



An
Bord
Pleanála

Inspector's Report

ABP-317372-23

Development	Section 254 licence for a Telecommunications structure.
Location	Dublin Road (R127) Townparks, Skerries, Co. Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	S254/13/22
Applicant(s)	Emerald Tower Limited.
Type of Application	Section 254 Licence.
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Emerald Tower Ltd
Observer(s)	None.
Date of Site Inspection	23.09.2023
Inspector	Fiona Fair

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	4
3.3. Prescribed Bodies	5
3.4. Third Party Observations	5
4.0 Planning History.....	5
5.0 Policy Context.....	5
5.1. Development Plan.....	6
5.2. Natural Heritage Designations	9
5.3. EIA Screening	9
6.0 The Appeal	9
6.1. Grounds of Appeal	9
6.2. Applicant Response	10
6.3. Planning Authority Response	11
6.4. Observations	11
6.5. Further Responses.....	11
7.0 Assessment.....	11
8.0 Recommendation.....	16
9.0 Reasons and Considerations.....	16
10.0 Conditions	17

1.0 Site Location and Description

- 1.1. The subject site comprises part of the grass verge running along the eastern side of the Dublin Road (R127), located near Skerries GAA grounds (west of the site) and Skerries Astro Field car parking area (east of the site). The general nature and character of the Dublin Road is typical of suburban street design consisting of dwellings fronting onto public footpaths, including some grass verges, and lined by telecommunications poles and overhead lines (often switching directions to line both sides of the approach into Skerries town)

2.0 Proposed Development

- 2.1. Section 254 licence to install a 'Streetworks Pole' for the co-location of two separate operators equipment within the same pole, in order to provide high speed broadband and data services to the local community by two operators from a single pole.
- 2.2. The proposal consists of an 18m dual operator pole, associated equipment, together with ground based cabinets and all associated works for wireless data and broadband services.

The equipment dimensions are as follows:

Streetworks Pole

Height: 18m

Diameter / width: 406mm (Diameter)

Colour: grey

Cabinets (1 & 2)

Height: 1) 1.65m, 2) 1.65m

Length: 1) 1.3m, 2) 1.9m

Depth: 1) 0.8m, 2) 0.8m

Area: 1) 1.04m², 2) 1.52m²

Colour: Dark Fir Green

Footpath Width: 1.7m, Cabinet Doors Open 1.7m, Cabinet Doors Closed 1.7m

Dishes: Two 300mm (Diameter) - Goose Grey Colour

Antennas Three (encased inside pole) 4m H x 406mm (Diameter) - Galvanised

3.0 **Planning Authority Decision**

3.1. **Decision**

Refuse permission subject to one number reason, namely:

“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); and Objectives IT07 and IT08 of the Fingal County Development Plan 2017-2023, it is considered the height, scale and prominent location of the proposed development in an area that is zoned ‘Open Space’ the proposed development would be visible from the public domain at street level, and would have an adverse impact on the visual amenities of the area and on the approach into Skerries town and would result in clutter and an impact on visual amenity in the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area and Fingal County Development Plan 2017-2023”.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

- It is concluded that having regard to the location nature and height of the proposed development which is an 18 metre high dual operator pole and associated ground based equipment cabinets, the provisions of section 254 of the Planning and Development Act 2000 (as amended) the Fingal County Council Development Plan 2017 to 2023 and the Telecommunications Antennae and Support Structures Guidelines for Planning Authorities 1996 (as updated by circular letter PL07/12 and PL 11/2020, respectively) it is considered the proposed development would seriously injure the visual and residential amenity of the area.

3.2.2. Other Technical Reports

- Irish Water: No objection
- Water and Drainage: No objection.
- Conservation: No objection.
- Parks and Green Infrastructure Division: Recommends Refusal

3.3. Prescribed Bodies

None on File

3.4. Third Party Observations

None on File.

4.0 Planning History

None Relevant.

5.0 Policy Context

5.1. National Guidelines

- Planning and Development Act 2000, as amended. The development is considered under Section 254(1) (e) (e) of the Planning and Development Act 2000 as amended.
- National Broadband Plan, DCENR, 2012. Sets out a strategy to deliver high speed broadband across the State.
- Circular Letter PL07/12 – This circular updates the guidance document and specifically refers to temporary permissions, removal of separation distances from houses and schools, bonds and contributions, planning considerations

related to location and design and health and safety matters, and the establishment of a register / database.

- Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities, DoE, 1996. Provide guidance on, amongst other things, siting of masts. This includes, in city suburbs, to co-locate telecommunications where possible and to locate new telecommunication masts in industrial or in industrially zoned land or commercial or retail areas. The guidance states that only as a last resort, if these alternatives are not available, should free-standing masts be located in a residential area or beside schools. Further, 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, with the support structure be kept to the minimum height consistent with effective operation.

5.2. Development Plan

- 5.2.1. The PA made their assessment having regard to the Fingal County Development Plan 2017 – 2023. However, the Development Plan has now changed and the pertinent statutory Plan is now the Fingal County Development Plan 2023 – 2029.
- 5.2.2. The site is owned by Fingal County Council. The site forms part of road infrastructure.

Fingal County Development Plan 2017-2023

- 5.2.3. Section 7.4 of the 2017 – 2023 County Development Plan set out Information and Communication Technologies. The main thrust of the plan was to promote and facilitate widespread communication infrastructure throughout the county, in accordance with the requirements of the government’s guidelines (above) to achieve balanced social and economic development (policy Objectives IT01, IT03 and IT05). Objectives also require best practice in siting and design (IT07) and in the interest of visual amenity and the protection of sensitive landscapes, high quality design of masts, subject to radio and engineering parameters IT08).

Development management guidelines in respect of telecommunications require co-location of antennae (DMS143), location at appropriate locations, outside of sensitive

environments (DMS144), and specific information on the development at application stage.

- 5.2.4. With respect to zoning, the appeal site is not zoned, as roadways and footpaths are not zoned in the Fingal County Development Plan maps.

Fingal County Development Plan 2023 – 2029

- 5.2.5. Chapter 11 Infrastructure and Utilities is of relevance.
- 5.2.6. Strategic Objective no. 10: Protect, enhance and ensure the sustainable use of Fingal's key infrastructure, including water supplies and wastewater treatment facilities, energy supply including renewables, broadband and transportation.

IUP36: Facilitate the coordinated provision of telecommunications / digital connectivity infrastructure at appropriate locations throughout the County and extension of telecommunications infrastructure including broadband connectivity as a means of improving economic competitiveness and enabling more flexible work practices.

IUP38: Promote and facilitate the provision of a high-quality ICT network and appropriate telecommunications infrastructure in accordance with the Fingal Digital Strategy 2020–23 (and any subsequent plan), and to support broadband connectivity and other innovative and advancing technologies within the County, whilst protecting the amenities of urban and rural areas.

IUO53: Ensure a high-quality design of masts, towers, antennae and other such telecommunications infrastructure in the interests of visual amenity and the protection of sensitive landscapes in the County.

IUO54: Support the appropriate use of existing assets (i.e. lighting, street furniture etc) for the deployment of telecoms equipment and to encourage the sharing and co-location of digital connectivity infrastructure in the interests of visual amenity and protection of the built heritage.

DMSO17: Where possible, new utility structures such as electricity substations and telecommunication equipment cabinets should not be located adjacent or forward of the front building line of buildings or on areas of open space.

DMSO18: Require new utility structures such as electricity substations and telecommunication equipment cabinets to be of a high-quality design and to be maintained to a high standard by the relevant service provider.

DMSO223: Encourage the location of telecommunications-based services at appropriate locations within the County, subject to environmental considerations and avoid the location of structures in fragile landscapes, in nature conservation areas, in highly sensitive landscapes and where views are to be preserved.

DMSO224: Require the following information with respect to telecommunications structures at application stage:

- Demonstrate compliance with Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities issued by the Department of the Environment 1996 and Circular Letter PL 07/12 issued by the Department of the Environment and Local Government (as may be amended), and to other publications and material as may be relevant in the circumstances.
- Demonstrate the significance of the proposed development as part of a national telecommunications network.
- Indicate on a map, the location of all existing telecommunications structures within a 2 km 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 Regulations.
- The degree to which 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.
- Ensure that when such licences are sought nearby property owners and occupiers are made aware of the application prior to Fingal County Council or An Bord Pleanála agreeing the licence.

