



An  
Bord  
Pleanála

## Inspector's Report

### ABP-317195-23

<b>Development</b>	Permission for 18 metre high telecommunications monopole, together with antennas, dishes and associated telecommunications equipment, and security fencing.
<b>Location</b>	Old Golf Links Road and Dublin Road, Haggardstown, Dundalk Co. Louth.
<b>Planning Authority</b>	Louth County Council
<b>Planning Authority Reg. Ref.</b>	23124
<b>Applicant(s)</b>	Eircom Ltd. (t/a Eir)
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant</b>	Eircom Ltd. (t/a Eir)
<b>Observer(s)</b>	Stephen & Sharon Durnin
<b>Date of Site Inspection</b>	23 <sup>rd</sup> July 2023

**Inspector**

Ian Campbell

## 1.0 Site Location and Description

- 1.1. The appeal site is located on the eastern side of the R132 (Dublin Road) at the junction with the Old Golf Links Road. The appeal site, which has a stated area of 0.0084 ha (84 sqm), is c. 3.5 km south of the centre of Dundalk, and c. 1.5 km west of Blackrock Village.
- 1.2. The appeal site accommodates a single storey exchange building and is bound by a c. 1.2 metre high wall to the west and south, a timber fence to the north and hedgerow and trees to the east.
- 1.3. To the immediate east and north are detached bungalows. The area is predominantly residential in character with detached dwellings fronting on to the Dublin Road and a residential development (Belfield) to the west. Felda Health Club and the Fairways Hotel are located c. 150 metres and c. 300 metres south of the appeal site.

## 2.0 Proposed Development

- 2.1. The proposed development comprises;
  - The construction/erection of an 18 metre high telecommunication structure (monopole structure). A 1.5 metre high lightning finial is attached to the top of the monopole. The proposal also includes;
    - Antennas, dishes, associated equipment;
    - Ground cabinets;
    - 2.4 metre high palisade fencing<sup>1</sup> enclosing the telecommunication structure and cabinets.
- 2.2. The planning application is accompanied by a cover letter outlining the technical justification for the proposal, specifically that;
  - The proposed installation is required to address substandard coverage (mobile and broadband) in the areas of Blackrock and Haggardstown. Development of the site

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<sup>1</sup> The Site Layout drawing indicates a 2.4 metre high wooden fence around the telecommunication structure however the elevation submitted with the planning application depict a 2.4 metre high palisade fence. Given the greater detail provided in the elevations I consider reference to the wooden fence as a typographical error and have determined the proposal on the basis of the latter.

will address coverage gaps in the area, including zoned lands and a research, innovation and commercial park. The proposal would provide for more advanced 4G and 5G coverage.

- Failure to secure permission for the proposal would result in enduring negative effects on local phone and broadband service provision.
- The proposal will facilitate site sharing with other providers.
- Utilising the existing exchange site allows for the use of existing utilities.
- The height<sup>2</sup> of the structure is the minimum required for effective signal propagation for 4G and 5G coverage.
- Eir currently transmit from a number of existing telecommunication installations in the wider area<sup>3</sup>. The structures where Eir do not transmit from are too distant from the area where coverage is required and as such the site is the only realistic site in the area.
- The proposal will have minimal visual impact on the surrounding area as there are numerous vertical structures in the area.
- The proposed development accords with Development Plan policy, the NDP 2020 – 2040, the National Broadband Plan 2012 and Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities, 1996 (Department of the Environment and Local Government).
- Telecommunication structures are ‘open for consideration’ under the applicable land use zoning.

2.3. A set of photomontages from 4 no. locations were also submitted with the planning application.

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<sup>2</sup> Page 8 of the cover letter submitted with the planning application refers to a 15 metre high monopole. This appears to be a typographical error.

<sup>3</sup> The applicant states that of the 6 no installations referred to, it operates from 3 no. of these. The applicant has not specified which structures they are located on however.

