



An  
Bord  
Pleanála

# Inspector's Report

## ABP-315840-23

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<b>Development</b>	Application for telecommunications structure licence
<b>Location</b>	Rochestown Road, Monfieldstown, Cork
<b>Planning Authority</b>	Cork City Council
<b>Planning Authority Reg. Ref.</b>	T22.021
<b>Applicant(s)</b>	Emerald Tower Limited
<b>Type of Application</b>	Telecoms structure Licence
<b>Planning Authority Decision</b>	Refuse to Grant a Licence
<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>	26/07/2023
<b>Inspector</b>	Gillian Kane

## 1.0 Site Location and Description

1.1. The subject site is located on the southern side of Rochestown Road, close to the junction with Thornbury Heights, in the Cork city suburb of Rochestown. One of the green spaces for the housing estate fronts on to Rochestown Road with a low stone wall. Currently behind the boundary wall are two utilities cabinets, adjoining a pedestrian entrance on to the footpath. There are a number of large mature trees on the green.

## 2.0 Proposed Development

2.1. On the 3<sup>rd</sup> October 2022, a licence under section 254(1) of the Planning and Development Act 2000, as amended, was sought for the installation of an 18m dual operator pole, associated equipment and ground-based cabinets. The cover letter submitted with the application states that the proposed development will provide for the co-location of two separate operators equipment on the same pole.

2.2. The application was accompanied by a Planning Statement.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. On the 25<sup>th</sup> January 2023, the Planning Authority issued a notification of their intention to REFUSE permission for the following reasons:

- 1 The location of the proposed development is within the sight envelope of the junction of Thornbury Heights housing estate and Rochestown Road and would render the junction unsafe for use, contrary to planning policy objectives for the area, and those aspects outlined in 254(5) (a)-(d) of the Planning and Development Act 2000, as amended.
- 2 The proposed development by reason of its location, size, and associated equipment would be visually prominent and would seriously detract from the character and visual amenities of the area.

### 3.2. Planning Authority Reports

3.2.1. **Roads Operations Division:** The location is within the line of sight envelope of the junction. This would render the junction unsafe for use. Alternate locations across the road outside the road curtilage of Rochestown road.

3.2.2. **Planning Report:** Planning Authority has serious concerns about the visual impact of the structure by reason of height and accompanying cabinets, in terms of the visual impact and the ability to successfully assimilate into the existing environment. Notes the roads report recommending refusal. Recommendation to refuse permission.

3.3. **Prescribed Bodies**

None on file

3.4. **Third Party Observations**

None on file.

4.0 **Planning History**

4.1.1. None on file.

5.0 **Policy Context**

5.1. **National Planning Framework – Project Ireland 2040**

5.1.1. Objective 24 – ‘Support and facilitate delivery of the National Broadband Plan as a means of developing further opportunities for enterprise, employment, education, innovation and skills development for those who live and work in rural areas.’

5.2. **Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities (1996)**

5.2.1. 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.

5.2.2. Section 4.3 of the Guidelines refers to visual impact and states that only as a last resort should free-standing masts be located within, or in the immediate surrounds,

of smaller towns or villages. If such locations should become necessary, sites already developed for utilities should be considered, and masts and antennae should be designed and adapted for the specific location.

5.2.3. The support structure should be kept to the minimum height consistent with effective operation. The Guidelines also state that visual impact is among the more important considerations that should be considered assessing a particular application. In most cases, the Applicant will only have limited flexibility as regards location, given the constraints arising from radio planning parameters, etc. Visual impact will, by definition, vary with the general context of the proposed development.

5.2.4. The Guidelines state that the approach will vary depending on whether a proposed development is in:

- a rural/agricultural area;
- an upland/hilly, mountainous area;
- a smaller settlement/village;
- an industrial area/industrially zoned land; or
- a suburban area of a larger town or city.

5.2.5. The Guidelines state that some masts will remain quite noticeable despite best precautions. For example, there will be local factors which have to be taken into account in determining the extent to which an object is noticeable or intrusive. This may 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, lighting conditions, etc. 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.

### **5.3. Guidance on the Potential Location of Overground Telecommunications Infrastructure on Public Roads, (Dept. of Communications, Energy and Natural Resources, 2015)**

5.3.1. This report provides advice to telecommunications operators as to how telecommunications infrastructure could be accommodated along all road types.

Table A – Stand-alone poles are the preferred option in urban areas.