EEO31: Support the growth of business in the green and circular economy and the initiatives within the IDA strategy Driving Recovery and Sustainable Growth, or any superseding document, including through the accelerated roll-out of the National Broadband Plan.

The site forms part of the local road infrastructure is not zoned. The adjoining lands, to the east, associated with Skerries Astro are zoned 'Open Space', with the subject site adjacent the car parking for Skerries Astro.

5.3. Natural Heritage Designations

The site is not located within or adjacent to a Natura 2000 site.

5.4. EIA Screening

The proposed development is not of a type that constitutes an EIA project and environmental impact assessment is not required.

6.0 The Appeal

6.1. Grounds of Appeal

A First Party Appeal has been received from Entrust Planning & Environmental on behalf of Emerald Tower Limited. It is summarised as follows:

- The location of the proposal is c. 100m away from the Architectural Conservation Area and c. 20m away from the two closest Protected Structures.
- Due to the volume of existing vertical structures around the site, it is considered that the existing vertical structures as well as existing tree screening will ensure that this site will successfully absorb the proposal into the streetscape and the proposal will not result in any significant adverse visual impact.
- The identified area identified as in need of service upgrades largely overlaps with the ACA area.

- Given the subject site proximity to the ACA and being outside of the designation boundary it is deemed the optimum location.
- A Visual Impact Assessment has been carried out. 4 Viewpoints assessed and it is concluded that there would be negligible magnitude of change.
- The zoning was misrepresented in the Council's decision. The subject site is not zoned and is situated in front of car parking area instead of 'open space'.
- Broadband is a necessary service needed to support modern economies, to attract international investment and is an essential service for modern living.
- The proposed location is not only in accordance with planning guidelines but is considered the optimum location to provide services to an otherwise restricted location in Skerries.
- It is considered that the proposal is in full compliance with Policies IUO53 and DMSO223 (previously Policies IT07 and IT08)
- It is acknowledged that it will be a noticeable feature as a new infrastructure element in the townscape, however it is contended that it will not be to the degree stated in the refusal reason and that after a short period of time it will be viewed as roadside infrastructure similar to the close by light poles.
- The footprint of the pole and two cabinets to house two separate operators on the same pole will not have such a negative effect as to create unacceptable 'clutter'.
- The roadside location is outside of the town centre, having wide grass verges and being located away from existing residential dwellings along the approach road is capable of absorbing the proposal due to the space availability, tree screening and adjacent street lights and is not as implied visually prominent location.

6.2. Applicant Response

- None Relevant

6.3. **Planning Authority Response**

- Response received, no further comment to make. Requests the Board upholds the decision of the PA.

6.4. **Observations**

- None Received

6.5. **Further Responses**

- None Received

7.0 **Assessment**

7.1. 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.

7.2. Having regard to these requirements, local and national planning policy, the application details, the reason for refusal, all other documentation on file and my inspection of the site, I consider that the main issues for this appeal relate to:

- **Appropriateness of the Location**
- **The Impact of the Development on Visual Amenity Of The Area.**

7.3. **Appropriateness of the Location**

7.3.1. The subject appeal site forms part of road infrastructure. The site is owned by Fingal County Council. It is located on the public footpath on un-zoned lands. I

acknowledge the error by the PA in their decision to refuse the licence. The zoning was misrepresented in the Council's decision, noting that the site was zoned 'Open Space'. The lands, to the east, associated with Skerries Astro are zoned 'Open Space'. It is important to highlight that the subject site is not zoned and is situated in front of a car parking area instead of 'open space'.

