



An
Bord
Pleanála

Inspector's Report

ABP 318301-23

Development

Erection of a 15-metre-high telecommunications monopole (incl. 3 m high Omni antennae with an overall height of 18 m) together with antennas, dishes, 1.0 m access gate and associated telecommunications equipment, enclosed by security fencing, and removing an existing 12 m wooden pole.

Location

Eir Exchange, Killeenboylegan, Moate, Co. Westmeath.

Planning Authority

Westmeath County Council

Planning Authority Reg. Ref.

23 60246

Applicant(s)

Eircom Ltd (t/a eir).

Type of Application

Permission.

Planning Authority Decision

Refuse.

Type of Appeal

First Party

Appellant(s)

Eircom Ltd (t/a eir).

Observer(s)

None.

Date of Site Inspection

27th February 2024

Inspector

A. Dineen

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Appendix 1 – Form 1: EIA Pre-Screening

1.0 Site Location and Description

- 1.1. The site is located in the townland of Killeenboylegan townland, which is situated c. 0.5 km east of the main retail centre in Moate, Co. Westmeath. The area accommodates a mix of residential development, retail, services and civic uses. The regional route R446 runs in an east/west direction to the north of the site and the Clara Road leaves this regional route and runs just east of the site.
- 1.2. There is established utilities infrastructure on the site, which is open and without a physical delineated containing boundary. This infrastructure includes 2 No 12 metre wooden poles and a single storey ancillary building.
- 1.3. There is a memorial garden to the north of the appeal site and the Cluain Duilleog residential estate is located on the adjacent site to the west. There is also a terrace of dwellings to the east along the Clara Road. The houses directly adjunct to the appeal site in Cluain Duilleog, are separated from the appeal site by a high retaining wall as there is a variance in ground levels. The first-floor windows of said houses look directly across the green space, within which the appeal site is located. (This is the residential development referred to in the planning authority's decision to refuse planning permission).

2.0 Proposed Development

- 2.1. It is proposed to replace one of the 2 No 12-metre wooden telecommunications poles with a 15-metre-high telecommunications monopole. The proposal also provides for 3-metre-high omni antennae at the top of the pole, which amounts to an overall height of 18 metres. The replacement pole will be positioned to the southern side of the exchange building. A second wooden pole on the site is stated to be 'likely' to become redundant on the site. The existing poles and location of the proposed pole is within an existing telecommunications compound.

3.0 Planning Authority Decision

3.1. Decision

The planning authority issued notification of a decision to refuse planning permission on the 26th September 2023, for the following reason:

The proposed telecommunications mono-pole, including a 15m high telecommunications monopole (including 3m high Omni antenna with an overall height of 18m) together with antennas, dishes, 1.0m access gate and associated telecommunications equipment, all enclosed by security fencing is considered to have a detrimental visual impact on the visual amenity of the immediate area, not only but also, to existing residents of the adjacent estate known as Cluain Duilleog. The proposed development is therefore considered to be inconsistent with CPO 10.187 and 16.58 of the Westmeath County Development Plan 2021-2027 together with the provisions of Circular Letter: PL 07/12

The Chief Executive's decision reflects the planner's report.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Relevant policies and objectives are discussed.
- This proposal would permit enhanced coverage from 2 and 3G to 4 and 5G with emergency services coverage. It is unclear if this includes co-location communications. Further information would be required to assess co-location.
- The site is located in an open land area in close proximity to two local roads, and extremely close proximity to existing residential developments. From an inspection of the site and immediate surroundings, this is considered inconsistent with CPO 10.187 and 16.58 of the Westmeath County Development Plan 2021-2027 together with the provisions of Circular Letter: PL 07/12.

3.2.2. Other Technical Reports

Area Engineers Report.

No objection. The applicant should be requested to pay a development contribution if permitted.

3.3. Prescribed Bodies

No responses received.

3.4. Third Party Observations

Avril & Eamon Whitney, Cluain Duilleog Estate, Moate.

- The proposal is wholly inappropriate.
- Concerns are raised about long-term health effects of living beside such masts as this is a relatively new technology there are no long-term international studies that show beyond reasonable doubt, that there are no health effects.
- The 1996 guidelines state that the extent to which such a structure is noticeable or visually intrusive has to be taken into account.
- The proposed tower, only a few metres from the observers' property, will be 18 metres in height and will dominate rear views of the observers' property.
- The proposal will have a detrimental effect on the Moate skyline and on the visual amenity of the area.
- The observers have lived in the estate since 2000, since the house was built. The proposal will have a significant impact on the valuation of their property and the future sale price of the property.
- It is considered that the proposal would render the observers' property virtually impossible to sell.
- Clarification is sought on whether eir owns the land or is it in public ownership.

