



An  
Bord  
Pleanála

## Inspector's Report ABP315841-23

<b>Development</b>	Section 254 License for 18 metres high telecommunications pole, ground based equipment cabinets and associated works.
<b>Location</b>	St. Nessian's Road, Dooradoyle, Co. Limerick.
<b>Planning Authority</b>	Limerick City and County Council.
<b>Planning Authority Reg. Ref.</b>	L22.03.
<b>Applicant</b>	Emerald Tower Limited.
<b>Type of Application</b>	Section 254 Licence.
<b>Planning Authority Decision</b>	Refusal.
<b>Type of Appeal</b>	First Party
<b>Appellant</b>	Emerald Tower Limited.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	4 <sup>th</sup> May 2023.
<b>Inspector</b>	Derek Daly

## **1.0 Site Location and Description**

1.1. The proposed site is located in the suburb of Dooradoyle to the west of Limerick City centre on an area of open space inside of a wall which is located on the southern side of St Nesson's Road a major arterial road leading westward from the centre of Limerick City. There is a footpath between the wall and the of St Nesson's Road carriageway. The open space on which the appeal site is located is part of a residential development Graney Close. Immediately to the north east of the appeal site adjoining the appeal is a petrol service station and there is pillar type advertising structure located in close proximity to its western boundary adjoining the appeal site. There is also a public light in close proximity to the location of the proposed development. Residential units predominate in the immediate area but there are number of professional/medical related services and the grounds of Limerick Regional Hospital is located approximately 700 metres to the north east also fronting onto St Nesson's Road. The appeal site itself does not immediately adjoin a residential unit.

## **2.0 Proposed Development**

- 2.1. The proposed development consists of the construction of an 18 metre high free-standing communications pole structure referred to as a dual operator pole with its associated antennae, ground equipment, and all associated site development works. The monopole would accommodate three antennae encased within the pole with no external dishes proposed and for two ground cabinets 1650mm in height on either side of the pole structure are proposed.
- 2.2. The proposal is presented as a streetworks solution to address identified mobile and wireless broadband coverage blackspots in urban areas and address an urgent requirement to provide new and improved high speed and broadband services and which allows for multi operator use.
- 2.3. The application documentation includes; a letter of consent from Limerick City and County Council, certification of authorisation from Comreg, a safety statement, public liability and employers liability insurance, an indemnity letter, an Eir ICNIIPR Declaration, a justification of the need for the proposed development at this location;

other sites in the area considered and discounted, a statement of compliance with local and national guidance, a visual impact assessment with photomontages and drawings of the existing structure and onsite development and the proposed development.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The decision of the planning authority was to refuse the licence. One reason was stated namely;

The Planning Authority recommends refusal of the licence on the grounds that proposed pole and associated structures would detract from the visual amenities of the area and would lead to unnecessary clutter.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The planning report refers to visual clutter already exists on this route and there are opportunities to co-locate on the roof spaces of the hospital complexes nearby. Refusal recommended.

#### **3.2.2. Other Technical Reports**

The transportation services report dated the 13<sup>th</sup> September 2022 refers to site as within the ownership of the local authority and Limerick City and County Council has no objection to the inclusion of these lands for the sole purpose of making a s254 application.

## **4.0 Planning History**

None relevant.

## 5.0 Policy and Context

### 5.1. Development Plan

The relevant plan is the Limerick City and County Development Plan 2022-2028 (CDP).

Chapter 8 relates to Infrastructure and section 8.4 specifically to Digital Connectivity and Limerick's Digital Strategy and that Limerick City and County Council is aware of the need for high quality digital and mobile information communication systems. The plan references various plans policies at national, regional and local level to advance the ongoing and future development of digital telecommunications infrastructure and in Objectives IN O2 and IN O3 to promote this technology. There are also a specific objective IN O4 to support delivery of broadband services.

Section 8.4.2 relates to Telecommunications Support Structures, Antennae and Domestic Satellite Dishes indicating that *"the Council recognises the importance of high-quality telecommunication infrastructure as a prerequisite for a modern society and economy. While the advantages of a high-quality ICT infrastructure is acknowledged, these must be balanced with the need to safeguard both the urban and rural landscape, which can be significantly impacted due to the physical nature of telecommunication structures. Visual impact should be kept to a minimum, with detailed consideration of design, siting and the scope for utilising landscaping measures effectively. In considering planning applications, regard shall be had to Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities, DECLG, 1996, Circular Letter PI07/12 and the Planning and Development Regulations 2001 (as amended). These guidelines and regulations encourage the sharing or clustering of sites"*.