## 3.0 Planning Authority Decision

### 3.1. Decision

The Planning Authority issued a Notification of Decision to Refuse Permission on the 27<sup>th</sup> April 2023 for 1 no. reason which can be summarised as follows;

The siting and design of the proposed structure will have a serious impact on the visual amenity of the area by reason of its scale and close proximity to the junction of the R132 and Golf Links Road. The proposal will also have an overbearing impact on the two dwellings east of this site. As such, the proposed development is contrary to Policy IU 44 <sup>4</sup>of the Louth County Development Plan 2021 – 2027.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The report of the Planning Officer includes the following comments;

- The principle of the proposed development is acceptable noting the applicable land use zoning.
- Opportunities may exist on nearby commercial or economic lands, or closer to Blackrock, where the need is identified as being greatest. Only as a last resort should free standing masts be located within or in the immediate surrounds of smaller towns or villages. The applicant has not demonstrated that the site is the only location which could accommodate a structure of this nature.
- There are inconsistencies in the information submitted compared to that submitted in previous applications, specifically in relation to the required height of the structure and the inability to share existing masts in the area. The Planning Authority is not satisfied that the information submitted can be relied upon.

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<sup>4</sup> Policy Objective IU44 - To require best practice in both siting and design in relation to the erection of communication antennae and support infrastructure, in the interests of visual amenity and the protection of sensitive landscapes.

- There are no other structures on the site which are of a similar scale to the proposed mast.
- Despite the existence of a tall tree the mast would remain visible. There is minimal screening at the base of the structure and the structure has minimal set-back from the public roads. The proposed is considered to be visually obtrusive.
- The proposal would have an overbearing impact on adjacent dwellings noting its close proximity to same.

The report of the Planning Officer recommends a refusal of permission consistent with the Notification of Decision which issued.

### 3.2.2. Other Technical Reports

Environment Section: standard conditions recommended.

Placemaking and Physical Development Section: standard condition recommended.

### 3.3. Prescribed Bodies

None referenced in report of the Planning Officer.

### 3.4. Third Party Observations

The Planning Officer's report refers to 1 no. observation having been received in relation to the planning application. The report of the Planning Officer provides a summary of the main issues raised in the third-party observation, which are as follows;

- Impact on residential amenity/property value.
- Proposal is contrary to residential zoning of site.
- No similar structures on site, site should therefore be discounted.
- Visual impact.
- Inconsistencies in information submitted.
- A number of mast decisions issued by An Bord Pleanála are under investigation.
- Alternative sites not considered. Site has been chosen as it is the least expensive option for Eir.

- No certificate of compliance with IRPA Guidelines submitted.
- Concerns regarding parking of vehicles adjacent to observers' property.
- Tall tree is located on observers' property.
- Site is considerable distance from new housing.

## 4.0 Planning History

### Appeal Site

PA. Ref. 22270 – Permission REFUSED for 21 metre high mast. Refusal reasons concerned impact on adjacent property and visual amenity of the area.

## 5.0 Policy Context

### 5.1. National Policy

#### 5.1.1 National Planning Framework 'Project Ireland 2040':

National Policy Objective 24 - support and facilitate delivery of the National Broadband Plan.

#### 5.1.2 National Broadband Plan 2020:

The National Broadband Plan (NBP) is the Government's initiative to improve digital connectivity by delivering high speed broadband services to all premises in Ireland, through investment by commercial enterprises coupled with intervention by the State in those parts of the country where private companies have no plans to invest.

#### 5.1.3 Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities, 1996 (Department of the Environment and Local Government):

The Guidelines provide relevant technical information in relation to installations and offer guidance on planning issues so that environmental impact is minimised and a consistent approach is adopted by Planning Authorities. Visual impact is noted as among the most important considerations in assessing applications for

telecommunications structures but the Guidelines also note that generally, applicants have limited locational flexibility, given the constraints arising from radio planning parameters. The Guidelines place an emphasis on the principle of co-location.

