



An  
Bord  
Pleanála

## Inspector's Report ABP-318665-23

<b>Development</b>	S.254 Licence for telecommunications mast.
<b>Location</b>	N25 Spring (Marquis), Dungarvan, Co. Waterford.
<b>Planning Authority</b>	Waterford City and County Council
<b>Planning Authority Reg. Ref.</b>	23259
<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>	1. Jonathon and Sarah Fraser 2. Catherine Duggan
<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 approximately 1.5k west of Dungarvan, Co. Waterford. The proposed location is on a grass verge adjacent to a roundabout on the N25. The Father Twomey Road amenity walk is located to the south of the roundabout at this location.
- 1.2. The area is mainly residential in nature. Spring 38kV ESB substation is located on the opposite side of the roundabout to the west of the site. Figure 3 included in the appeal documentation gives an aerial view of the site which may be useful to the Board.

## **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 N25 Spring (Marquis), Dungarvan, Co. Waterford.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. The PA decided to refuse permission for 1 No. reason as follows:

It is considered that the granting of a licence under section 254 of the Planning and Development Act, 2000 (as amended), for the erection of a fifteen metre high telecommunications structure and associated infrastructure, having regard to the scale and nature of the proposed development in close proximity to the N25 and residential properties, that the proposed development would constitute an obtrusive development in the receiving landscape, it would have a significant adverse visual impact on adjoining residential properties and would therefore be contrary to the proper planning and sustainable development of the area.

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

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

- The planning report noted that lands directly across the road from the site are zoned Transport and Utility and that such zoning would support in principle broadband infrastructure and may offer a more suitable option. It noted that pre-planning discussions had taken place in relation to the proposed development.

### **3.3. Prescribed Bodies**

- No reports.

## **4.0 Planning History**

- 4.1. None on site. Planner's report refers to PQ 2023/339 in relation to pre-planning discussions on the site.

## **5.0 Policy Context**

### **5.1. National Guidelines**

- 5.1.1. National Broadband Plan, DCENR, 2012. Sets out a strategy to deliver high speed broadband across the State.
- 5.1.2. 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.
- 5.1.3. 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. Under the Waterford City and County Development Plan 2022 – 2028 (CDP), the site is shown as lying within the Dungarvan and Ballinroad Settlement boundary in an area zoned “open space and recreation”.

Objective DGDO10- It is an objective of the Council to upgrade The Spring Roundabout to accommodate increased capacity and also provide a safe permeability through the junction for active modes of transport.

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

Section 9.8.1 of Volume 2 deals with Flood Risk Mitigation of Developments. The site is not located in any designated flood zone but lands close to the site are located in Flood Zone B.

- 5.2.2. 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**

- 5.3.1. The closest Natura 2000 site is located 0.8km to the south of the proposed site and comprises Dungarvan Harbour SPA.

### **5.4. EIA Screening**

- 5.4.1. The development is not of a class for EIA.

## **6.0 The Appeal**

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

- 6.1.1. 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 were considered by the applicant.
- A grey colour is proposed for the pole but a dark green or black finish could be used alternatively.
- A flood zone is located to the south of the site but the subject site is outside of same.
- Section 2.28 refers to an 18m pole.
- Section 2.35 states that the applicant initially intended to apply for an 18m monopole but following pre-planning discussions, the height of the pole has been reduced from 18m to 15m.
- The pole is proposed to be coloured 'goose grey', however this is open to consideration and a change of colour could be agreed by condition should the Board grant permission.
- The lands to the west have been surveyed and cannot accommodate the proposed development due to existing utilities and to allow for mandatory setbacks and clearances from the ESB substation. As such, whilst it may appear favourable, it is not feasible to accommodate the proposed development adjacent or within the ESB substation.
- Existing dwellings do not overlook the road and are separated from the site by a boundary wall c. 3m in height.
- The site is classified as 'Urbanising Landscapes' in Appendix 8 of the CDP.

## **6.2. Planning Authority Response**

- None submitted.

### 6.3. Observations

Observations have been received which can be summarised as follows:

#### **Catherine Duggan**

- The mast is too distracting and may lead to accidents.
- The proposed site is part of the Waterford Greenway recreation facility.
- The site was badly flooded last year.
- The site is extremely close to residential houses.
- It is suggested that a preferable location for the proposed development would be within the ESB powerlines on the opposite side of the road at this location.