- 7.3.2. As set out above in Section 1.0, site location and description, the subject site comprises part of the grass verge running along the eastern side of the Dublin Road (R127), located near Skerries GAA grounds (west of the site) and Skerries Astro Field car parking area (east of the site). The general nature and character of the Dublin Road is typical of suburban street design consisting of dwellings fronting onto public footpaths, including some grass verges, and lined by telecommunications poles and overhead lines (often switching directions to line both sides of the approach into Skerries town). There are no dwellings within close proximity of the subject site.
- 7.3.3. The proposed street pole and antennae would have a height of 18m with two no. 300mm dishes and two number painted green ground, equipment cabinets, both 1.65m high and 0.8m depth with varying lengths of 1.3m and 1.9m.
- 7.3.4. In terms of zoning, the site located within the grass verge adjoining the public footpath, under the control of the Roads Department of Fingal CC has an unclassified designation within the Fingal County Development Plan 2023 – 2029. As set out above in Section 5.0 Policy Context of this report national legislation, policy and guidelines 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 all areas of the country.
- 7.3.5. I note that the FCDP 2023 – 2029 also supports the provision of a high-quality competitive information and communications telecommunications (ICT) service. Chapter 11 Infrastructure and Utilities is of relevance to the subject application. Strategic Objective no. 10 states: 'Protect, enhance and ensure the sustainable use of Fingal's key infrastructure, including water supplies and wastewater treatment facilities, energy supply including renewables, broadband and transportation'.
- 7.3.6. The following objectives, stated in full in Section 5.3 Development Plan of this report above, IUP36, IUP38, IUO53, IUO54, DMSO17, DMSO18 are of specific relevance. I

note that objective DMSO223, specifically encourages the location of telecommunications-based services at appropriate locations within the County, subject to environmental considerations and avoid the location of structures in fragile landscapes, in nature conservation areas, in highly sensitive landscapes and where views are to be preserved. Having reviewed the planning application documents and visited the site, it is considered that the proposed development complies with Objective DMSO223, which encourages appropriately located communications structures.

7.3.7. I note the applicants technical justification that “the area to be served by the proposed development largely comprises Skerries ACA, as such limitations are in place in this area restricting the erection of street works. In order to service this area Eir requires a location within proximity to be able to provide the level of service needed. In this respect the proposed site is the optimum location, having explored alternatives in depth, considering; it is not located in the ACA, is not located in a residential area and is adjacent to a car park rather than open space. The proposed location is not only in accordance with planning guidelines but is considered the optimum location to provide services to an otherwise restricted location in Skerries”.

7.3.8. The site has no specific amenity designation. There are no protected scenic routes proximate. It is not within an ACA or within a SPA/SAC. There are no protected structures or national monuments in the immediate vicinity. There are numerous instances of precedent for similar telecommunications structures on public footpaths throughout the county. I disagree with the planning authority that the proposal is contrary to:

Objective IUO53: Ensure a high-quality design of masts, towers, antennae and other such telecommunications infrastructure in the interests of visual amenity and the protection of sensitive landscapes in the County.

and

Objective DMSO18: Require new utility structures such as electricity substations and telecommunication equipment cabinets to be of a high-quality design and to be maintained to a high standard by the relevant service provider.

Previously Objective IT07 and objective IT08 of the Fingal County Development Plan 2017-2023 (as set out in the reason for refusal).

- 7.3.9. The telecommunications pole itself is nondescript in character and design and not dissimilar in scale or design of a lamp standard or traffic light pole. I consider that the applicant's agent has clearly established the acceptability of the application under the provisions of section 254. Given national and local policy I consider the development as proposed to be acceptable in principle at this location.

7.4. The Impact of the Development on Visual Amenity of The Area.

- 7.4.1. The reason for refusal considered the height, scale and prominent location of the proposed development in an area that is zoned 'Open Space' the proposed development would be visible from the public domain at street level, and would have an adverse impact on the visual amenities of the area and on the approach into Skerries town and would result in clutter and an impact on visual amenity in the area.
- 7.4.2. The proposed street pole and antennae would have a height of 18m and a diameter of 406mm. The pole would be galvanised and painted. All cables would run internally. The structure would have two 300mm dishes attached to it at a height of c. 15m and three number Antennas encased inside the pole.
- 7.4.3. Two number cabinets are proposed, dark fir green in colour, adjacent to the street pole. They measure 1.65m (H) x 1.3m (L) x 0.8m (D) and 1.65m (H) x 1.9m (L) x 0.8m (D)
- 7.4.4. As stated above, the telecommunications pole itself is nondescript in character and design and not dissimilar in scale or design of a lamp standard or traffic light pole.
- 7.4.5. I have reviewed the visual impact assessment, / 'visual reference points' submitted by the applicant which includes 4 photomontages of the proposed development from local public vantage points. The proposed slimline pole would be of neutral sky grey, which will reflect the skyline and therefore assimilate with regards to its colour/texture and therefore complies with best practice of siting and design.
- 7.4.6. In my view, telecommunications equipment is crucial functional infrastructure, which contributes to successful place making, in a modern day, functional public realm. While the structure will be visible, especially, as one observes the structure in middle

