |
| Location | Killiney Hill Road/Castle Court, Ballybrack, Co. Dublin |
| Planning Authority | Dun Laoghaire-Rathdown Co. Co. |
| Planning Authority Reg. Ref. | CTT.22.047-266695 |
| Applicant(s) | Emerald Tower Ltd. |
| Type of Application | Permission |
| Planning Authority Decision | Refuse Permission |
| Type of Appeal | First Party vs Refusal |
| Appellant(s) | Emerald Tower Ltd. |
| Observer(s) | None |
| Date of Site Inspection | 27 th August and 18 th September* 2023 (*photos) |
| Inspector | Leah Kenny |

1.0 Site Location and Description

The subject site is located on a grass verge on the east of an existing footpath along the west side of Killiney Hill Road (R119). The site is adjacent to the entrance to the Castle Court housing estate. Across Killiney Hill Road, and set back behind a landscaped median, are two storey detached houses that face the subject site (part of the Bayview housing estate).

The area is largely residential in nature, with the nearest dwelling c. 10 metres to the southwest (in Castle Court). The dwellings on the opposite side of Killiney Hill Road are c. 20m away.

The visual character of road is varied incorporating old and new stone boundary walls fronting directly onto the road or set back behind paths; and a variety of vehicular entrances to housing estates and / or other residential properties. There are semi-mature trees along the length of the median separating Killiney Hill Road from the road fronting houses of Bayview, and on one sided of the entrance to Castle Court. There is also a range of road signage and lighting poles in the vicinity.

2.0 Proposed Development

The proposed development consists of a 15-metre wireless broadband and data communications galvanised pole with internal cables and an antenna encased inside shrouding at the top of the pole. The Streetworks Pole has a diameter of 324mm - 406mm and includes 2no. link dishes part way up. The development includes a supporting ground-based equipment cabinet (1.9m (long) x 0.8m (deep) x 1.65 (high).

The pole has the capability to provide infrastructure for two operators (eir and another). The second antennae would be located below the eir antennae within the pole, provision is also made for a second supporting ground-based equipment cabinet.

The licence application was accompanied by a covering letter, planning statement and photomontages.

3.0 Planning Authority Decision

3.1. Decision

By letter dated 18th January 2023, Dun Laoghaire-Rathdown Co. Co decided to refuse the Section 247 Licence. Reasons given for the refusal relate to negative and cumulative visual amenity impacts at the Castle Court junction, interference with parks and road maintenance and road safety (sight lines).

4.0 Planning Authority Reports

4.1.1. Planning Report

The Planning Report had regard to the matters listed under Section 254(5) of the Planning and Development Act, 2000 (as amended) including compliance with policy, and visual impact and residential amenity having regard to the number of existing appliances / apparatuses in the area.

The Case Planner considered the proposed development would not have a significant impact on the surrounding residential and visual amenity having regard to the urban location, and existing utility and other structures along the road. In summary, the Case Planner has no objections to the proposed development under items (a), (b) or (c) of Section 254(5) of the Planning and Development Act, 2000 (as amended).

The application was screened for Appropriate Assessment and the screening showed no potential for significant effects. It was also concluded that given the nature and location of the proposal that there was no real likelihood of significant effects on the environment and the need for Environmental Impact Assessment could be excluded and a screening determination was not required.

4.1.2. Other Technical Reports

- Parks and Landscape – objected to the proposal based on perceived negative visual amenity impacts and impact on maintenance operations. An alternative location was proposed.

- Road Maintenance Section – objected to the proposal based on significant cumulative impact on the visibility envelope at the junction. They recommended relocation against the wall or another suitable location.
- Traffic Department – objected to proposal on the basis that it would interfere with sight lines for traffic exiting from Castle Court and create a road safety issue.
- Public Lighting – Suggest co-locating with existing ESB Networks pole.
- Water Services – No objection to the proposal.
- Infrastructure and Climate Change (Active Travel) – No comment given.