Section 4.3 'Visual Impact', provides 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 location should become necessary, sites already developed for utilities should be considered and masts and antennae should be designed and adapted for the specific location. The support structure should be kept to the minimum height consistent with effective operation'*. Section 4.3 also states, *'only as a last resort, and if the alternatives are either unavailable or unsuitable, should free-standing masts be located in a residential area or beside schools. If such a location should become necessary, sites already developed for utilities should be considered and masts and antennae should be designed and adapted for the specific location. The support structures should be kept to the minimum height consistent with effective operation and should be monopole (or poles) rather than a latticed tripod or square structure'*.

Section 4.3 also notes that some masts will remain quite noticeable in spite of the best precautions and that the following considerations may need to be taken into account, specifically, whether a mast terminates a view; whether views of the mast are intermittent and incidental, and the presence of intermediate objects in the wider panorama (buildings, trees etc).

#### **5.1.4 Circular Letter PL 03/2018**

Circular Letter PL 03/2018, dated 3<sup>rd</sup> July 2018 provides a revision to Chapter 2 of the Development Contribution, Guidelines for Planning Authorities, 2013, and specifically states that the waiver provided in the Development Contribution, Guidelines for



Planning Authorities, 2013 should apply not only to the provision of broadband services but also to mobile services.

#### **5.1.5 Circular Letter PL 07/12**

Circular Letter PL 07/12, dated 19<sup>th</sup> October 2012, sets out to revise Sections 2.2. to 2.7 of the 1996 Guidelines. The Circular was issued in the context of the rollout of the next generation of broadband (4G). It advises Planning Authorities to:

- Cease attaching time limiting conditions to telecommunications masts, except in exceptional circumstances;
- Avoid inclusion in development plans of minimum separation distances between masts and schools and houses;
- Omit conditions on planning permission requiring security in the form of a bond/cash deposit;
- Reiterates advise not to include monitoring arrangements on health and safety or to determine planning applications on health grounds;
- Future development contribution schemes to include waivers for broadband infrastructure provision.

#### **5.2. Regional Policy**

##### **5.2.1 Regional Spatial and Economic Strategy for the Eastern & Midland Regional Assembly (RSES):**

Telecommunications networks play a crucial role in enabling social and economic activity. This RSES supports actions to strengthen communications links to develop a stable, innovative and secure digital communications and services infrastructure (see

page 230 RSES). Additionally, RPO 8.25 seeks to support and facilitate the delivery of the National Broadband Plan.

### **5.3. Development Plan**

5.3.1. The Louth County Development Plan 2021-2027 is the relevant development plan, under which the appeal site is zoned 'A1 ' Existing Residential'. The objective for this zoning is 'to conserve and enhance the quality and character of established residential communities and protect their amenities'. The provisions of the Louth County Development Plan 2021 - 2027 relevant to this assessment are as follows:

- Policy Objective IU41
- Policy Objective IU42
- Policy Objective IU44
- Policy Objective IU45
- Section 13.18.3 (Telecommunication Structures)

There are no specific designations in Appendix 7 (Views and Prospects) of the Louth County Development Plan 2021-2027 affecting the appeal site or the adjacent area.

### **5.4. Natural Heritage Designations**

The appeal site is not located within or close to any European Site.

### **5.5. EIA Screening**

The proposed development does not fall within a class of development set out in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations, 2001, (as amended), and therefore is not subject to EIA requirements.

## **6.0 The Appeal**

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

This is a first-party appeal against the decision to refuse permission. The grounds for appeal can be summarised as following;

