



An
Bord
Pleanála

Inspector's Report

ABP-317744-23

Development

Permission to retain existing antenna, radio equipment, microwave dishes and all associated telecommunications equipment. A Protected Structure.

Location

Saint Patrick's Church, Harbour Road, Dalkey, Co. Dublin, A96 HA24

Planning Authority

Dun Laoghaire Rathdown County Council

Planning Authority Reg. Ref.

D23A/0352

Applicant(s)

Vantage Towers Ltd

Type of Application

Retention

Planning Authority Decision

Refuse permission

Type of Appeal

First Party

Appellant(s)

Vantage Towers Ltd

Observer(s)

None

Date of Site Inspection

15th December 2023

Inspector

Bernadette Quinn

1.0 Site Location and Description

- 1.1. The appeal site is located on the western side of Harbour Road, approximately 400m north of Dalkey Village. The site contains St. Patrick's Church which is a protected structure. The red line boundary of the appeal site relates only to the church building. There are a number of other buildings located within the church grounds including The Rectory and Dalkey National School building, both of which are also protected structures. St. Patrick's Church is a stone-built building and occupies an elevated position relative to surrounding buildings and the public road.
- 1.2. Access to the church is from Harbour Road. The site is surrounded by residential properties including detached dwellings to the north, east and west and apartments currently under construction to the south. The site is located approximately 150 metres west of the coastline at Dalkey and approximately 1.3 km east of the N11.

2.0 Proposed Development

- 2.1. The development seeks retention permission for:
- 8 no. 1.5 m antenna (all located inside the bell tower);
 - Radio equipment comprising 18 remote radio units (located internally within the first floor of the bell tower);
 - Microwave dishes including 1 no. 600mm dish and 2 no. 300mm dishes and their supports/fixings located externally on the belltower roof;
 - all associated telecommunications equipment (operator cabinets, safety rails and ladders, trunking/cabling, and switch boards) located within the tower;
- 2.2. The planning application is accompanied by a planning report outlining justification for the development and letters of support from Vodafone and Three.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On 14th July 2023 the planning authority refused permission for the following reason:

“Having regard to the location and form of the proposed development for retention it is considered that the proposed development would be a visually discordant feature that adversely affects the character and appearance of Saint Patricks Church which is a Protected Structure. Therefore, to permit retention permission for the development would materially contravene and be contrary to Policy Objective HER8, Section 12.11.2.3 of Dun Laoghaire-Rathdown County Development Plan, 2022-2028 and would therefore, not be in accordance with the proper planning and sustainable development of the area.”

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner’s report is consistent with the decision to refuse permission and noted the following main points:

- The application does not include any detailed assessment (Architectural Heritage Impact Assessment report / Visual Impact Assessment report / Visual Impact Appraisal / Design Report or Conservation Report) of the impact of the development on the Protected Structure.
- Structures to be retained are visible on the Church tower and would negatively impact on the visual character and appearance of the church and concurs with the concerns of the Local Authority Conservation Officer.
- The works are unsympathetic and would detract from the special character and appearance of the Protected Structure, contrary to Policy HER 8 of the Development Plan.
- The report submitted with the planning application fails to provide a satisfactory rationale for the need for the structures, their siting on a Protected Structure, and satisfactory proposals to ameliorate the visual impact of the structures, particularly the dishes located on top of the bell tower.
- The development has an adverse impact on the visual character of the protected structure and would be contrary to Section 12.9.8 and Section 12.11.2.3 of the Development Plan and recommends refusal.

3.2.2. Other Technical Reports

Conservation Officer – Visibility of telecommunications dishes detracts from the character and appearance of the protected structure. Retention of the unsympathetic intervention on the church tower would constitute a visually discordant feature that adversely affects the character and appearance of the church and the development is contrary to development plan policy HER8 and contrary to Telecommunications Antennae and Support Structures guidelines.

Drainage Planning – No objection.

Transportation Planning – No objection subject to condition.

3.3. Prescribed Bodies

None received.

3.4. Third Party Observations

None received.