#### 5.4. **DoECLG Circular Letter PL07/12**

5.4.1. This Circular was issued to Planning Authorities in 2012 and updated some of the sections of the above Guidelines including ceasing the practice of limiting the life of the permission by attaching a planning condition. It also reiterates the advice in the 1996 Guidelines that planning authorities should not determine planning applications on health grounds and states that, 'Planning authorities should be primarily concerned with the appropriate location and design of telecommunications structures and do not have competence for health and safety matters in respect of telecommunications infrastructure. These are regulated by other codes and such matters should not be additionally regulated by the planning process'.

5.4.2. 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.

#### 5.5. **DoHELG Circular Letter PL 11/2020**

5.5.1. This circular provided clarification in relation to the planning exemptions applicable to telecommunications works undertaken by statutory undertakers authorised to provide telecommunications services.

5.5.2. 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.
- 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.

5.5.3. Section 254(5) of the Act outlines the criteria to which the Planning Authority shall have regard in assessing such 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.

## 5.6. **Cork City Development Plan 2022-2028**

5.6.1. The subject site is zoned ZO 01 Sustainable Residential Neighbourhoods, with the stated objective to protect and provide for residential uses and amenities, local services and community, institutional, educational and civic uses.

5.6.2. **Section 9.26:** An efficient telecommunications system is important in the development of the economy. Cork City Council will have regard to the guidelines issued by the Department of the Environment, Heritage and Local Government, 'Planning Guidelines for Telecommunications Antennae and Support Structures' (1996) and Circular Letter PL 07/12. The assessment of individual proposals will be governed by the guidelines and the controls scheduled in the Development Management section of this plan.

5.6.3. **Section 11.256** of the plan refers to Telecoms Structures, stating:

The assessment of any application for telecommunications antennae and support structures shall have regard to the following:

1. Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities, DECLG, 1996 and Circular Letter PI 07/12 published by the DECLG in 2012.
2. The co-location of existing structures is encouraged and the construction of any new antennae or structure will only be considered when co-location is not a feasible option. Any proposal for a new structure or antennae should detail the requirements for the infrastructure and if so, why co-location is not feasible.
3. In identifying a suitable location for telecommunications structures consideration shall be given to the potential visual impact of the development and any sensitivities in the area in which the structure is proposed to be located. A Visual Impact Assessment of the development, including photomontages, may be required, depending on the nature of the development proposed.
4. Telecommunications Structures on visually sensitive elevated lands will only be considered where technical or coverage requirements mean the infrastructure is essential.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- 6.1.1. An agent for the first party has submitted an appeal against the decision of the Planning Authority. The grounds of the appeal can be summarised as follows:

#### **Technical Justification**

- Eir require a site in the search area. Three images submitted – search ring CK\_2954, coverage without CK\_2954 and predicted new indoor coverage with CK\_2954.
- Current sites do not provide adequate service, indoor coverage is patchy.
- A mobile base station deployment will greatly support Eir customers and the surrounding area.

## Site Selection

- First choice is co-location. Already done at the nearest 3 out of 4 telecoms structures – Table 1 and Figure 1.
- No suitable existing structures in the ‘search ring’. The amount of intervening vegetation and built form, and the densely populated area require a new structure. Subject site is a last resort as required by 1996 Government Guidelines.
- Height is lowest possible to ‘see’ over surrounding trees and built form.
- All mobile operators have an obligation to provide 100% coverage. 2G technology has a 10km range. Newer technologies such as 4G and 5G require closer sites. Nearest sites are too far to work.
- Sites must be high enough to ensure the antennas can transmit and receive. They must also be: environmentally suitable, within the search ring, be capable of being developed – sufficient space for equipment and avoiding underground and overhead utilities, far enough away from residential properties, leave sufficient pavement space and have power and fibre connections nearby.
- Land is owned by Cork City Council.
- Excellent tree screening minimises visual impact.
- Proposed 18m high pole, with diameter of 406mm and grey finish will assimilate with typical sky colour. Can be painted dark fir green or black by condition. Cabinets will be fir green.
- It is submitted that the proposed development would not seriously impact upon the visual or residential amenity of the area and would not form an obtrusive feature.

## Reason no. 1

- The visibility envelope required by the Cork City Development Plan 2022-2028 and the Design Manual for Urban Roads and Streets, section 4.4.4. states that junction visibility splays should be clear of obstruction. However, objects that would not be large enough to wholly obscure a vehicle, pedestrian or cyclist may be acceptable providing their impact is not significant.