- The proposal complies with Objective IU38 (as it achieves broadband rollout), IU41 (as it complies with the Telecommunication Guidelines), IU42 (as it is designed to facilitate co-location and has considered existing sites) IU43 (as there is limited space for such structures and as the site is an existing exchange compound), IU44 (as the proposal is a monopole, the area is not a sensitive landscape and as there are numerous vertical structures in the vicinity) and IU45 (as the proposal would not result in significant adverse impacts on the visual amenity of the area).
- The proposal is 'open for consideration' under the applicable land use zoning.
- Photomontages demonstrate that the proposal will not have a serious impact on the visual amenity of the area and would not be overbearing on adjacent property.
- There is a precedent for infrastructure and utilities at the appeal site.
- The proposal must be located in the vicinity of the coverage area.
- The surrounding environment, which includes vertical structures, will assist in screening the proposed development. Landscaping along the southern and western boundaries of the telecommunications compound are also proposed.
- At 18 metres the proposed structure is at the lower end of telecommunication infrastructure in terms of height. The development is small in scale and the site will occupy a small area to the front of the existing exchange building. The development has been designed with regard to relevant national and local planning policy as well as codes of best practice for communications networks. This includes the minimum height necessary to ensure sufficient radio coverage and the use of a monopole.
- There would be some visual impact from the proposed structure, however views of the structure are likely to be intermittent. Where visible, it will generally be seen protruding over rooftops, and through natural screening, existing buildings and general visual clutter.
- The monopole at Jackies Restaurant is too close to another installation on which Eir are located. To reduce interference between transmitter sites there needs to be a separation between site locations. Additionally, the monopole

at Jackies Restaurant would not guarantee service north of the proposed location.

- It is not uncommon for such structures to be in close proximity to dwellings (particularly in towns and urban areas) and there is no minimum separation distance specified. The presence of dwellings and community uses in the area increases the justification for the proposed infrastructure as there is an increased demand for services.
- The proposed infrastructure would enable a more widespread connection nationwide and improved opportunities for businesses and working from home initiatives.
- The proposal allows for multiple operator's equipment.
- The proposal is the most appropriate location, being an established exchange site, in proximity to the coverage area and facilitating co-location. The Guidelines for Telecommunications 1996 state that if locations within or in the immediate surrounds of smaller towns or villages are necessary, sites already developed for utilities should be considered and installations should be designed and adapted for the specific location.
- The proposal for a monopole, facilitating co-location at an established utilities location addresses the requirement to balance facilitating the delivery of improved telecommunications infrastructure and the protection of the built and natural environment.
- The height of the proposed structure is consistent with effective operation and preferred monopole design, as well as incorporating additional users for co-location purposes, thereby avoiding a multiplicity of telecommunications structures in the area.
- Similar proposals have been permitted (examples cited).

## **6.2. Planning Authority Response**

A submission has been received from the Planning Authority stating that details have not been provided in respect of compliance with standards for non-ionising radiation; noting inconsistencies in the information submitted, specifically regarding the

discounting of the site at Jackie Murphy's; noting that a coverage gap remains despite the proposal and as such it is assumed that further telecommunication infrastructure would be required, and stating that it is unclear if consideration of an alternative site to address this gap has been considered. The submission requests the Board to uphold the Planning Authorities decision to refuse permission.

### **6.3. Observations**

An observation from Stephen and Sharon Durnin was received in respect of the appeal. Issues raised in the observation may be summarised as follows:

- Impact on residential amenity/property value. Proposal will result in overshadowing of observers' property.
- Proposal is contrary to residential zoning of site. Proposal is contrary to provisions of Dundalk and Environs Development Plan 2009-2015 (i.e. Policy TE3 and Section 9.2.6).
- No visual impact has been submitted from the location of neighbouring houses.
- No similar structures on site, site should therefore not be considered as an existing telecoms site.
- Concerns regarding visual impact of proposal. The visual impact assessment submitted is inaccurate with reference to the height of trees along the boundary of the site. Trees which are indicated as providing screening of the mast will be undermined by the concrete base of the proposal. The observers are unable to provide screening on their site due to site constraints.
- Inconsistencies in information submitted under PA. Ref. 22/270 and the current application.
- The applicant appears to have discounted co-locating at Jackie Murphy's for commercial reasons. The applicant has not considered other employment/business zoned lands in the area.
- The proposal is not consistent with the Telecommunication Guidelines in respect of the location of masts and co-location on existing structures.
- No certificate of compliance with IRPA Guidelines submitted.