4.0 Planning History

- 4.1. D19A/0284: Permission granted on 24/07/2019 for a new external door to existing single-storey link building between St Patrick's Church and St Patrick's Parish Centre/Dalkey National School Building.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The Dun Laoghaire Rathdown County Development Plan 2022-2028 is the operative Development Plan for the area. The appeal site is zoned SNI (Sustainable Neighbourhood Infrastructure), where the stated objective is to protect, improve and encourage the provision of sustainable neighbourhood infrastructure. Sustainable neighbourhood infrastructure includes land or buildings related to serving the needs of the local and wider community for social, educational, health, religious, recreational and leisure, cultural, and civic needs. Much of the existing sustainable neighbourhood infrastructure in the County offers a multi-faceted social function within neighbourhoods and provides an important role within communities. These facilities and services may be provided by public sector bodies, the community

themselves or by the private sector. 'Public Services' is a use which is permitted in principle on this zoning objective. The Development Plan defines public services as 'A building or part thereof, a roadway or land used for the provision of 'Public Services. Public Services include all service installations necessarily required by electricity, gas, telephone, radio, telecommunications, television, data transmission, water, drainage and other statutory undertakers'.

5.1.2. In Section 10.6 Telecommunications, Policy Objective EI20 Telecommunications Infrastructure: It is a Policy Objective to promote and facilitate the provision of an appropriate telecommunications infrastructure, including broadband, fibre optic connectivity and other technologies, within the County. Section 10.6 also states that the advantages of a high-quality telecommunications network must, however, be balanced against the need to safeguard the rural and urban environment, particularly in sensitive areas where the impacts on residential amenity and visual amenity of areas needs to be adequately assessed.

5.1.3. Chapter 11 refers to Heritage and Conservation

Section 11.4.1.2 includes Policy Objective HER8: Work to Protected Structures, relevant provisions include:

It is a Policy Objective to:

- i. Protect structures included on the RPS from any works that would negatively impact their special character and appearance.
- ii. Ensure that any development proposals to Protected Structures, their curtilage and setting shall have regard to the 'Architectural Heritage Protection Guidelines for Planning Authorities' published by the Department of the Arts, Heritage and the Gaeltacht.
- iii. Ensure that all works are carried out under supervision of a qualified professional with specialised conservation expertise.
- iv. Ensure that any development, modification, alteration, or extension affecting a Protected Structure and/or its setting is sensitively sited and designed, and is appropriate in terms of the proposed scale, mass, height, density, layout, and materials.

- v. Ensure that the form and structural integrity of the Protected Structure is retained in any redevelopment and that the relationship between the Protected Structure and any complex of adjoining buildings, designed landscape features, or views and vistas from within the grounds of the structure are respected.
- vi. Respect the special interest of the interior, including its plan form, hierarchy of spaces, architectural detail, fixtures and fittings and materials.
- vii. Ensure that new and adapted uses are compatible with the character and special interest of the Protected Structure.

5.1.4. Section 12.3.2.1 Development within Sustainable Neighbourhood Infrastructure

Lands outlines criteria to ensure that all proposed development on SNI zoned lands protect and/or improve existing SNI facilities and uses including their associated amenity / recreational facilities and uses; be well designed having regard to the site context and any heritage within the site; be compatible with existing SNI facilities and uses; shall submit a detailed justification for any non-SNI uses demonstrating how the proposed development will protect and/or enhance the existing SNI use and function of the overall SNI zoning objective.

5.1.5. Section 12.9.8 provides development management guidelines in relation to telecommunications and states applicants will be required to demonstrate:

- Compliance with the Planning Guidelines for 'Telecommunications Antennae and Support Structures' (1996), and Circular Letter PL 08/12 issued by the Department of the Environment and Local Government (as may be amended from time to time), and to other publications and material as may be relevant in the circumstances.
- On a map the location of all existing telecommunications structures within a 1km radius of the proposed site, stating reasons why (if not proposed) it is not feasible to share existing facilities having regard to the 'Code of Practice on Sharing of Radio Sites', issued by the Commission for Communications Regulation.

- To what degree the proposal will impact on the amenities of occupiers of nearby properties, or the amenities of the area - e.g. visual impacts of masts and associated equipment cabinets, security fencing treatment etc. – and the potential for mitigating visual impacts including low and mid – level landscape screening, tree type masts being provided where appropriate, colouring, or painting of masts and antennae, and considered access arrangements.
- Any impacts on rights-of-way and walking routes.
- That the proposal shall not have a significant negative visual impact.