4.1.3. **Third Party Observations**

No Third-Party observations.

5.0 **Planning History**

There is no evidence of planning history for a telecommunication development on the site.

6.0 **Policy and Context**

6.1. **National Guidelines**

The Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities, 1996 set the criteria for the assessment of telecommunications structures. 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. These are an essential feature of all modern telecommunications networks. The Guidelines also set out that in most cases an applicant will only have limited flexibility as regards location, given the constraints arising from radio planning parameters. However, the sharing of installations and clustering of antennae is encouraged as co-location will reduce the visual impact on the landscape (Section 4.5).

In Section 4.3, the visual impact of masts is acknowledged as being among the more important considerations which must be considered in arriving at a decision on a particular application and this will vary depending on the general context of the proposed development. The Guidelines also state that some masts will remain quite noticeable despite best precautions and the following considerations may need to be taken into account:

- Along major roads or tourist routes, or viewed from traditional walking routes, masts may be visible but yet are not terminating views. In such cases it might be decided that the impact is not seriously detrimental.
- Similarly, along such routes, views of the mast may be intermittent and incidental, in that for most of the time viewers may not be facing the mast. In these circumstances, while the mast may be visible or noticeable, it may not intrude overly on the general view of prospect.
- There will be local factors which have to be taken into account in determining the extent to which an object is noticeable or intrusive include intermediate objects (buildings or trees), topography, the scale of the object in the wider landscape, the multiplicity of other objects in the wider panorama, the position of the object with respect to the skyline, weather and lighting conditions, etc.

Circular Letter PL 07/12 updated and revised certain sections of the 1996 Guidelines under Section 2.2 to 2.7.

Circular Letter PL 11/2020 clarifies telecommunications infrastructure along public roads carried out in accordance with a section 254 licence is exempt from planning. Section 254(5) of the Act outlines the criteria to which the Planning Authority shall have regard in assessing such licence proposals:

- 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.

The *Design Manual for Urban Roads & Streets, 2019* (DMURS) seeks to address street design within urban areas and sets out an integrated design approach. Section 4.4.5 considers visibility splays, and the following guidance is relevant in the context of the subject appeal:

- In general, junction visibility splays should be kept clear of obstructions, however, objects that would not be large enough to wholly obscure a vehicle, pedestrian or cyclist may be acceptable providing their impact on the overall visibility envelope is not significant.
- Slim objects such as signs, public lighting columns and street trees may be provided, but designers should be aware of their cumulative impact.

6.2. Development Plan

This application is considered under the Dun Laoghaire Rathdown County Development Plan 2022-2028 which came into force on the 21st of April 2022.

The subject site is not subject to a land use zoning objective; however, it immediately adjoins lands zoned Objective A, with the objective '*To provide for residential development and improve residential amenity while protecting the existing residential amenities*'.

There is also a Six-Year Road Objective for Killiney Hill Road (6 Year Road Objectives / Traffic Management / Active Travel Upgrades) .

Section 10.6 (Telecommunications) acknowledges that widespread availability of a high-quality telecommunications network throughout the county is critical to the development of a knowledge economy, and will help attract inward investment; however, this must be balanced against the need to safeguard the rural and urban environment, particularly in sensitive areas where the impacts on residential amenity and visual amenity of areas needs to be adequately assessed.

Relevant telecommunications policy is as follows:

- **Policy Objective EI20** (Telecommunications Infrastructure): To promote and facilitate the provision of an appropriate telecommunications infrastructure,

including broadband, fibre optic connectivity and other technologies, within the County.

Section 12.4.1 of the Development Plan addresses Traffic Management and Safety with reference being made to DMURS as providing design guidance relating to traffic management and safety issues. Section 12.4.8.1 relates to general specifications for vehicular entrances; and although not directly relevant to the subject appeal, it refers to the proper provision of sightlines in accordance with the requirements of DMURS.

