



An  
Bord  
Pleanála

## Inspector's Report

### ABP-318605-23

<b>Development</b>	Section 254 licence for 15 metre mast and associated site works.
<b>Location</b>	Ardkeen Roundabout, Dunmore Road, Waterford.
<b>Planning Authority</b>	Waterford City and County Council
<b>Planning Authority Reg. Ref.</b>	23277
<b>Applicant(s)</b>	Emerald Tower Ltd.
<b>Type of Application</b>	Section 254 Licence
<b>Planning Authority Decision</b>	Refuse Licence
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Emerald Tower Ltd.
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	11 <sup>th</sup> October 2024
<b>Inspector</b>	Emer Doyle

## **1.0 Site Location and Description**

- 1.1. The site is located adjacent to the Ardkeen Roundabout, approx. 2.6km east of Waterford City Centre. The proposed location is on a grass verge along the junction of the Dunmore Road (R683-21) and the Outer Ring Road (R710). The roads adjacent to the site consist of 2 lanes of traffic. The roundabout serves the University Hospital Waterford, which is located to the north east of the Ardkeen Roundabout approx. 50m from the proposed site location.

## **2.0 Proposed Development**

- 2.1. Permission is sought for a Section 254 Licence for the installation of a 15m dual operator pole with EIR's antennas to be housed within the top of the pole and space for a second operators antennas below, a cabinet for EIR and provision for a second cabinet in future, and all associated site development at Ardkeen Roundabout, Dunmore Road, Waterford.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. The Planning Authority decided to refuse permission for 2 No. reasons relating to impact on visual amenities and impact on future active travel measures in the area.

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

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

- The planning report noted that the height of the pole had been reduced from 18m to 15m following pre-planning discussions. It was noted that the application had been discussed with the District Roads Engineer who raised concerns regarding the proposal impeding future road, footpath and active travel measures. It was stated that the District Engineer objected to the proposed development.

### 3.3. Prescribed Bodies

- No reports.

### 4.0 Planning History

None on site.

#### **ABP 312269-21/ PA Reg. Ref. 21/828**

The Board directed the Planning Authority to grant a licence for a 15m streetpole solution with antennas and ground equipment c. 1km to the SE of the current application. The Planning Authority had refused the licence for a number of reasons including the impact on future active travel measures in the area.

### 5.0 Policy Context

#### 5.1. National Guidelines

- 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

Under the Waterford City and County Development Plan 2022 – 2028 (CDP), the site is shown as lying within the settlement boundary around Waterford City and in an area zoned “open space and recreation”. Dunmore Road is identified as a proposed active travel/public transport corridor.

Appendix 8- Landscape and Seascape Character Assessment classifies the site as ‘Urbanising Landscapes’ with ‘least sensitivity’.

Utilities Objective UTL 16 of the CDP addresses telecommunications masts and related matters. It states the following:

*We will work in collaboration with service providers to deliver a more enhanced connectivity service experience in a way that protects our footway and road surfaces and delivers the economic and community benefits of technology. We will facilitate the continued provision of communication networks, smart infrastructure, broadband and appropriate telecommunications infrastructure and services, subject to environmental considerations, in order to contribute to economic growth, development, resilience and competitiveness. In considering proposals for such infrastructure and associated equipment, the following will be taken into account:*

- *The installation of the smallest suitable equipment to meet the technological requirements,*
- *Solutions to deliver shared telecommunication physical infrastructure in new development to facilitate multiple service providers at a non-exclusive basis and at economically sustainable cost to service providers and end users,*
- *Concealing or disguising masts, antennas, equipment housing and cable runs through design or camouflage techniques; or*

- *A description of the siting and design options explored and the reason for the chosen solution, details of the design, including height, materials and all components of the proposals,*
- *A landscaping and screen planting plan (if appropriate),*
- *An assessment of the cumulative effects of the development in combination with existing equipment in the area; and a visual impact assessment (if relevant).*

*Proposed development will be required to have regard to the “Telecommunications Antennae and Support Structures - Guidelines for Planning Authorities, 1996 and Circular Letter PL07/12” issued by the Department of the Environment Heritage and Local Government and to any subsequent amendments as may be issued.*

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

- The closest Natura 2000 site is located c.0.6km to the north of the site and comprises of the Lower River Suir SAC (Site Code 002137).