5.1.6. Section 12.11.2 provides development management guidance in relation to protected structures and states that the inclusion of a structure in the Record of Protected Structures does not prevent development provided that the impact of any proposed development does not negatively affect the character of the Protected Structure and its setting. All planning applications for works to a Protected Structure must include an Architectural Heritage Impact Assessment in accordance with Appendix B of the DAHG 'Architectural Heritage Protection Guidelines for Planning Authorities', to assist in the assessment of proposals and that the detail required to be submitted will be dependent on the significance of the building and the nature and extent of works proposed.

5.1.7. Section 12.11.2.1 Works to a Protected Structure outlines a number of development management criteria and includes the following: 'External fittings (such as meter boxes, ventilation grilles, security cameras, burglar alarms, cables) should be sited to minimise their visual impact and should not be affixed to the principal elevation. Where this is unavoidable, fixtures and associated fittings should utilise any vertical or horizontal lines, i.e. channelling the wires along rainwater goods and mouldings.'

Section 12.11.2.3 provides development management criteria relating to assessment of development within the Grounds of a Protected Structure which include the following relevant criteria:

- The proximity and potential impact in terms of scale, height, massing and alignment on the Protected Structure, impact on existing features and important landscape elements including trees, hedgerows, and boundary treatments. Any development should be sensitive of the relationship between the principal residence and its adjoining lands and should not sever this.

- Impact of associated works including street furniture, car parking, hard landscaping finishes, lighting, and services. These should be designed using appropriate mitigation measures, such as careful choice of palette of materials, and finishes, and use of screen planting.

5.1.8. A number of map based objectives relate to the site. Saint Patrick's Church is listed on the Register of Protected Structures (RPS No. 1425). Other Protected Structures on the grounds of the church include Dalkey National School (RPS No. 1426), and The Rectory (ref. 1429).

There is an objective 'To protect and preserve Trees and Woodlands' on the northern and western boundary of the church grounds.

5.2. Ministerial Guidelines

5.2.1. Telecommunications Antennae and Support Structures; Guidelines for Planning Authorities, 1996.

These guidelines set out current national planning policy in relation to telecommunications structures and address issues relating to, inter alia, site selection; minimising adverse impact; sharing and clustering of facilities; and development control. The Guidelines encourage co-location of antennae to avoid an unnecessary proliferation of masts and provide that it is policy to support a national telecommunications network to facilitate top quality telecommunication service throughout the State

Chapter 4 includes guidance relating to siting and design, including that proximity to listed buildings, archaeological sites and other monuments should be avoided.

5.2.2. Circular Letter: PL 07/12 Telecommunications Antennae and Support Structures Guidelines (October 2012)

This circular updates elements of the 1996 Guidelines. The circular letter advises permitting planning permission on a temporary basis and that only in exceptional circumstances should conditions limit the life of a planning permission. Bonds for the removal of redundant structures should no longer be sought and future permissions should include a condition stating that when the structure is no longer required it should be demolished, removed and the site re-instated. This Circular Letter advises

that planning authorities do not have competence for health and safety matters in respect of telecommunications infrastructure. These are regulated by other codes and should not be additionally regulated by the planning process.

5.2.3. Circular Letter PL 03/2018

Circular Letter PL 03/2018 dated 3rd 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.

5.2.4. Architectural Heritage Protection Guidelines for Planning Authorities Department of Arts, Heritage, Gaeltacht 2011.

These guidelines provide guidance in relation to development and built heritage, in particular works affecting historical buildings or structures. Section 7.12 seeks to ensure reversibility of alterations stating that the use of processes which are reversible, or substantially reversible, when undertaking works to a protected structure are preferable. Section 8.5.7 refers to new items fixed to the exterior of buildings stating 'careful consideration needs to be given to proposals to fix new items to the exterior of a protected structure. Permission should usually only be given for fixtures that respect the architectural design of the structure and do not detract from its appearance'. Section 8.5.8 states 'The applicant should be able to satisfy the planning authority that matters such as the location of fixtures, associated cable runs, light fittings and so on have been properly considered and would not detract from the appearance of the protected structure'.