Section 12.9.8 of the Development Plan sets out the specific requirements relating to telecommunications antennae and support structures, applicants will be required to demonstrate compliance with, as follows:

- Compliance with the Planning Guidelines for 'Telecommunications Antennae and Support Structures' (1996), and Circular Letter PL 08/12 issued by the Department of the Environment and Local Government (as may be amended from time to time), and to other publications and material as may be relevant in the circumstances.
- On a map the location of all existing telecommunications structures within a 1km radius of the proposed site, stating reasons why (if not proposed) it is not feasible to share existing facilities having regard to the 'Code of Practice on Sharing of Radio Sites', issued by the Commission for Communications Regulation.
- To what degree the proposal will impact on the amenities of occupiers of nearby properties, or the amenities of the area - e.g. visual impacts of masts and associated equipment cabinets, security fencing treatment etc. – and the potential for mitigating visual impacts including low and mid – level landscape screening, tree type masts being provided where appropriate, colouring, or painting of masts and antennae, and considered access arrangements.
- Any impacts on rights-of-way and walking routes.
- That the proposal shall not have a significant negative visual impact.

6.3. Natural Heritage Designations

The site is not located within a designated Natura 2000 site, it does not adjoin such a site nor is it within the zone of influence of such sites.

6.4. EIA Screening

Having regard to the modest scale and nature of the proposed development and the absence of any foreseeable emissions therefrom, the location of the site within a built-up urban area, I conclude that the necessity for submission of an EIAR and carrying out of EIA may be set aside at a preliminary stage.

7.0 The Appeal

7.1. Grounds of Appeal

In setting out the grounds of appeal, the appellant reiterated the justification and need for the proposal, the site selection process and options discounted, and detailed the design of the proposed 'Streetworks pole' and associated cabinets. In relation to the three grounds for refusal the appellant responded that:

- No significant visual impacts are predicted, as concluded in the visual analysis undertaken and supported by the submission of photomontages.
- The proposal could not be considered to result in significant cumulative effects as the proposal complies with visibility envelope specifications, detailed in the Development plan.
- A clear sight line distance of 70m is achieved as required under the Design Manual for Urban Roads and Streets (Section 4.4.4) and an updated General Layout Plan (DN-2946-01-L02) was submitted with the appellant response demonstrating this.

7.2. Planning Authority Response

The Planning Authority did not respond to the applicants grounds of appeal.

7.3. Observations

There were no observations.

8.0 Assessment

Principle

- 8.1.1. Both National policy and the Dun Laoghaire Rathdown County Council Development Plan support appropriate telecommunications infrastructure telecommunications, including broadband. From the details accompanying the application and the appeal, the proposed 15 metre telecommunications pole and associated cabinet is required to support eir's roll out of 3G and 4G networks and address high speed mobile broadband coverage and capacity issues in the Killiney Road / Bayview / River Close area and further eastwards towards the DART line. This is supported by the online ComReg mapping system, where a drop in the quality of 3G and 4G coverage relative to other areas is noticeable.
- 8.1.2. The *Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities, 1996* (the Guidelines) set the criteria for the assessment of telecommunications structures. They actively encourage co-location of antennae on existing support structures and for new antenna to locate within existing industrial estates, or industrially zoned land, in the vicinity of larger suburban areas or towns, insofar as this is possible. I note the applicant confirmed that no existing sites or structures are suitable to facilitate the co-location of the proposed development and that options, including alternative locations, have been exhausted. I also note that the proposed development can accommodate a second operator (with the antenna being located below the eir antennae within the pole, and provision for a second cabinet for a subsequent operator).
- 8.1.3. I consider that the applicant has provided sufficient information to justify the need for the proposal. Taking into consideration the emphasis placed in national and regional policy documents on the provision of adequate telecommunications including broadband and the fact that the policies and objectives of the current Dun Laoghaire Rathdown County Development Plan reflect this priority, I consider that the principle of the development is acceptable.