### **5.4. EIA Screening**

The proposed development does not come within the scope of any of the classes of development that are potentially the subject of EIA.

## **6.0 The Appeal**

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

The grounds of the First Party appeal include the following:

- There is evidence of ongoing deficiencies in coverage in the area.
- It is proposed to co-locate the equipment of two different operators on this pole.
- Alternative sites and alternative designs were considered by the applicant. The applicant reduced the height of the proposed structure from 18m to 15m following pre-planning discussions with the Planning Authority.

- Figure 6 of the appeal documentation illustrates the proposed location in the context of the transport objective. There are no tangible plans progressed for this route to date. It is considered that there is more than adequate separation distance to facilitate any future road or transport upgrades at this location. The proposed pole can be moved if necessary when any transport scheme progresses to design stage.
- The reason for refusal based on visual amenity is unreasonable and unjustifiable considering that the proposed development will be erected in an existing urban area, having no prominent views of sensitive landscape.
- The site is classified as 'Urbanising Landscapes' in Appendix 8 of the CDP.
- The site is not considered to have significant landscape value and it is requested that the Board recognise that the site is within the urban environs of Waterford City.

## **6.2. Planning Authority Response**

- The Planning Authority remains unfavourably disposed to the proposed development and strongly urges the Board to uphold its decision and refuse permission for a Section 254 Licence.

## **6.3. Observations**

- None.

## **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, all other documentation on file and my inspection of the site, I consider that the main issues for this appeal relate to:

- Principle of Development
- Impact on Future Active Travel Measures
- Impact on Visual Amenities
- Appropriate Assessment

### 7.3. Principle of Development

- 7.3.1. National policy and the Development Plan support appropriate telecommunications infrastructure, including broadband. The proposed development is located within zoning objective 'OS' – preserve and provide for open space and recreational amenities'. Within this zoning objective 'Utilities' are deemed 'Open to Consideration'.
- 7.3.2. I draw the Boards attention to the Technical Justification submitted by the applicant which outlines ongoing deficiencies in coverage in the area together with maps of existing coverage ratings in the area by EIR, Vodafone, and Three. It is stated that the maps indicate that the eastern part of Waterford City is significantly underserved by existing operators. It is also stated that the area around the hospital is predominantly red in the coverage maps which indicates a poor coverage rating and that there are 'blackspots' with no coverage at all. It is proposed to co-locate the equipment of two different operators on this pole. This is in line with National Guidelines which encourage co-location.
- 7.3.3. Having regard to the information submitted, I am satisfied that the applicant has provided sufficient information to justify the need for the proposal. 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. Impact on Future Active Travel Measures**

- 7.4.1. The site is located in a grass verge adjacent to the Ardkeen Roundabout adjoining the Dunmore Road (R683) and Cumann na mBan Outer Ring Road.
- 7.4.2. Under the County Development Plan Transport Map, the R683 is shown as being a proposed active travel/public transport route. The Planning Authority's first reason for refusal recognises this route designation and expresses concern that the proposal would impede future road, footpath, and active travel measures and result in visual clutter.
- 7.4.3. The applicant's response notes that a similar objective was contained in the previous Waterford City Development Plan 2013-2019 for a proposed cycle lane. It notes that whilst this is a worthwhile objective, no tangible plans have progressed to date. It notes that the subject proposal is located a minimum of 6m from the existing footpath and over 10m from the edge of the existing carriageway and there would be more than adequate separation distance to facilitate any future road or transport upgrades should plans progress. Figure 7 included in the appeal response indicates the separation distances on a map.
- 7.4.4. The applicant has responded by drawing attention to the provision within the existing section of Dunmore Road in the vicinity of the site of facilities for pedestrians, cyclists, and buses. The applicant states that there is difficulty envisaging what further measures could be undertaken in these respects within the available public road.
- 7.4.5. I note that the current Development Plan does not contain any site-specific proposal for either the Dunmore Road or Outer Ring Road at this location. There is no report from the Roads Section on file, although I note that the planner's report stated that the proposal was discussed with the District Roads Engineer who advised that there were future active travel measures in the area and raised an objection to the proposal. The response to the Board from the Planning Authority notes that the Planning Authority consulted internally with the Roads Section and strongly urges the Board to refuse to licence. The response does not contain any site specific proposals for this location or any details or written report in this regard from the Roads Section.