5.3. **Natural Heritage Designations**

The nearest European sites are Dalkey Islands SPA (site code 004172) located 620 metres east and Rockabill to Dalkey Island SAC located 850 metres east of the appeal site. Dalkey Coastal Zone and Killiney Hill Proposed NHA is 150 metres to the east of the site.

5.4. 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

6.2. A first party appeal has been submitted by the applicant against the decision to refuse permission. The appeal is accompanied by an Architectural Heritage Impact Assessment Report and revised drawings. The grounds of appeal can be summarised as follows:

- Permission should be granted having regard to Regional Planning Policy, guidelines under Section 28, policy directives under section 29, the statutory obligation of the local authority and any relevant policy of the Government or Minister.
- The only visible aspect of the installation are the dishes positioned externally on top of the church bell tower. The appeal includes a revised design which removes these dishes from the bell tower which would address the refusal reason which relates to visual impact and the revised design option would result in a development which would not materially contravene the development plan or be contrary to Policy Objective HER8 and Section 12.11.2.3.
- An Architectural Heritage Impact Assessment Report submitted with the appeal concludes that the installation of the external dishes on the tower is not in line with best practices and has a negative visual impact on St. Patrick's Church and proposes mitigation measures including the removal of external dishes.
- Provides coverage maps of 4G coverage in the area and a technical justification for the development.

6.3. Planning Authority Response

Response dated 22nd August 2023 states no new issues raised which justify a change of attitude to the proposed development.

6.4. Observations

None.

7.0 Assessment

7.1. I consider the planning issue in the assessment of this appeal relates to the impact on the built character and setting of the church which is a protected structure.

- 7.1.1. The planning authority conservation officer and planning officer reports outline that the development for which retention permission was sought is inappropriate due to its impact on the character and appearance of Saint Patricks Church which is a Protected Structure. The conservation officer considers that, having inspected the site, the telecommunications dishes are very visible on top of the church tower and they are considered to detract from the character and appearance of the protected structure. The planning officer concurred with the recommendation of the conservation officer and concluded that to permit retention permission for the development would materially contravene Policy Objective HER8 and section 12.11.2.3 of the Development Plan.
- 7.1.2. The first party's Architectural Heritage Impact Assessment Report submitted with the appeal concludes that the current installation of the dishes on the tower is not in line with best practices and has a negative visual impact on St. Patrick's Church.
- 7.1.3. I agree with the findings of the Planning Authority and the Architectural Heritage Impact Assessment Report submitted with the first party appeal that the existing three dishes and associated support structures located externally on top of the bell tower detract from the special character and appearance of the protected structure and would materially contravene Policy Objective HER8 of the Dun Laoghaire-Rathdown County Development Plan, 2022-2028. I have reviewed the criteria contained in Section 37 (2) (b) of the Planning and Development Act, 2000 as amended and I do not consider the provisions contained therein are relevant to this

appeal or that there is scope for the Board to consider granting permission for a material contravention on the grounds set out in this section of the Act.

- 7.1.4. The Architectural Heritage Impact Assessment Report submitted with the first party appeal includes a historical overview of the structure, an assessment under conservation principles, and an assessment of the impact of the proposed works and proposed mitigation measures. The report proposes mitigation measures in the form of removal of the external installations on the tower and includes drawings which show the omission of three external dishes located on the roof of the bell tower. A second mitigation measure is also proposed which provides that remediation works to the tower following the removal of the external installation is specified by and works supervised and signed off on by a Building Conservation Accredited Surveyor (SCSI, RICS).
- 7.1.5. I note the local authority conservation officer concerns relate only to the external structures and no issues were raised in relation to the internal structures to be retained. Having reviewed the revised design proposal submitted with the appeal which removes the three external dishes and their support structures I consider the development as amended would not have a negative impact on the special character and appearance of St Patricks Church as the internal works to be retained would have no external visual impact.
- 7.1.6. During my site inspection I viewed the internal structures which include antenna, radio equipment, operator cabinets, safety rails, cabling and switch boards which are located within the bell tower and are not visible from inside the main public areas of the church. I am satisfied that the internal works do not detract from the interior of the church, that the internal works are not invasive nor do they require structural interventions and that they can be reversed in the future when no longer required. The use and setting of the church will not be impacted upon by the amended development to be retained.
- 7.1.7. I am satisfied that the development to be retained, as amended in the first party appeal will not materially contravene Policy Objective HER8 or Section 12.11.2.3 of the Development Plan and that the reason for refusal has been overcome. I also consider the development to be retained, as revised, would not result in