#### **Jonathon and Sarah Fraser**

- It is considered that the applicant has grossly exaggerated their claim of poor coverage in the area as there is excellent coverage in the area.
- The site is located too close to residential properties and screening in the area is inadequate.
- There is an ESB substation directly to the west of the site.
- The application documentation refers to the need for a pole of 18m height when the application is for a 15m pole height. It is unclear whether the applicant wishes to install a 15m pole or an 18m pole.
- Whilst the site may be outside a documented flood zone, there has been serious flooding in this area in recent years and photographs are attached to the observation in this regard.
- The pole would cause a distraction for drivers at this busy 5 exit roundabout.
- Concerns regarding impacts on residential properties in the area.

## **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:

- Principal of Development
- Impact on Visual and Residential Amenities
- Flood Risk
- Appropriate Assessment

### **7.3. Principal 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 note that concerns are raised within the grounds of appeal in relation to justification of the proposed development. 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 western part of Dungarvan is significantly underserved by existing operators and there are some



'blackspots' in the area where there is 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 Visual and Residential Amenities**

- 7.4.1. 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 any cables internalised within it. The street pole would be sited in an expansive grass verge adjacent to The Spring Roundabout Dungarvan.
- 7.4.2. I note that the applicant appears to have inadvertently referred to an 18m pole a number of times in the documentation submitted. I am satisfied that this is an error and that the wording of the Section 254 notice refers to 'a 15m dual operator pole'. One of the observers has identified these errors, however, having read the full details of the application it is clear to me that the licence is sought for a 15m high pole only. I understand from the documentation that the applicant was advised at pre-planning stage to reduce the height of the pole from 18m to 15m. In any case, the Board can only consider the proposed development as worded in the licence application. I am satisfied that the applicant has sought a licence for a 15m pole.
- 7.4.3. I note that both the observers and the planner's report consider that the opposite side of the road would be a more appropriate location for the proposed development. I note that Spring 38kV substation is located on the opposite side of the road and there is already a considerable amount of infrastructure associated with the ESB substation at this location. Section 3.5 of the applicant's response stated that these lands have been surveyed and cannot accommodate the proposed development as 'consequence of the existing underground utilities and further, to allow for mandatory setbacks and clearances from national infrastructure the ESB substation.'

- 7.4.4. I am satisfied that the applicant has examined the lands referred to (ESB substation) in the planner's report and in the observations and ruled it out for the reason set out above.
- 7.4.5. I have reviewed the 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 Spring roundabout, Dungarvan. The area is a mixed use urban area and is adjacent to a national road (N25). There is a local walk in the area called the Fr. Twomey walk/ park to the south of the roundabout at this location. An aerial photograph in the appeal documentation (Figure 3) may be of assistance to the Board.
- 7.4.6. 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 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.
- 7.4.7. 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 an ESB substation, 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 dwelling facing onto Mitchell Street rather than the N25 at this location. The nearest dwelling is separated from the site by a boundary wall which is c. 3m in height.
- 7.4.8. 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 Dungarvan Environs 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.

7.4.9. 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.

7.4.10. I am of the view that the proposed structure is not out of context at this urban location. 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.

7.4.11. 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.

7.4.12. 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 and residential amenities of the area.

## **7.5. Flood Risk**

7.5.1. The appellant's raised concerns regarding flood risk at this location. In addition, a number of photographs which indicate flooding in the vicinity of the site were submitted in this regard by the appellant.

7.5.2. The site is not located in any flood zone as indicated in Map 2 of the Waterford City and County Development Plan. It is located in close proximity to Flood Zone B as indicated by the Plan. Appendix 13 of the Development Plan contains a Strategic

Flood Risk Assessment for the County. Section 5 outlines that for sites within Flood Zone A or B, a site specific 'Stage 2- Initial FRA' will be required and may need to be developed into a 'Stage 3- Detailed FRA'. Any proposal that is acceptable in principle shall demonstrate the use of the sequential approach in terms of site layout and design and, in satisfying the Justification Test (where required) the proposal will demonstrate that appropriate mitigation and management measures are put in place.

- 7.5.3. The Planning System and Flood Risk Management Guidelines, 2009 identifies three vulnerability categories based on the type of development – highly vulnerable, less vulnerable and water compatible. I note that a telecommunications pole is not specifically included in the Vulnerability classes set out in Table 3.1, however I would consider it to come within the category of a less vulnerable use.
- 7.5.4. As such, I am satisfied that the site is not located in a designated flood zone as identified by Map 2 of the current Development Plan and that the development proposed is not considered to be a highly vulnerable use.

## **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 town of Dungarvan 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>	318665			
<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 for wireless data and broadband services.			
<b>Development Address</b>	N25 Spring (Marquis), Dungarvan, Co. 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>Conclusion</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?**

<b>No</b>		<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

**Inspector: Emer Doyle**

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