Residents of Cluain Duilleog Estate, Moate.

- There are significant concerns about the long-term health effects of living so close to such masts.
- The Council could be found negligent under their statutory duty of care and concern for the public under Part 15 of the Local Government Act 2001.

- The recommended distance from such a structure to a house is 402 metres. The nearest houses are 10 to 15 metres from the structure, which falls considerably short.
- The mast is causing undue stress and anxiety on the residents and residents do not want their health compromised.
- The 1996 Telecommunications Guidelines state that the degree to which an object is noticeable or visually intrusive has to be taken into account.
- The proposed structure will be at the level of the first-floor windows of many homes and will dominate views from all windows in some cases.
- There will be a detrimental effect on the skyline of Moate and on the visual amenity of Cluain Duilleog.
- The proposal will be overbearing and be out of scale and character with the existing development in the area.
- A question is raised regarding the ownership of the subject land.

4.0 Planning History

None.

5.0 Policy Context

5.1. Westmeath County Development Plan 2021 – 2027

The plan cites the following objectives:

Telecommunications

CPO 10.173 Support the implementation of EirGrid's Grid 25 Investment Programme, subject to landscape, residential, amenity and environmental considerations.

CPO 10.179 Support the national objective to promote Ireland as a sustainable international destination for ICT infrastructures such as data centres and associated economic activities at appropriate locations.

CPO 10.180 Support the delivery of high-capacity Information Communications Technology Infrastructure, broadband connectivity and digital broadcasting,

throughout the County, in order to ensure economic competitiveness for the enterprise and commercial sectors and in enabling more flexible work practices e.g., teleworking.

CPO 10.182 Support the coordinated and focused development and extension of broadband infrastructure throughout the County.

CPO 10.183 Co-operate with the Department of Communications, Climate Action and Environment and public and private agencies where appropriate, in improving high quality broadband infrastructure throughout the County.

CPO 10.184 Achieve a balance between facilitating the provision of telecommunications infrastructure in the interests of social and economic progress and sustaining residential amenity and environmental quality.

CPO 10.185 Ensure that the location of telecommunications structures should minimise and /or mitigate any adverse impacts on communities, public rights of way and the built or natural environment.

CPO 10.186 Encourage co-location of antennae on existing support structures and to require documentary evidence as to the non-availability of this option in proposals for new structures. The shared use of existing structures will be required where the numbers of masts located in any single area is considered to have an excessive concentration.

CPO 10.187 Facilitate the provision of telecommunications infrastructure throughout the County in accordance with the requirements of the “Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities”.

CPO 16.58 It is a policy objective of Westmeath County Council to assess planning applications for telecommunications, having regard to the following:

- Department of the Environment and Local Government’s “Planning Guidelines for Telecommunications Antennae and Supports Structures” (1996) and Departmental Circular PSSP 07/12.
- Co-location agreements to be provided where possible. Where new facilities are proposed applicants will be required to satisfy the Council that they have made a reasonable effort to share facilities or to locate facilities in clusters.

- Visual impacts arising from proposal.

5.2. **National Planning Framework**

National Policy Objective 48 states -

‘In co-operation with relevant Departments in Northern Ireland, develop a stable, innovative and secure digital communications and services infrastructure on an all-island basis.’

The NPF sets out National Strategic Outcomes including Strengthened Rural Economies and Communities. In this regard the NPF states –

‘.....improved connectivity, broadband and rural economic development opportunities are emerging which offer the potential to ensure our countryside remains and strengthens as a living and working community’.

Regional Spatial & Economic Strategy for the EMRA

Section 11.2

‘In the information age, 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....’

Telecommunication Antennae and Support Structures: Guidelines for Planning Authorities 1996

These Guidelines set out the criteria for the assessment of telecommunications structures. The relevant points to this application and appeal are summarised below.

- Planning authorities should not include monitoring arrangements as part of planning permission conditions nor determine planning applications on health grounds. These are regulated by other codes and such matters should not be additionally regulated by the planning process.

- An authority should indicate any locations where telecommunications installations would not be favoured or where special conditions would apply. Such locations might include high amenity lands or sites beside schools (Section 3.2).
- Along major roads or tourist routes, 'views of the mast may be intermittent and incidental, in that for the most of the time viewers may not be facing the mast.' (Section 4.3).
- In relation to smaller towns section 4.3 of the Guidelines specifically states; '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.'