In chapter 12 which refers to land use strategy in the zoning matrix areas zoned open space Telecommunications Structures are open for consideration. The plan states a use open for consideration is one which the Council may permit where it is satisfied that the suggested form of development will be compatible with the policies and objectives for the zone, will not conflict with existing uses or the proper planning and sustainable development of the area.

## 5.2. National Planning Guidelines

5.2.1. Telecommunications Antennae and Support Structures; Guidelines for Planning Authorities, 1996. Section 4.3 includes; Only as a last resort should freestanding masts be located within or in the immediate surrounds of smaller towns and villages. If such 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.

5.2.2. Circular Letters PL 07/12 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 and safety and reiterates that this is regulated by other codes and is not a matter for the planning process
- Include waivers on future development contribution schemes for the provision of broadband infrastructure.

5.2.3. Circular Letter PL 11/2020 '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.
- 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.
- 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.

### **5.3. Natural Heritage Designations**

None relevant

### **5.4. EIA Screening**

- 5.4.1. The proposed development does not fall within the scope of any of the Classes of development for the purposes of EIA.

## **6.0 The Appeal**

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

- 6.1.1. The main grounds of appeal can be summarised as follows:
  - The appellant refers to pre application consultations and discussions in relation to the location of the mast which included relocation from the original suggested location.

- Reference is made to the technical justification for the development in the context of the current service provided and deficiencies in the existing service provided.
- No suitable existing structures were identified for co-location and there is an obligation to provide 100% coverage. The use of the hospital complex was considered in the site selection process and this site was discounted the site as it was considered to be significantly outside of the search ring and would not meet the coverage objective.
- Reference is made to the design of the proposed structure and that will minimise visual impact with its slimline, slender and unfussy design.
- No sensitive designated areas are impacted by the proposal.
- The proposal is in line with national policy to provide an essential public service.
- Reference is made to the visual assessment carried out which was prepared in accordance with the Guidelines for Landscape and Visual Impact Assessment 2013 and analysis from four identified viewpoints which identifies no significant effect.
- Rather than contributing to clutter by having a shared pole the proposal will reduce clutter and the proposal can be comfortably absorbed into its host landscape being a large main road which contains many vertical structures.
- Reference is made to national, regional and city/county policy guidance which promotes improving digital connectivity.
- It is not considered by the appellant that the Planning Authority had due consideration to the fact that the requirement for this proposed development is to provide broadband services to this largely residential area where there is demand for such services.

## 6.2. Planning Authority Response

No response

## 7.0 Assessment

7.1. The main issues in this appeal are those raised in the planning authority's reason for refusal. Appropriate Assessment also needs to be considered. I am satisfied that no other substantive issues arise.

The issues are addressed under the following headings:

- Need for the development.
- Visual Impact / Site Selection.
- Appropriate Assessment

### 7.2. Need for the development.

7.2.1. The appellant has stated the need for the upgrading of the telecommunications network, that the existing service in the area is deficient and there is a need to make provision for an improved service provision in the area. On the basis of the information submitted the need for an improved telecommunications network is accepted and the planning authority would also appear to recognise this. The issue is the site as selected. It is also noted the applicant/appellant is making provision for sharing the proposed development and in principle the proposed development is acceptable.

### 7.3. Visual Impact / Site Selection.

7.3.1. The primary issue which arises in relation to this appeal is one of visual impact and the stated reason for refusal that the proposed pole and associated structures would detract from the visual amenities of the area and would lead to unnecessary clutter.

7.3.2. In addressing the proposed development the Planning Authority have relied on the stated provisions of section 8.4.2 of the CDP in recognising the importance of high-quality telecommunication infrastructure as a prerequisite for a modern society and economy but this must be balanced with the need to safeguard both the urban and rural landscape, which can be significantly impacted due to the physical nature of telecommunication structures and that visual impact should be kept to a minimum, with detailed consideration of design, siting and the scope for utilising landscaping measures effectively.