to near distance, overall, having regard to the scale of the proposed development, there would be no negative impact on the visual amenities of the area with only slight visual impacts being perceived. I do not consider the proposed development will unduly impact on the skyline or the streetscape when viewed from various vantage points. Cognisance is had to similar tall structures in the landscape (lighting poles) and roadside trees.

- 7.4.7. Should the Board be minded to grant permission, I am of the view that a condition limiting exempt development provisions should be included in any grant of permission. This in my view is warranted considering the location of the infrastructure on a main entrance route to Skerries town centre.
- 7.4.8. A condition should be attached to any decision to grant that the proposed cabinets and pole be maintained regularly and be kept graffiti free. Also, that the cabinets shall have an anti-climb device fitted and pitched metal capping to the top surface of the cabinet to prevent sitting or standing on the cabinet.
- 7.4.9. Overall, I consider the proposal accords with the proper planning and sustainable development of the area. Accords with the relevant provisions of the Development Plan. Does not detract from the adjoining open space areas or zoning. Assimilates within the existing pattern of street furniture, lighting poles and trees stands, or other structures along the public road.
- 7.4.10. I note circular letter PL07/12 states planning considerations in the assessment of telecommunications infrastructure should be related to location and design and not health and safety matters. In my view the location of the telecommunications infrastructure within a residential area does not give rise to any issues in terms of residential amenity.

7.5. **Conclusion**

- 7.5.1. In relation to the reason for refusal, the appellant has outlined the site selection process, the technical need for the proposal, the chosen site location, its proposed design and the site location. The proposed location was considered to be the optimum location within this largely wider entirely residential area which also has many heritage assets which were avoided to the north of the search area.

- 7.5.2. The site location has been sensitively chosen not to directly face any surrounding residential dwellings, and to minimise any visual impacts on residential dwellings locally as much as possible. Furthermore, the search area has many sensitive heritage receptors within the northern part of it including an ACA, Protected Structures and Scheduled Monuments which meant identifying a suitable site within this search area was challenging.
- 7.5.3. The height at 18m is the lowest height possible to 'see' over surrounding mature trees and built form in the area for two operators to share the same pole.
- 7.5.4. I am of the opinion that the proposed development is in accordance with national, regional and local policy as well as the 1996 Government Guidelines pertaining to telecommunications.

Appropriate Assessment

- 7.6. Having regard to the nature of the development, its location in a serviced urban area, and the separation distance to any 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.

8.0 Recommendation

- 8.1.1. It is recommended that the Board directs the planning authority to Grant the licence subject to the following conditions:

9.0 Reasons and Considerations

- 9.1. Having regard to the provisions of the Fingal County Development Plan 2023 - 2029, the existing pattern of development in the area, and the nature and scale of the proposed development, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area, or of property in the area, or give rise to a traffic or pedestrian

hazard. 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.

Reason: In the interest of clarity.

2. (a) This permission 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, permission 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 permission.

Reason: To enable the impact of the development to be re-assessed, having regard to changes in technology and design during the specified period.

3. Notwithstanding the provisions of the Planning and Development Regulations 2001, and any statutory provision amending or replacing them, the telecommunication structures shall not be altered and no additional apparatus shall be attached, without a prior grant of permission.

Reason: To clarify the nature and extend of the permitted development to which this permission relates and to facilitate a full assessment of any future alterations.

4. The proposed cabinets and pole shall be maintained regularly and shall be kept graffiti free.

Reason: In the interests of visual amenity of the area.

5. The cabinets shall have an anti-climb device fitted and pitched metal capping to the top surface of the cabinet to prevent sitting or standing on the cabinet.

Reason: In the interests of protecting residential amenity.

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.

Fiona Fair
Senior Planning Inspector

24.09. 2023