Visual Amenity

- 8.1.4. The Parks and Landscape Service Section of Dun Laoghaire Rathdown considers the proposed development would result in significant negative visual amenity impacts.
- 8.1.5. In the first instance, I note that the area is not designated to reflect a particular sensitivity and is also not in, or in proximity to any views or prospects or structures listed for protection in the Development Plan.
- 8.1.6. I also note the visual character of the area is synonymous with a built-up urban / suburban location comprising a mosaic of typical elements including busy road, varied residential development, various vehicular entrances / setbacks / green areas, trees and public utilities, such as street lighting and road signage. The photomontages included within the application are useful to illustrate this character, which I consider to be robust.
- 8.1.7. I do not consider that the proposed development would present as overly dominant, or be an overbearing feature, in its context. From my site visit, and as evident on the existing and proposed views included in the application, the structure is visually absorbed into the streetscape background in the more distant views of the structure from further up Killiney Hill Road (to the north); from further down Killiney Road (to the south) only the top portion of the structure can be seen over the roofs of intervening properties. I also do not consider it would result in a proliferation of this type of infrastructure to the extent it detracts from the amenities of the area.
- 8.1.8. In terms of the more immediate visual context, the proposed development comprises a single, monopole structure with a diameter of 0.4 metres and overall height of 15 metres supporting shrouded antennae. Whilst I acknowledge the full extent of the proposed development, including both the mast and cabinets, would mainly only be visible in close-up views and it would be more visible than some of the existing utilities in the area, I consider that it would not be so visually disruptive to the degree that it would seriously injure the visual and residential amenity of the more immediate receiving environment.
- 8.1.9. Having regard to its location, and the orientation of houses within Caste Court it will not have a direct negative visual impact. While it will be partially evident above the roofs, walls and feature entry gate from within the estate, this will be further mitigated

by intervening semi-mature trees. It will be evident from the houses directly across Killiney Hill Road; however, they are set back 20m behind a busy road, a landscaped median and the access road to their properties. Furthermore, there is already a lighting / telephone pole in the verge area and other street furniture in the immediate area. I note that a semi-mature tree within the same verge area as the proposed development has recently been removed – with only a stump remaining.

8.1.10. Having regard to the foregoing, I consider that another vertical element (even at 15m high) would not materially impact more immediate views. In this regard, I am also cognisant of the design of the Streetworks Pole with the shrouded antennae and its grey colour.

8.1.11. I further acknowledge that the ground-based cabinets introduce a new structure to the public realm, potentially more evident to pedestrians, cyclists and slow-moving motorists. From a visual amenity perspective, ideally, they would be located at the back of the pavement, adjacent to the wall or within the planted area in front of the gateway feature into Castle Court; however, these structures are commonplace in the verge locations such as this in urban / suburban environments such as this. The issue of impact on visibility splays from a traffic perspective is considered below.

8.1.12. As evidenced from my site visit, and the photomontages provided with the application, I do not consider that the proposal would give rise to concerns in terms of significant negative visual amenity impacts.

8.1.13. Therefore, I consider the proposal to be acceptable from a visual impact and residential amenity perspective and that is it in accordance with the provisions of the County Development Plan including Policy Objective EI20 and the development management requirements as set out in Section 12.9.8.

Traffic Safety

8.1.14. The Road Maintenance Section of the Planning Authority has concerns relating to the cumulative impact of the overall visibility envelope at the junction of Killiney Road and Castle Court. Similarly, the Traffic Section objects on the basis the proposed location will interfere with sight lines for traffic existing Castle Court, and as such will create an issue for road safety.