Circular Letter PL07/12 (October 2012)

This Circular Letter revises elements of the 1996 Guidelines including- • attaching a condition to a permission for a telecommunication mast and antennae which limit their life to a set temporary period should cease, except in exceptional circumstances.

- Planning authorities should also cease specifying separation distance for such developments when making Development Plans as they can inadvertently have a major impact on the roll-out of viable and effective telecommunications network.
- Planning authorities should be primarily concerned with the appropriate location and design of telecommunication structures and do not have the competence for health and safety matters in respect of telecommunication infrastructure. These are regulated by other codes and such matters should not be additionally regulated in the planning process.

- Development Contribution Schemes must include waivers for broadband infrastructure and these waivers are intended to be applied consistently across all local authority areas.

5.3. Natural Heritage Designations

The site is c.12 km from Middle Shannon Callows SPA, (Site Code 004096), and the River Shannon Callows SAC, (Site Code 000216). Carn Park Bog SAC, (Site Code 002336) is c. 7km from subject.

5.4. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- The appeal acknowledges the reason for refusal but states that the proposal within the exchange will provide critical infrastructure and services by multiple operators including Vodafone and emergency services operator Tetra Ireland for Moate and its environs.
- Due to the nature of telecommunications services, it is a requirement to be close to demand.
- The proposal is an upgrade of existing services.
- Various technical aspects of any given telecommunications installation are discussed, including line of sight, technology, infrastructure, market changes, outdoor V indoor coverage and justification.
- Various telecommunications companies operating in Ireland are discussed.

- Regarding justification it is stated that the wooden pole on site is occupied by Tetra Ireland with Vodafone equipment located on a second wooden pole. It is proposed that Tetra emergency services would be located at the top of the replacement pole at an increased height of 15 metres and a 2nd operator, Vodafone would be located beneath this.
- The Development Plan policies and objectives regarding Moate are discussed.
- It is stated that the purpose of the upgrade is to meet the demands of local residents, business and tourism industry – the provision of modern telecommunications is vital to the economy of Moate.
- Vodafone is closing its 3G services at the end of the year and the demand for 4G and 5G is expected to increase.
- 4 existing telecommunications sites are identified at Knockdomney, GAA club, Tober and Ballynahinch and all four have been discounted. The first three mentioned here are stated to be discounted as they are unable to reach the target catchment area. The latter site at Ballynahinch is stated to be too far away and that the hill in between both points block the propagation signals into Moate Town.
- The Exchange is located centrally and already provides limited 2G and 3G services – it is an ideal location to provide modern services.
- Tetra Ireland have written a letter in support of the application and has stated that it has equipment at this location, which forms part of the NDRS – National Digital Radio Service.

6.2. **Applicant Response**

The applicant is the appellant.

6.3. **Planning Authority Response**

No response submitted.

6.4. **Observations**

None

6.5. **Further Responses**

None.

7.0 **Assessment**

- 7.1. Having examined all the application and appeal documentation on file and having regard to the relevant local and national policy and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal and the planning authorities' reason for refusal and I am satisfied that no other substantive issues arise. AA also needs to be considered.

The main issues, therefore, are as follows:

- Justification
- Visual & Residential Impact
- Other Issues (Health, Ownership)
- Appropriate Assessment

7.2. Justification

- 7.3. The appellant states that the purpose of the proposed development is to upgrade services for Tetra and Vodafone. It is also stated that Vodafone is closing its 3G services at the end of the year and that demand for 4G and 5G services is expected to increase.
- 7.4. The case is made that there is existing utilities/telecommunication equipment on the site and therefore it is an ideal location to improve services in the town of Moate.
- 7.5. A Comreg Map is submitted which shows 4 No structures outside of the town of Moate, ranging from 1 km to 3.3 km's from the application site. Coverage maps are

also submitted for both eir and Vodafone for 4G and 5G services. The Comreg Maps include a sliding classification system which is colour coded, which ranges in coverage levels as follows: very good, good, fair, fringe and no coverage.