- 7.4.6. I note that the Board directed the Planning Authority to grant a licence for a 15m streetpole solution with antennas and ground equipment c. 1km to the SE of the current application under ABP 312269-21. This application was on the same proposed active travel/public transport route in the County Development Plan and the Planning Authority had included a similar reason for refusal with regard to impeding future active travel measures. Similarly, there were no site specific proposals for this site on the Dunmore Road.
- 7.4.7. I note that Section 254(4) specifically empowers the Planning Authority to withdraw any licence and require the removal of any telecommunications structure where in its opinion “by reason of the increase or alteration of traffic on the road or of the widening of the road or of any improvement of or relating to the road, the appliance, apparatus or structure causes an obstruction or becomes dangerous”. Furthermore, any licence would be conditioned to be time limited. Accordingly, to grant licence at this location would not prejudice future active travel measures that may be deemed necessary by the Planning Authority in my view.

## **7.5. Impact on Visual Amenities**

- 7.5.1. The proposal is for a 15m high street pole and an accompanying cabinet at ground level. This street pole would be a galvanised and painted pole, which would have the EIR antennas inside the top of the pole with space for a second operator’s antennae below the EIR antennas in future and provision of a second cabinet for a subsequent operator. The street pole would be sited in an expansive grass verge adjacent to the Ardkeen Roundabout.
- 7.5.2. The Planning Authority’s second reason for refusal considers that the proposed development would be visually obtrusive at this location and would seriously injure the visual amenities of the area and properties in the vicinity and would contravene Ministerial Guidelines.
- 7.5.3. I have reviewed that plans and particulars on file, including the Visual Impact Assessment (VIA), and have undertaken a physical inspection of the appeal site and its surrounding area. The site is located in an urban area on open space adjacent to the Ardkeen Roundabout. The hospital is located on the opposite side of the

roundabout and a large building – Grow HQ is located adjacent to the site. I refer the Board to Figure 4 in the appeal documentation which illustrates the context of the site.

- 7.5.4. During my site visit, I noted that there are a number of street poles of similar height together with trees and vegetation in the vicinity. The appeal indicates that the applicant reduced the height of the pole from 18m to 15m following pre planning discussions and that the colour choice of the pole is goose grey which is typically used in Ireland as it blends well with the Irish sky colour. It is stated that the applicant is open to consideration of a change of colour such as Dark Fir Green similar to the cabinet colour if the Board wishes to grant permission and include such a colour change by condition.
- 7.5.5. There are limited opportunities to directly screen the proposed at this location. However, I note that the wider receiving environment comprises various types of infrastructure and street fixtures including streetlights, utility poles, overhead powerlines and various types of road signage. Furthermore, I note that the appeal site is not directly in front of any existing dwelling with the nearest dwellings being in Bromley Drive on the opposite side of the road at this location.
- 7.5.6. The subject site is classified as ‘Urbanising Landscapes’ in the Landscape and Seascape Character Assessment in Appendix 8 of the Development Plan. These lands are located in an area within the Waterford city which is designated as being least sensitive to landscape change. The overall aim for these areas is to ensure that the inherent character of city/town environs is maintained. 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.
- 7.5.7. The appeal response makes the case that the location of the site is in an already urbanised area which is setback from the public road and makes use of existing trees for screening. It also points out that the proposed monopole was reduced from 18m to 15m following feedback from the Local Authority at pre-planning stage.