- Revised drawing no. CK-2954-01-L02 shows the distance from the edge of the Manor Rise Road. The proposed development provides for a 70m sightline, in a 50kph zone.

## **Reason no. 2**

- The Visual Impact Assessment undertaken concludes that the proposed development will not have a significant negative visual impact on the surrounding area.
- There are no impacts on heritage, ecology, or landscape.
- An ICNIRP Declaration was submitted with the application.
- Photomontage Report submitted with the appeal. 2 no. viewpoints will have negligible visual impact (VP3 Rochestown road east of the site and VP4 Rochestown Road west of the site). 2 no. viewpoints (VP 1 Manor Heath and 2 Rochestown Road ) will have moderate-low impact which is not significant.
- According to the Guidelines for Landscape and Visual Assessment, the proposed development would not seriously detract from the character and visual amenity of the area.
- The Board is requested to disregard the second reason for refusal.
- The proposed development supports two of the ten goals of the National Planning Framework, section 1, section 6.2 and section 6.2.3 of the RSES for the Southern Region of Ireland, section 9.24 (Digital Strategy), section 9.25 Smart Cities, section 9.26 Telecoms, and section 11.253 Telecoms Structures of the Cork City Development Plan 2022-2028.
- The subject site forms part of the local road infrastructure and is not zoned.
- The proposed development accords with the Department of Environment, Heritage and Local Government Telecommunications Antenna and Support Structures Guidelines for Planning Authorities 1996 and Circular PL07/12.
- In conclusion, the Board is requested to grant permission.

## **6.2. Planning Authority Response**

- 6.2.1. None on file.

## 7.0 Assessment

7.1.1. The proposed development is brought forward under section 254(1) of the Planning and Development Act 2000 (as amended). In their consideration of the development, under section 254(5) of the Act, the Board is required to 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.

7.1.2. I have examined the file and the planning history, considered national and local policies and guidance, the submissions of all parties and inspected the site. I have assessed the proposed development and I am satisfied that the issues raised adequately identify the key potential impacts and I will address each in turn as follows:

- Principle of development
- Co-Location
- Visual Impact
- Traffic Hazard

## 7.2. Principle of Development

7.2.1. The appellant states that the subject site forms part of the local road infrastructure and is not zoned. That is not correct. Map 14 of the Cork City Development Plan 2022-2028 shows the site zoned ZO 1 Sustainable Residential Neighbourhoods. Within such zones, telecoms structures are not listed as a primary use or uses that are acceptable in principle. Section ZO 1.2 of the plan states that development in this zone should generally respect the character and scale of the neighbourhood in which it is situated and that development that does not support the primary objective of this zone will be resisted.

7.2.2. Section 9.24 of the plan outlines the Planning Authority's plan for a Digital Strategy – one which requires that the City has Tier One telecoms connectivity. Section 9.26 of the Development Plan acknowledges that an efficient telecoms system is important

in the development of the economy and requires regard to be had to the guidelines issued by the Department of the Environment, Heritage and Local Government, 'Planning Guidelines for Telecommunications Antennae and Support Structures' (1996) and Circular Letter PL 07/12.

- 7.2.3. Section 11.256 of the plan sets out four criteria against which the assessment of any application for telecommunications antennae and support structures shall have regard. These are reference to the national policy, co-location, potential visual impact and justification where the lands are visually sensitive elevated lands. The subject site is not a visually sensitive land and so, only co-location and visual impact are relevant.

### 7.3. Co-Location

- 7.3.1. The appellant has submitted details of the requirement for the newer 5G technology, namely that poles are required at closer intervals than the 10km that was sufficient for 2G and 4G. Details of the poles in the area are provided (Table 1 and Figure 1) and the operators existing on the poles. The applicant operator is already in position on each of these poles and the coverage black spot at the subject site remains.
- 7.3.2. I am satisfied that the appellant has demonstrated a need for the proposed development at the subject location. I consider that the Applicant has provided adequate technical justification showing that there are service deficiencies in the area, which would be resolved by the proposed development. The proposal is consistent with the 1996 Guidelines, which require co-location of antennae on existing support structures, but that where this is not feasible to submit evidence of the non-availability of this option.