- 7.6. Under Appendix 1 to the appeal another set of coverage maps is submitted. This is a colour coded map showing existing 2G, 3G and 4G coverage levels with and without the the proposed upgrade. The said maps do not include a legend clearly indicating what the colours represent, which appears to be an oversight. However, some accompanying text provides some explanation of said coverage maps.
- 7.7. The thrust of the appellants submission refers to the improvements that this equipment will provide to the town of Moate and its businesses etc. It is noted that the information on file demonstrates an improvement in coverage levels, particularly 4G in the town of Moate, particularly to the west and northwest of the site, if the proposed development was permitted. However, in relation to justification and the study of alternatives, there are no alternatives presented in the target/demand area. The appellants report clearly refers to the requirement to locate modern services close to demand yet the alternatives presented are between 1 and 3.3 km from the application site, and in some instances further away from the town, wherein it is a stated aim, under the appeal submission, to improve coverage.
- 7.8. In referring to alternatives the appellants submission states that ‘there is no ideal planning acceptable solution within the town’ and that ‘there are no existing alternative sites or buildings identified in Moate town...’ and accordingly, no alternatives, which would actually serve the demand area are explored under the documents lodged. Whilst the assessment of alternatives outside of Moate town are analysed under the appellants submission, I am of the viewpoint that alternatives within the town and in the demand area, as per the appellants overall submission, have not been evaluated. Therefore, given the overall assessment under paras 7.11 to 7.20 below, it is considered that in the absence of an assessment of clearly demonstrated realistic alternatives, that insufficient information is provided to support the justification of the proposed extent of development, in this particular site-specific context.
- 7.9. Furthermore, there is no justification or rationale presented for the actual extent of the proposed increased height to an overall height of 18 metres along with

accompanying radii or coverage splays. Without prejudice, such a justification in relation to the proposed height would have also informed the assessment.

7.10. Visual & Residential Impact

- 7.11. The proposed development entails the relocation of a wooden pole and the increase in height of one of two wooden poles on the subject site, together with ground cabinets and ancillary equipment. Landscaping is proposed to screen the ground level equipment. The overall height of replacement and relocated pole structure would be increased from the established 12 metres poles to a new proposed height of 18 metres in total, including the proposed antennae height. The information on file states that the second pole is 'likely' to be removed. This is ambiguous. It doesn't clearly state that it will be removed. In the event of a favourable decision, the removal of the second pole should be conditioned, in the interest of clarity.
- 7.12. Upon inspection of the site and the area surrounding the site and from within the adjoining Cluain Duilleog development, it was apparent the ground levels of the subject site are considerably higher than the ground levels within the Cluain Duilleog residential development. It shall be noted that the ground level of the existing ancillary building on the subject site, sits at approximately the first-floor level of the adjoining houses at Cluain Duilleog, or just slightly under this level. This significant variation in ground levels has direct impacts on the overall assimilation of the proposed structure in the area and particularly from within Cluain Duilleog. A structure to the overall height of 18 metres at locally elevated ground levels would naturally be more dominant and impactful in terms of visual and residential amenity, than such a structure at similar ground levels.
- 7.13. Submissions under the planning application refer to specified minimum distances between masts and residential development, which are factually incorrect. The appellant submits that there are no prescribed minimum distances to masts in Ireland, which I concur with. The appellant argues that the proposed development complies with both the National Guidelines: *Telecommunication Antennae and Support Structures: Guidelines for Planning Authorities 1996*, and also with Circular Letter PL07/12 (October 2012).
- 7.14. The stated guidelines refer: '*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’.

- 7.15. On the subject of minimum distances and in the context of not having specific minimum distance objectives in a development plan, *Circular letter 07/12* refers to such requirements as ‘*requirements, without allowing for flexibility on a case-by-case basis*’. In advising against prescribed minimum distances in the context of a development plan, this circular letter clearly advocates the requirement for assessment of such infrastructure ‘*on a case-by-case basis*’.
- 7.16. Accordingly, it is considered that the subject application/appeal must be assessed in its own specific context and on its own merits as per the ‘case by case’ assessment prescribed under the above policy documents.
- 7.17. The planning appeals, which are referred to under the appellants submission are based on sites with their own site-specific characteristics and naturally the comments made under the respective planning reports are ascribed to those site-specific circumstances. To take one example quoted, the appellant refers to appeal reference PL 26.247800. This appeal refers to a site 1 km north of the local village, and whereby houses were located 350 metres from the subject site, albeit there was an established grant of permission on an adjacent site. It cannot be assumed therefore that comments in relation to this set of circumstances automatically apply to the current subject site, with its own specific site-specific context and characteristics. I consider that this rationale forms part of the rationale for circular letter 07/12, which advises consideration of telecommunications structures ‘on a case-by-case basis’, and which is entirely reasonable and accords with the best principles of proper planning and sustainable development.
- 7.18. The Visual Impact Assessment (VIA) submitted has included sites in the far distance, whereby the structure would not naturally be visible, due to intervening development, which is accepted. There are a few middle-distance viewpoints submitted and there is only one near distance viewpoint submitted, from within Cluain Duilleog. The Cluain Duilleog photograph montage is highly relevant, however it is considered that the VIA would benefit from a few additional mapped viewpoints in the near distance. Therefore, it is considered that the visual impact assessment is not sufficiently detailed. Notwithstanding this point, having inspected the site and having viewed the

established installation, established ground levels, and in the context of surrounding development generally and also in context with properties within Cluain Duilleog, which are at lower ground levels than the subject site, it is apparent that the proposed replacement mast, which comprises a significant height change from 12 metres to 18 metres in total including antennae, would represent substantial material change to the existing visual amenity of the area.