- 8.1.15. It is acknowledged that the grass verge already includes an ESB pole and the stump of a recently removed tree. The ESB pole is within the visibility envelope of motorists existing Castle Court (as it is located at the edge of the roadway), however, it is a narrow vertical element in the open context provided by the setback boundary wall / railings, relatively wide grass verge and pedestrian path on the south side of Castle Court.
- 8.1.16. Information in the appeal demonstrates that a sight line of 70m can be achieved at the junction from the Castle Court / Killiney Road junction road. I note that the applicant considers this sight line to be fully in compliance with the Development Plan and DMURS (i.e., a sight line of 70m in a 50km zone); however, the design speed and sight line information provided in the appeal also refers to NRA's Design Manual for Roads and Bridges (DMRB); and as stated in the DMURS, DMRB no longer applies to urban roads and streets except in exceptional circumstances and were / are primarily intended to be applied to new streets. DMURS does however include a forward visibility Stopping Sight Distance (SSD) standard of 45m in a 50km zone in Table 4.2 of Section 4.4.4.
- 8.1.17. Section 4.4.5 of DMURS then goes onto explain how visibility splays are included at junctions to provide sight lines along the intersected street to ensure that drivers have sufficient reaction time should a vehicle enter their path. In this regard, I note that a) in achieving a 2.4m stop distance to allow drivers observe traffic when exiting the intersected Castle Court access road after the location of the proposed development, and b) in achieving a 70m distance that drivers exiting can see to the right along Killiney Hill Road, that this exceeds the SSD of 45m in a 50km zone and a driver of a vehicle travelling along Killiney Hill Road can therefore have sufficient reaction time to stop safely should an object enter its path.
- 8.1.18. The DMURS guidance at Section 4.4.5 in respect of junction visibility splays also advises they should be kept clear of obstructions, however, objects that would not be large enough to wholly obscure a vehicle, pedestrian or cyclist may be acceptable providing their impact on the overall visibility envelope is not significant. It further notes that designers should be aware of cumulative impact.
- 8.1.19. I note that, based on general layout submitted, the proposed development is not within the visibility splay for the junction, although the existing ESB pole is. However,

it will introduce another vertical element (with a diameter of 0.4 metres) and ground mounted equipment cabinets (0.8 metres) into the general area.

8.1.20. I also note that the subject junction is not heavily trafficked, serving the residents of the Castle Court development only (66no. dwellings), and Killiney Hill Road has traffic calming. Having regard to the foregoing, and notwithstanding the presence of the existing ESB pole and tree stump, I do not consider the introduction of 0.8m wide cabinet(s) and telecommunications pole c will, cumulatively, interfere with sight lines to an extent that it would create an issue for road safety.

8.1.21. I am therefore satisfied that the development is in accordance with the DMURS and therefore in accordance with the Dun Laoghaire Rathdown County Development Plan 2022 – 2028.

Appropriate Assessment Screening

8.1.22. Having regard to the nature and scale of the proposed development and the proximity to the nearest European site, 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.

9.0 Recommendation

I recommend that the licence be granted for the reasons and considerations set out below and subject to the following conditions.

10.0 Reasons and Considerations

Having regard to the nature, scale and design of the proposed development, which is a 15m high freestanding monopole carrying telecommunications equipment with ancillary ground-mounted infrastructure, the provisions of section 254 of the Planning & Development Act, 2000 (as amended), the Dun Laoghaire Rathdown County Development Plan, 2022, and the 'Telecommunications Antennae and Support Structures - Guidelines for Planning Authorities (1996) and Circular Letter PL 07/2012 and PL11/2020; it is considered that the proposed development would not seriously injure the visual or residential amenities of the area or the amenities of

property in the vicinity of the site or give rise to concerns with regard to sight lines for traffic. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

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| 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>Reason: In the interest of clarity.</p> |
| 2. | <p>Details of the proposed colour scheme for the telecommunications structure and ancillary structures shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of the visual amenities of the area.</p> |
| 3. | <p>A low intensity fixed red obstacle light shall be fitted as close to the top of the mast as practicable and shall be visible from all angles in azimuth. Details of this light, its location and period of operation shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of public safety.</p> |

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.



Leah Kenny
Planning Inspector

20th September 2023