### 7.4. Visual Impact

- 7.4.1. The appellant notes that the subject site, outside of the low boundary wall adjoining the housing estate and front on to the busy Rochestown Road with its many urban infrastructure utilities is the most appropriate site with the least impact on residential and visual amenity. I concur with this submission. There are two utility cabinets on the open space, inside the boundary wall. They are largely hidden from view, due to both the utilitarian finish and the frequency of their existence in urban areas resulting in their becoming largely invisible to people.

- 7.4.2. The proposed pole at 18m high and of 406mm diameter would introduce a new element. However, it is considered that it would not be obtrusive or conspicuous, due to the nature of the built environment. It would simply read as another piece of urban infrastructure.
- 7.4.3. I am satisfied that the proposed visual impact is acceptable. While it is acknowledged that the proposed development will be visible in short distance views of the site, in my opinion, the visual impact assessment which accompanies the application demonstrates that the monopole and antennae structure will read as a normal part of the urban environment, with no significant negative visual impact arising.

#### **7.5. Traffic Hazard**

- 7.5.1. The traffic department of the City Council considered that the proposed development was within the sight envelope of the junction of Thornbury Heights and Rochestown Road and would thus represent a traffic hazard.
- 7.5.2. The appellant has submitted drawings showing 70m sightlines available in both directions from the junction, set back 2.4m, in accordance with DMURS. The proposed cabinets at 1.65m high and 800mm deep are not likely to obstruct sightlines for vehicles existing from Thornbury Heights. I note that pedestrians are provided with a pedestrian access to the west of the vehicular exit point and therefore avoid the proposed cabinets.
- 7.5.3. I am satisfied that no traffic hazard will arise from the proposed development and that the safety and convenience of road users will not be adversely impacted.

#### **7.6. Appropriate Assessment**

- 7.6.1. Given the nature and scale of the development proposed, which is for a telecommunications support structure and ancillary works, and separation distance from the nearest Natura 2000 site, it is considered that the proposal would not be likely to have a significant effect individually or in combination with other plans and projects on a European site and there is no requirement for a Stage 2 Appropriate Assessment.

## 8.0 Recommendation

- 8.1.1. I recommend that a licence be granted for the proposed development subject to the conditions set out below.

## 9.0 Reasons and Considerations

- 9.1.1. Having regard to the provisions of section 254 of the Planning and Development Act 2000, as amended, to national, regional and local policy objectives, as represented in the Cork City Development Plan 2022-2028, to support the development of a sustainable telecommunications network throughout the city, to the Department of Environment, Heritage and Local Government section 28 Statutory Guidelines, “Telecommunications Antennae and Support Structures: Guidelines for Planning Authorities, 1996, as updated by circular letter PL 07/12 in 2012, and to the nature and scale of the development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>This licence is for one 18m freestanding pole and antennae and associated operator cabinets only in accordance with the details submitted to the planning authority on 3rd October 2022.</p> <p><b>Reason:</b> To clarify the nature and extent of the permitted development to which this licence relates and to facilitate a full assessment of any future alterations.</p>
2.	<p>(a) The licence shall be valid for a period of 5 years only from the date of this Order. The telecommunications structure and related ancillary structures shall then be removed unless, prior to the end of the period, a further Section 254 licence has 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 licence.</p> <p><b>Reason:</b> To enable the impact and acceptability of the development to be reassessed, having regard to changes in technology and design during the specified period.</p>
3.	<p>No advertisement or advertisement structure shall be erected or displayed on the proposed structure or within the curtilage of the site.</p> <p><b>Reason:</b> In the interest of the visual amenities of the area.</p>
4.	<p>The structures hereby permitted shall not interfere with existing services, existing drainage systems and shall not obstruct pedestrian access.</p> <p><b>Reason:</b> In the interests of orderly development and pedestrian 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.

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Gillian Kane  
Senior Planning Inspector

04 December 2023

## Appendix 1 - Form 1

### EIA Pre-Screening

**[EIAR not submitted]**

<b>An Bord Pleanála Case Reference</b>			
<b>Proposed Development Summary</b>	Telecoms pole and cabinets		
<b>Development Address</b>	Rochestown Road, Cork		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	Y
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>		Not of a class	Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
			<b>Conclusion</b>
<b>No</b>		N/A	No EIAR or Preliminary Examination required
<b>Yes</b>		n/a	Proceed to Q.4

**4. Has Schedule 7A information been submitted?**

<b>No</b>	n/a	<b>Preliminary Examination required</b>
<b>Yes</b>	n/a	<b>Screening Determination required</b>

**Inspector:** \_\_\_\_\_

**Date:** \_\_\_\_\_