- 7.19. It is considered that the proposed development would have an unduly dominant and significant overbearing impact on the visual amenities of the area and in particular on the visual and residential amenities on the adjoining established residential development at Cluain Duilleog, given the close proximity of the proposed structure to this established residential development and also the significant variation in local ground levels. Accordingly, owing to its dominance and overbearing nature, it is reasonably considered that it would depreciate the value of the adjoining properties.
- 7.20. The Westmeath County Development Plan 2021 -2027 (the CDP) under policy 16.58 requires that the assessment of telecommunications proposals to have regard for the visual impacts of a proposal, *inter alia*. Additionally, the CDP, under CPO 10.187 requires that telecommunications infrastructure throughout the County be facilitated in accordance with the requirements of the “Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities”. Additionally, further guidance under the circular letter 07/12 requires assessment of location and design, *inter alia*. Therefore, notwithstanding policy in favour of telecommunications infrastructure generally, in this specific instance, given the site-specific characteristics of the location of the proposed development and the variation in local ground levels, I concur with the decision of the planning authority to refuse planning permission, in this context.

7.21. Other Issues (Health, Ownership)

7.22. The Commission for Communications Regulations (ComReg) is the statutory body responsible for the regulation of radiation emissions. Compliance with emission limits in respect of regulation is regulated nationally by ComReg and health issues are not a matter for An Bord Pleanála in determining and deliberating on the application proposed. Regular measurements of emission levels are required to comply with International Radiation Protection Association and Guidelines. While I acknowledge the concerns expressed under observations to the planning application, this is a matter for ComReg. I would also note that Circular PL07/12 states that Planning Authorities should primarily be concerned with the appropriate location and design of telecommunication structures and do not have competence for health and safety matters in respect of telecommunications infrastructure, either with respect to human or animal health.

7.23. The question is raised under the observations to the application as to whether the applicant is the legal owner of the land in question or not. The Planning and Development Act 2000 (as amended) is clear that a person, without legal authority, cannot develop land solely based on a grant of planning permission:

Section 34 (13) of the Planning and Development Act 2000 (as amended) states:

(13) A person shall not be entitled solely by reason of a permission under this section to carry out any development.

7.24. Furthermore, the Development Management Guidelines (paragraph 5.13) also makes the point that the planning system is not designed to resolve disputes about title to land and that section 34(13) of the Act provides that a person is not entitled solely by reason of a permission to carry out development. I consider therefore that if there are issues relating to land ownership of the subject site, which appears to be suggested under the submissions, that the planning system is not the appropriate pathway to advance such concerns.

7.25. Appropriate Assessment

7.26. Having regard to the limited nature of the proposed development and the nature of the receiving environment and the proximity to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

8.0 **Recommendation**

8.1. I recommend that retention permission be refused.

9.0 **Reasons and Considerations**

It is considered that the proposed 18m overall height free-standing telecommunications support structure with antennae at this location, in the absence of clear justification and by reason of its height and proximity to houses at lower ground levels in the vicinity, would have an overbearing impact on the area and seriously injure the amenities and depreciate the value of residential property in the vicinity and would conflict with policies CPO 10.187 and 16.58 of the Westmeath County Development Plan 2021-2027. The proposed development would, therefore, 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.

Aisling Dineen
Planning Inspector
18th April 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	318301-23		
Proposed Development Summary	Erection of a 15-metre-high telecommunications monopole (incl. 3 m high Omni antennae with an overall height of 18 m) together with antennas, dishes, 1.0 m access gate and associated telecommunications equipment, enclosed by security fencing, and removing an existing 12 m wooden pole.		
Development Address	Eir Exchange, Killeenboylegan, Moate, Co. Westmeath.		
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	✓
		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	✓		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)
No	✓	N/A	No EIAR or Preliminary Examination required
Yes		Class/Threshold.....	Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No		Preliminary Examination required
Yes		Screening Determination required

Inspector: Aisling Dineen Date: 18th April 2024