- Concerns regarding parking of vehicles adjacent to observers' property.

## **7.0 Assessment**

7.1. I consider the main issues in the assessment of this appeal are as follows:

- Technical Justification/Appropriateness of Location.
- Impact on Visual Amenity.
- Impact on Residential Amenity.
- Other Issues.
- Appropriate Assessment.

### **7.2. Technical Justification/Appropriateness of Location**

7.2.1. The first party states in the information submitted with the planning application and appeal that the proposed development is required at this location in order to address specific service/coverage deficiencies in the surrounding area.

7.2.2. I have consulted ComReg's coverage maps and note that the area is identified as having 'good coverage' for Eir's 3G services, and 'fair' 4G and 5G coverage. I note that 4G coverage for other providers, specifically Vodafone and Three is similarly 'fair'. According to ComReg's website, areas with 'fair' coverage experience 'fast and reliable data speeds, but marginal data with drop-outs is possible at weaker signal levels'. I am satisfied that the proposal will improve service provision in area to Eir and other providers who may co-locate onto the proposed structure and on this basis I consider that the proposal is therefore justified.

7.2.3. In rereviewing the Telecommunication Guidelines I note that save for reference to site sharing there would not appear to be a specific requirement for an applicant seeking permission for a telecommunication structure to investigate alternatives site locations, as intimated by the Planning Authority. Notwithstanding this, in terms of the consideration of alternative sites the applicant states that Eir currently transmit from a number of nearby masts, and in respect of the installations where Eir does not, these sites are too remote from the target area where it is seeking to address coverage deficiencies. Regarding the existing installation at Jackie Murphy's, the applicant

states that as it currently operates from a site close to Jackie Murphy's transmitting from Jackie Murphy's would result in interference, and that in any event the site at Jackie Murphy's would not provide coverage in the target area. In my opinion the applicant's consideration of alternative sites, and discounting of same is reasonable.

- 7.2.4. Regarding the appropriateness of the appeal site for the proposed development, paragraph 4.3 of the Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities, 1996 provide that *'only as a last resort should free-standing masts be located within or in the immediate surrounds of smaller towns or villages, and 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'*, and.... *'the support structure should be kept to the minimum height consistent with effective operation'*. The Guidelines also state, *'only as a last resort, and if alternatives are either unavailable or unsuitable, should free-standing masts be located in a residential area or beside schools. If such a location should become necessary, sites already developed for utilities should be considered and masts and antennae should be designed and adapted for the specific location. The support structures should be kept to the minimum height consistent with effective operation and should be monopole (or poles) rather than a latticed tripod or square structure'*. The site is an existing utility compound however it does not accommodate a telecommunication structure. In my view the capacity to absorb the proposal based on the presence of a modest single storey building is not comparable to a site which accommodates an existing mast. That being said, that proposed monopole design accords with the aforementioned guidance.

### 7.3. Impact on Visual Amenity

- 7.3.1. The Telecommunication Guidelines note that visual impact is among the most important considerations in assessing applications for telecommunications structures. I also note Policy Objective IU44 and IU 45 of the Louth County Development Plan 2021-2027 which requires best practice in both siting and design in relation to the erection of communication antennae and support infrastructure, and the operation of a presumption against the location of antennae support structures where they would have a serious negative impact on the visual amenity of sensitive sites and locations.

7.3.2. The appeal site is located on the main southern approach to Dundalk. The R132 at this location is straight and the topography of the wider area relatively flat, affording prominent views of the proposal. Noting the characteristics of the appeal site there is little opportunity to provide any significant degree of set-back to the R132 or Old Golf Links Road. Additionally, development in the vicinity is predominantly low rise in nature and the main screening provided to the proposal appears to be a leylandii tree located within the adjoining/observers' site. While supplementary screening is proposed it would only provide screening to the base of the structure. The first party contends that the proposal will be intermittently visible in the surrounding landscape however having regard to the forgoing I consider that the proposed structure would be a prominent feature in the immediate area and would also be significantly visible from the northern and southern approaches. The first party notes that existing vertical structures in the vicinity of the site including telephone/electricity poles would obscure the proposal however in my opinion these structures have a different profile and height, are therefore not comparable and would not mitigate the visual impact of the proposal. In summation, I consider that the proposed structure would present a discordant feature at this location, and would be incongruous within the immediate landscape.