- 7.3.3. In the initial submission as part of the planning application and in the grounds of appeal the applicant/appellant has submitted details relating to an assessment of visual impact and contends that this assessment identifies no significant effect and in relation to clutter rather than contributing to clutter by having a shared pole the proposal will reduce clutter and the proposal can be comfortably absorbed into its host landscape being a large main road which contains many vertical structures.
- 7.3.4. Specifically in relation to site selection and the reference by the planning authority to the use of the hospital complex. The appellant in the grounds of appeal refers to the site selection process having considered this site and discounted the site as it was considered to be significantly outside of the search ring and would not meet the coverage objective.
- 7.3.5. Having assessed the information on file, and the existing coverage information that is available on the ComReg website, I am satisfied that alternative sites had been considered by the Applicant, the proposal is justified, and that it would help to improve the existing service network coverage for the surrounding area. The Applicant has provided adequate technical justification that demonstrates there are service deficiencies in the area, which would be addressed by the proposed development. The proposal is consistent with local and national guidance 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.
- 7.3.6. It is well recognised that placing infrastructure of this nature within urban centres is challenging and this is reflected in the advice contained in Section 4.3 of the Telecommunications Antennae and Support Structures Guidelines (the Guidelines). It is also recognised in national and local policy that there is a need for the provision of telecommunications infrastructure to meet future demand and to address current deficiencies.
- 7.3.7. The proposal is for an 18 metre high monopole structure which would accommodate three antennae encased within the pole with no external dishes. The proposal is presented as a streetworks solution to address identified mobile and wireless broadband coverage blackspots in urban areas and also to address an urgent requirement to provide new and improved high speed and broadband services and which allows for multi operator use.

- 7.3.8. Based on the inspection of the appeal site and I would acknowledge that the proposed telecommunications facility may result in some potential visual impact being incurred on the local environment. This is largely due to the height of the proposed monopole, which is 18 metres.
- 7.3.9. In relation to its actual location, it is located on open space set back just inside the roadside boundary wall and will be visible in both directions along this route. As such there is not a high level of screening but its visual impact is largely confined to the approaches in both directions from the main road towards the site. I note that in pre-application discussion a site approximately 100 metres to the south was being initially considered but it was relocated to the current site to move away from existing dwellings and closer to the filling station. Moving the mast eastwards further from the road along the filling station boundary would move the mast nearer residential properties and in its current location it is at the furthest point from any residential property. There is a vertical pillar sign on the adjoining filling station site in close proximity to the site of the proposed mast and there is also a public lighting standard. Given the wide open nature of the site and surrounding area and the relatively low level of structures visual cluttering does not I consider arise.
- 7.3.10. It is also recognised in the guidelines that in relation to providing this infrastructure there are there will be limited flexibility in relation to identifying locations. However, the advice also concedes that existing utility sites should be considered and this matter has been I considered addressed.
- 7.3.11. There is also reference to specific design solutions should be employed and in relation to the current proposal the streetworks solution of a monopole with no external dishes is a specific design solution to meet the need to provide what is now considered to be an essential modern infrastructure in an urban setting and compared to previous masts it will be less visual obtrusive in the receiving townscape in which it is located. It will be visible given its height but is it a slimline vertical structure which is not immediately adjoining residential properties and located in close proximity to a busy well trafficked road.
- 7.3.12. In summary, I do not consider that the proposed development would present as overly dominant, or be an overbearing feature. Therefore, I consider the proposal to be acceptable from a visual impact and residential amenity perspective. I would

therefore consider that in the context of the site and its surroundings it will not detract from the visual amenities of the area or lead to unnecessary clutter.

## 8.0 Recommendation

8.1. I recommend that the section 254 Licence be granted.

## 9.0 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 Limerick City and County Development Plan 2022- 2028, and the 'Telecommunications Antennae and Support Structures - Guidelines for Planning Authorities (1996) (as updated by Circular Letters PL 07/12 and PL11/2020, respectively); 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. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	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. <b>Reason:</b> In the interest of clarity
2.	a) This licence shall apply for a period of five years 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, continuance

	<p>shall have been granted for their retention for a further period. 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 of the development to be re-assessed, having regard to changes in technology and design during the specified period.</p>
3.	<p>Details of the proposed colour scheme for the telecommunications structure, ancillary structures and fencing shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of the visual amenities of the area</p>
4.	<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><b>Reason:</b> In the interest of public safety.</p>

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Derek Daly  
 Planning Inspector

10<sup>th</sup> May 2023