- 7.5.8. I am of the view that the proposed structure is not out of context at this urban location and I would concur with applicant that the existing trees will provide for some screening. I note the reduction in height of the proposed structure from that originally proposed at pre planning stage. I consider that the structure would not be out of character or be a visually intrusive or an incongruous element in this urban location. I consider that the visual impact assessment submitted with the application demonstrates that the visual impact would be satisfactory.
- 7.5.9. Should the Board be minded to grant permission the applicant's are amenable to a colour change and their response suggests emerald green similar to cabinets. I do not consider that it is necessary to attach a condition requiring a colour change and consider that the grey colour proposed would be similar to existing street lighting at this location.
- 7.5.10. 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. It is not accepted that any material undue adverse impacts, from a planning perspective would arise should the license be granted. The streetpole is no more impactful on the amenity of an area than adjacent light posts and traffic signage. I conclude that the proposal would be compatible with the existing visual amenities of the area.

## **8.0 Appropriate Assessment**

- 8.1. The site is not in or beside any European site. This site is located in a grass verge in close proximity to a busy roundabout in the city of Waterford and its development to provide a telecommunications mast would raise no Appropriate Assessment issues for any European site.
- 8.2. Having regard to the nature, scale, and location of the proposal, the nature of the receiving environment, and the proximity to the nearest European site, it is concluded that no Appropriate Assessment issues arise as the proposal would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **9.0 Recommendation**

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

## **10.0 Reasons and Considerations**

Having regard to:

- The provisions of Section 254 of the Planning and Development Act, 2000 (as amended),
- The National Development Plan 2018 – 2027,
- Objective 48 of the National Planning Framework 2020 – 2040,
- The Telecommunications Antennae and Support Structures Guidelines as revised by Circular Letter PL 07/12, and
- Objective UTL 16 of the Waterford City & County Development Plan 2022 – 2028,

it is considered that, subject to conditions, the proposal would contribute to the roll out of broadband services in accordance with national and local objectives. This proposal would be consistent with the convenience and safety of road users, including pedestrians, and it would be compatible with the visual and residential amenities of the area. No water or Appropriate Assessment issues would arise. The proposal would, therefore, accord with the proper planning and sustainable development of the area.

## **11.0 Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the licence 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. The licence shall be valid for five years from the date of this Order. The telecommunications structure and related ancillary structures shall then be removed, and the lands reinstated on removal of the telecommunications structure and ancillary structures unless, prior to the end of the period, continuance shall have been granted for their retention for a further period.

**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 written approval.

**Reason:** In the interest of the visual amenities of the area.

4. A low intensity fixed red obstacle light shall be fitted as close to the top of the mast as practicable and shall be visible from all angles in azimuth. Details of this light, its location and period of operation shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of public safety.

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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Emer Doyle  
Planning Inspector

31<sup>st</sup> October 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

**[EIAR not submitted]**

<b>An Bord Pleanála Case Reference</b>	318605		
<b>Proposed Development Summary</b>	Section 254 Licence for the installation of a 15m dual operator pole, associated equipment, together with ground based equipment cabinets and all associated site development works		
<b>Development Address</b>	Ardkeen Roundabout, Dunmore Road, Waterford.		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)			
		<b>No</b>	<b>No further action required</b>
<b>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?</b>			
<b>Yes</b>		Class.....	EIA Mandatory EIAR required
<b>No</b>			Proceed to Q.3
<b>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]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
<b>No</b>		N/A	No EIAR or Preliminary Examination required
<b>Yes</b>		Class/Threshold.....	Proceed to Q.4

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

Inspector: Emer Doyle

Date: 31<sup>st</sup> October 2024