#### **7.4. Impact on Residential Amenity**

7.4.1. The Planning Authorities reason for refusal refers to the proximity of the proposed telecommunications structure to adjacent residences to the east. Additionally, concerns are raised in the observation to the appeal regarding impacts on residential amenity as a result of the proposed structure being located in proximity the adjacent dwelling to the east. From reviewing the documentation submitted with the application/appeal I note that the proposal entails an 18 metre high telecommunication structure located c. 4 metres from the front of the dwelling to the east (the observers' dwelling). The proposed structure is positioned forward of the front wall of the adjoining house and would be readily visible from the front windows of this property and also from its front garden. Notwithstanding the technical justification provided by the applicant for the proposal at this location I consider that a balance needs to be struck between providing telecommunication infrastructure in an urban area while at the same time protecting the amenities of existing property, and having visited the site I am satisfied that the proposed development would have a significant impact on the



residential amenity of the adjoining property to the east by virtue of its scale and proximity to the adjacent property to the east. In my opinion the proposed mast structure would have an overbearing impact on the dwelling to the immediate east, including when viewed from its attendant private open space, and on this basis I recommend that the decision of the Planning Authority is upheld and permission refused.

- 7.4.2. Whilst not raised in the appeal I note that the proposal entails 2.4 metre high palisade fence along the eastern boundary of the site. In my opinion this boundary treatment would provide for an unsatisfactory interface with the front garden of the adjacent residence.

## **7.5. Other Issues**

### Health

- 7.5.1. The issue of compliance with IRPA Guidelines was raised in the observation to this appeal. Circular Letter: PL 07/12 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'. Accordingly, I consider that this issue is outside the scope of this appeal.

### Precedent

- 7.5.2. The applicant's appeal submission refers to examples where similar developments have been permitted. I note that these precedent decisions referred to relate to telecommunication masts located within Louth and also throughout the country. In my view it would be inappropriate to draw any conclusions from the decisions of An Bord Pleanála in respect of previous applications which do not relate to the subject site and its surroundings. The application before the Board should be determined in relation to the particular set of circumstances pertaining to the site and its surroundings and to the policy and provisions set out in the Louth Development Plan 2021-2027.

## **7.6. Appropriate Assessment**

- 7.6.1. Having regard to the nature and limited scale of the proposed development, the developed nature of the landscape between the site and European sites and the lack of a hydrological or other pathway between the site and European sites, it is considered that no Appropriate Assessment issues arise and that the proposed development would not be likely to have a significant effect either individually or in combination with other plans or projects on any European site.

## **8.0 Recommendation**

- 8.1. Having regard to the above it is recommended that planning permission be refused for the proposed development based on the following reasons and considerations

## **9.0 Reasons and Considerations**

1. Having regard to the Telecommunications Antennae and Support Structures Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in 1996 (as updated by Circular Letter PL 07/12); the Louth County Development Plan 2021 - 2027, including Policy Objectives IU 44 and IU 45; and the height, scale and prominent location of the proposed development, it is considered that the proposed development would have an unacceptable impact on the visual amenities of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. It is considered that the proposed development would have an overbearing impact on the adjoining house to the immediate east and would be visually obtrusive when viewed from the attendant open space of this house. The proposal would therefore have a negative impact on existing residential amenity, would not be in accordance with the 'A1 - Existing Residential' zoning for the site as per the Louth County Development Plan 2021-2027 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.

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Ian Campbell  
Planning Inspector

23<sup>rd</sup> July 2023