inappropriate interventions or modifications having regard to the provisions of 'Architectural Heritage Protection' - Guidelines for Planning Authorities.

- 7.1.8. Included with the appeal is a 'Justification Report' which indicates the closest existing installations to the appeal site which are located 475m and 490m to the south of the site and outlines constraints that result in the need for the installation at St. Patrick's Church. The report outlines that as a result of the installation to be retained that 4G coverage in the area is 'Very Good'. I am satisfied that the applicant has provided adequate justification for this development.
- 7.1.9. Generally, there is a requirement for co-sharing of new telecommunication structures; in this case it may be difficult to achieve such sharing of infrastructure. The acceptability of the development is due to the fact that it can be contained within the bell tower in its entirety. Any additional works may have implications on the protected structure. I note that the applicant stated in their planning application that Vodafone, Three and Eir currently transmit from St Patricks Church. I therefore do not consider it appropriate to attach a condition requiring co-sharing at this location.
- 7.1.10. The local authority Transportation Planning report recommends inclusion of a condition that no part of the telecommunication equipment shall overhang a public road or footpath. In the event of a grant of permission I do not consider such a condition is relevant to this appeal.

8.0 Appropriate Assessment

Having regard to the nature and scale of the development to be retained, the location of the site in a serviced urban area, the absence of any hydrological or other pathway between the appeal site and any European site, and the separation distances to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development to be retained would be likely to have a significant effect either individually or in combination with other plans or projects on any European site.

9.0 Recommendation

- 9.1. Having regard to the above I recommend that retention permission should be granted based on the following reasons and considerations and subject to the attached conditions.

10.0 Reasons and Considerations

- 10.1. Having regard to the nature, extent and design of the development to be retained and the provisions of the Dun Laoghaire-Rathdown County Development Plan 2022-2028 and relevant National Guidance including Architectural Heritage Protection Guidelines for Planning Authorities, 2011 and Telecommunications Antennae and Support Structures; Guidelines for Planning Authorities, 1996, it is considered that, subject to compliance with the conditions set out below, the development would not seriously injure St. Patrick's Church, which is a protected structure, or negatively impact on the residential and visual amenities of the area and that sufficient information has been provided to demonstrate a justifiable need for the structures to be retained at this location. The development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be retained in accordance with the plans and particulars lodged with the application as amended by the further particulars submitted with the appeal on 09th August 2023, 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, and the development shall be retained and completed in accordance with the agreed particulars.

Reason: In the interest of clarity

2. (a) Within six months of the date of this order all external dishes and external support structures shall be removed from the bell tower.

(b) A method statement and specification proposed by an architect or expert with specialised conservation expertise, shall be submitted to, and agreed in writing with, the planning authority prior to removal of the external dishes and support structures.

(c) Works to the protected structure shall be carried out in accordance with the Department of the Environment, Heritage and Local Government, Architectural Heritage Protection, Guidelines for Planning Authorities and in accordance with Best Conservation Practice, under supervision by a suitably qualified professional to be defined under item (b) above.

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.

Bernadette Quinn
Planning Inspector

01st May 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-317744-23			
Proposed Development Summary	Retain existing antenna, radio equipment, microwave dishes and all associated telecommunications equipment. A Protected Structure			
Development Address	Saint Patrick's Church, Harbour Road, Dalkey, Co. Dublin, A96 HA24			
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X	
		No	No further action required	
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?				
Yes		Class.....	EIA Mandatory EIAR required	
No	X		Proceed to Q.3	
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]?				
		Threshold	Comment (if relevant)	Conclusion
No	X	N/A		No EIAR or Preliminary Examination required
Yes		Class/Threshold.....		Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____